

## LEGISLATION, COUNCIL PLAN, STRATEGIES AND POLICY IMPACTS

### State Planning Policy Framework (SPPF)

The following Clauses of the State Planning Policy Framework are relevant to the proposed amendment:

Clause	Relevant Section
Clause 11 - Settlement	11.01 Activity centres 11.02-1 Supply of urban land 11.03-1 Open space planning 11.05-4 Regional planning strategies and principles
Clause 15 – Built Environment and Heritage	15.01-1 Urban design 15.01-2 Urban design principles 15.01-5 Cultural identity and neighbourhood character 15.03-1 Heritage conservation 15.03-2 Aboriginal cultural heritage
Clause 16 - Housing	16.01-1 Integrated housing 16.01-2 Location of residential development 16.01-4 Housing diversity
Clause 17 -	17.01-1 Business
Clause 18 -	18.01-1 Land use and transport planning 18.02-1 Sustainable personal transport 18.02-2 Cycling 18.02-5 Car parking
Clause 19 -	19.02-1 Health facilities 19.03-2 Water supply, sewerage and drainage 19.03-3 Stormwater

### Local Planning Policy Framework (LPPF)

The following Clauses of the Local Planning Policy Framework are relevant to the proposed amendment:

Clause	Relevant Section
Clause 21.04 – Land Uses	21.04-1 Settlement 21.04-2 Housing 21.04-4 Activity centres and Commercial development
Clause 21.05 – Built Form and Amenity	21.05-1 Character 21.05-2 Heritage 21.05-3 Liveability
Clause 21.06 - Environment	21.06-3 Floodplain management 21.06-7 Energy 21.06-8 Open space
Clause 21.07 - Infrastructure	21.07-3 Infrastructure use
Clause 22.05 - Heritage Conservation	22.05 Heritage Conservation

### Ballarat Activity Centres Strategy

200, 200A and 200B Victoria Street has not been identified as a possible site for an activity Centre in the Activity Centres Strategy. A submission to Amendment C151 was made by the potential future supermarket developers of 200 Victoria Street, the Ryan Group requesting the property be included in the Strategy. In October 2012, an independent Planning Panel for Amendment C151 considered the request to include this site in the Activity Centres

Strategy. However it stated that as the site was for a Local Activity Centre it was beyond the scope of the Strategy and the Panel report and that it should be part of future strategic work outlined in Clause 21.04.

### Ballarat Open Space Strategy

The Ballarat Open Space Strategy (BOSS) indicates that there is sufficient open space in the vicinity of the site. However the site contains trees which are considered to be significant to many former residents and it is considered important to provide an area for reflection and remembrance. For these reasons open space will be provided within the subject site and it will be linked to adjoining open space areas via shared paths.

## REPORTING AND COMPLIANCE STATEMENTS

Implications	Considered in this report?	Implications identified?
Human Rights	No	No
Social/Cultural	Yes	Yes
Environmental/Sustainability	Yes	Yes
Economic	Yes	Yes
Financial/Resources	No	No
Risk Management	Yes	Yes
Implementation and Marketing	No	No
Evaluation and Review	No	No

**Social/Cultural** - The site is closely aligned to the past of over 4,000 former residents of the Ballarat Orphanage (including indigenous people) and is considered to be significant to many people in the community. The implementation of site specific heritage controls, along with details in the proposed Development Plan Overlay, recognises important elements of the site and plans to ensure that they are considered in future development.

**Environmental/Sustainability** - The introduction of an Environmental Audit Overlay in order to address possible contamination on the site, along with the requirements of the Corangamite Catchment Management Authority in relation to addressing flooding concerns, are both important considerations in the planning for the site. Both can potentially influence the extent and form of future development.

**Financial/Resources** - The Planning Scheme Amendment fees are paid for by the proponent and if the amendment proceeds to a Planning Panel, the proponent is also required to pay the Panel fees. Other costs, including Council's own representation will be met from Council's Strategic Land Use Planning budget.

Development Contributions will also be negotiated with the developer to support infrastructure and social facilities.

**Risk Management** - If the site is left undeveloped and / or site specific protection is not applied through the Ballarat Planning Scheme, there is the potential for further damage of the site to occur through neglect.

## **CONSULTATION**

Extensive public and interest group consultation occurred during the public exhibition period for Amendment C164. The formal public exhibition period commenced on 30 October 2013 for a period of 6 weeks (2 weeks more than standard), however due to administrative errors the period was extended through until 13 January 2014 (with notices resent). Approximately 430 notices were sent to former residents of the site via the database of Child and Family Services (CAFS). In addition nearly 350 notices were sent to owners / occupiers of land in the vicinity of the subject site, along with relevant referral authorities and interest groups.

Consultation sessions were held on Thursday 14 November and Thursday 12 December 2013, where 38 local and former residents of the orphanage attended. Officers also received numerous phone calls and conducted individual discussions with many local and former residents of the site.

## **OFFICER' DECLARATIONS OF INTEREST**

Council Officers affirm that no direct or indirect interests need to be declared in relation to the matter of this report.

## Attachment 2 – Amendment C164 Submission responses by theme

No.	Name / Organisation	Heritage / history – School House
2	Community	<ul style="list-style-type: none"> <li>• 100% against demolition of any part of the site</li> <li>• Submitter states that there are buried children onsite – police, coroner, AAV are aware of submitter’s claims</li> <li>• Submitter made a promise to children who died on the site that they would fight for its protection</li> <li>• Where is the respect and their ‘true place’ in history? Wants the same recognition as Eureka Stockade (teaching the children about history, etc)</li> <li>• Submitter has a legal blood claim with the Victorian Attorney General’s Department to stop demolition and protect and restore the whole site</li> <li>• Accuses Council of running a confusing &amp; misleading Council meeting - this has been reported to Victoria Attorney General and Aboriginal Heritage</li> <li>• Attorney General has put her claim on hold until human remains investigations are completed</li> <li>• Unhappy with behaviour of developer &amp; owners</li> <li>• Submitter advised that they are taking the decision to VCAT</li> <li>• Submitter is unhappy that they are not being kept fully informed as per previous requests</li> <li>• Unhappy the concept plan indicates retention basin in area where submitter states that the buried children are – this shows disrespect</li> </ul>
8	Community	<p><u>Introduction – protecting the site</u></p> <ul style="list-style-type: none"> <li>• Council requirements for the protection of the site should be applauded</li> <li>• Gave an example of a Council (Goulburn, NSW) not issuing development permits until restoration works of former St John’s Orphanage building were completed</li> <li>• Opposes the rezoning especially the area containing the former school</li> </ul> <p><u>Heritage values – much more than architecture</u></p> <ul style="list-style-type: none"> <li>• The facility was an integral part of Ballarat’s community life for more than 100 years</li> <li>• Moral duty of Council to make sure that the developers are obliged to consider the rightfulness of having significant parts of the site preserved as part of Ballarat’s history</li> <li>• Submitter believes the developers’ proposals do not take into account calls to be more sensitive &amp; responsive to Forgotten Australian’s history. This is opposite direction to State &amp; Federal Governments initiatives to recognise Forgotten Australians (acknowledging &amp; maintaining a diverse collective memory rather than tearing it down)</li> <li>• December 2011 – Heritage Council of Victoria concluded Toddlers; Block and the Orphanage School were of local historical significance for its demonstration of twentieth century child-welfare ideals</li> <li>• Architecture of the site is not the key issue – it is what the site means for those who lived in the place – for some a site of conscience for the terrible things that happened; for others a site of memory; the ability to show something tangible to family is important</li> </ul> <p><u>Unique heritage value of the on-site school</u></p>

- Not everyone lived in the Toddler's Block but for a period of around 90 years all children experienced the school, which was a key determiner of later outcomes in life
- School embodies when the orphanage was a [total institution' where 'inmates' had little contact with the outside community. No other surviving building on the site carries that significance
- Lovell Chen & Council's Heritage Assessment miss the critical point about the school building – the school building being altered does not mean it loses significance. The alterations occurred to improve conditions for children and teachers, it would be difficult to name a school in Victoria of that age which had not been altered

#### The developer's lost Conservation Management Plan

- Heritage Council (Oct 2011), the developer's Conservation Management Plan (CMP) acknowledged the importance of the historical and social values of the site
- CMP suggested establishing a small interpretative museum on the site potentially using the archives/museum at the former Kew Lunatic Asylum as a model (*a brief description of the museum was attached to the submission*), the submitter stresses that the developers put this example to Heritage Victoria
- Post the Heritage Council decision the developers' proposals for heritage conservation have disappeared from subsequent discussions
- If school is rezoned to commercial before discussions are held regarding heritage conservation, then the building which could be used as a museum would be gone
- Net Community Benefit Assessment states that future development of the subject site will be 'sympathetic and responsive to defined cultural heritage significance of the place and the character of the broader area'. The submitter believes the developer has failed to demonstrate this and that Council should not make a decision until they do
- Stolen Generation – believes the developer's tokenistic gesture to have the Stolen Generation's info board on the site is disrespectful and inadequate

#### Compromises between two extreme approaches depend on goodwill

- No doubt the site offers a great deal to developers seeking to maximise a commercial opportunity, also no doubt the developers are frustrated by activists lobbying to retail all the remains of the Orphanage heritage. These are not irreconcilable extremes
- Decision to exempt 6 buildings, Memorial Garden, Magnolia Tree, elm trees and Wall is a wise compromise. Loss of the other buildings may be difficult for some but is widely agreed this was a reasonable decision that can form the basis of further negotiation
- Developers show no interest in compromise and have not shifted from their earliest position, submitter heartened by Cr Hudson's comments directed to developers at 12 September 2013 Meeting regarding listening and working with former residents
- Developers' apparent plans are dressed up as concessions to heritage but in reality are self-serving in that they are clearly designed to further the developers' and suit their purpose and commercial interests
- The old brick wall marks the western boundary and obviates the necessity to enclose that side of the property; the Toddlers' Block can readily be converted in a thriving medical centre at minimal cost; the so-called memorial garden will provide a pleasant façade to the whole estate
- In the developers' proposal, the rest of the buildings can be cleared for maximum exploitation. The school, in their eyes, is an ideal site for yet another supermarket
- With a bit of imagination both developers and those who seek to preserve the orphanage heritage could be satisfied

		<p><u>Practical suggestions for ways forward</u></p> <ul style="list-style-type: none"> <li>• No dispute from former residents that the Wall, Toddlers Block &amp; Memorial Garden should remain</li> <li>• Discussions with former residents reveal they rank the retention of school higher than Toddlers Block, Wall &amp; Memorial Garden</li> <li>• Former residents rank the retention of the houses at 200A &amp; 200B as low compared to the above, much lower than the school</li> <li>• Sloyd Room only used by Grades 7-8 boys and not girls</li> <li>• Service block is significant but does not excite as much passion</li> <li>• No good reason why the retail development cannot be located on the eastern end of the site – would be feasible given the demolition of buildings 9 and 9a and even more so if the two houses were demolished</li> </ul> <p><u>Recommendation</u></p> <ul style="list-style-type: none"> <li>• Council should reject the application to rezone the north-west corner in order to preserve the school</li> <li>• Encourage applicants to amend their plan to indicate the north-eastern part of the site for commercial zoning</li> <li>• Former school building to be developed as a small-scale interpretive museum as the central feature of a Heritage &amp; Site Interpretation Plan which will include all existing plaques, foundation stones, windows and other past and present commemorative fabric</li> <li>• Acknowledges funding is required for the museum. The Kew Asylum provides a model but until support is received for this proposal from Council / or input from the developers (contribute towards the proposal as a gesture of goodwill), it is difficult to provide details</li> <li>• Could draw on local Ballarat support – public appeals &amp; grants</li> </ul>
19	Community	<ul style="list-style-type: none"> <li>• All of the buildings have been subjected to damage and graffiti, there has been a total disregard by the developers for the retention of any of the buildings. The Toddlers Block and the School [former School House] are not beyond restoration, it will now be more costly (submitter included a copy of a newspaper story from the Goulburn Post, November 11, 2013 about a developer being held accountable for allowing damage to the St Johns orphanage in Goulburn)</li> <li>• Submitter strongly objects to the rezoning of the school site from education to commercial</li> <li>• 200A and 200B are not significant as they have very little historical and social interest for past residents</li> <li>• Retention of the Toddlers Block is a must, the submitter is objecting due to the exclusion of the School from being seen as having heritage, social and cultural significance. The Toddlers Block is important and has significance for those who lived there as children, not all past residents lived there but most did attend the primary School. The School provided respite during the day from the constant ongoing work required of the residents, despite the arguments by some that the education was somewhat lacking</li> <li>• The significance of the School was discussed at the August 2011 consultation and demonstrated at a protest in March 2012, however through the reports by all parties in relation to the orphanage there appears to be a bias towards saving the altered Toddlers Block, which is in favour of the developers as it suits their needs to retain the building for their own commercial purposes. The developers clearly see the School as being in the way of the proposed supermarket and car park, therefore devaluing the historical, social and cultural significance at the expense of any real interest of past residents</li> <li>• Evening consultation sessions with past residents limit the number of persons wanting to attend because of distance and travel time. The submitter believes it more appropriate if the information had of been mailed to past residents, where they could provide a written response</li> <li>• The general public are not sufficiently informed about the history of the institutionalization of children. Many former homes have been closed or</li> </ul>

		<p>demolished, or are in private ownership and not accessible. It is a case of out of site out of mind and wiping the slate clean</p> <ul style="list-style-type: none"> <li>• Care Leavers Australia Network (CLAN) is a support and advocacy service for the 500,000 children who grew up in more than 600 institutions / homes around Australia and has a strong record of preserving the history of life in these places. CLAN would like to draw Council's attention to the National Apology 16 November 2009, the Victorian Apology, the National Library Forgotten Australians Oral History Project (accessible online), the Find and Connect Service, the National Education for Secondary Schools, the Inside Children's Homes Exhibition on display at the Melbourne Museum to the end of January 2014, along with the Senate Committee Reports of 2004, 2009 and 2010 – the Ballarat Orphanage is discussed in all of the above, which also discuss the importance of preserving the history of orphanages /homes etc and not to demolish them or remove them from history</li> <li>• The Ballarat Orphanage has lost a major part of its history through the demolition in the 1960s of the dormitory style building; this is an opportunity to preserve a very important part of history in protecting the Primary School on the grounds of the Ballarat Orphanage. The school needs repairs but is not beyond restoration and it would make an excellent centre to preserve the heritage, cultural, social history and house the memorabilia, plaques and artefacts from the Orphanage. The 'Heritage Centre' should be an educational centre for school children, an informative centre for the Ballarat community and wider State of Victoria</li> <li>• To demolish the Primary School and destroy the history of this era would be a travesty and an injustice to the memory of 4000 children from Ballarat Orphanage</li> </ul>
20	Community	<ul style="list-style-type: none"> <li>• Submitter is objecting to any rezoning areas of the site if it means demolishing the Toddlers Block and or the former orphanage children's home school house, the rezoning must not affect the buildings in which the Council voted for retention from the 23 October 2013 meeting – Toddlers Block, former school house, Stawell Street wall to be kept intact, mature elms, magnolia tree</li> <li>• Completely supports many former residents who have dedicated their passion to the retention of buildings on the former orphanage site for long term protection</li> </ul>
21	Community	<ul style="list-style-type: none"> <li>• Submitter is objecting to any rezoning areas of the site if it means demolishing the Toddlers Block and or the former orphanage children's home school house, the rezoning must not affect the buildings in which the Council voted for retention from the 23 October 2013 meeting – Toddlers Block, former school house, Stawell Street wall to be kept intact, mature elms, magnolia tree</li> <li>• Why do we need to retain the Superintendents houses at 200A and 200B when the Toddlers Block is to be retained, which was named after the Kenny Family who served as Superintendent and Matrons for over 50 years – to retain the houses over the school house, which children of all ages attended would be a 'slap in the face' to former residents</li> <li>• The submitter suggests that the site of the two houses be used for the supermarket instead of the proposed site and to utilise the school house as a museum that could still have commercial around it</li> <li>• The site is on the entrance into Ballarat, a tourism information centre could be located here also</li> <li>• The School House should be retained and have heritage protection 'heritage with heart', this space would still allow room for commercial use as well; keep the School House as an education use, to become Ballarat's National Museum (Life in Children's Home) centre, holding all memorabilia under one room, containing collective stories from Forgotten Australian's Stolen Generation including the history of Alexander Babies Toddlers Home, Ballarat Asylum / Orphanage / Children's Home, Nazereth Girls Home, St Joseph's boy's home and many other homes that Ballarat had. Our history should not be hidden in storage or scattered between places, they should be seen and shared. This would be an ideal space for former residents and their family to be able to reflect and hold reunions.</li> </ul>

		<ul style="list-style-type: none"> <li>• The City of Ballarat need to approach CAFS and together take ownership of the building, as a 'Heritage with Hearth Centre'. The submitter believes that it should not be seen as unsuitable by nearby residents given the proximity of residents to other heritage / museum sites in Ballarat. It would bring visitors to Ballarat from Forgotten Australians, Stolen Generations and other children who were placed in homes</li> <li>• Both the Toddlers Block and the School House holds the value and significance to the site for all former residents and their families. The School for many wasn't just learning to read and write it was a place where sibling contact was had with appointments and it was a safe shelter from the abuse of living in cottages</li> <li>• Submitter believes that turning the Toddlers Block (Kenny's Memorial) building into a medical centre is a great idea; also agrees that the wall and the memorial garden should be retained and remain intact</li> <li>• There was an Australia wide petition with over 500 signatures handed by Brett Eddington to Cr Coates for the 23 October 2013 Council meeting</li> <li>• The Victorian Heritage Council on 20 December 2011 found that the buildings at 200 Victoria Street were not of State significance, but found that they were of local significance of twentieth century Toddlers Block and the Orphanage Children's Home School buildings</li> <li>• There is no reason why old and new buildings can't be combined on the site</li> <li>• The submitter believes the developers have decided without compromise and have been unreasonable, showing no respect of Ballarat East history, of the community support and donations for the 4000 children who lived there. The submitter is appalled at the developers showing no heart or respect for former residents and who have allowed the damage to buildings, plaques and items on the site.</li> <li>• Council made the right decision around retention of buildings to allow more time and opportunity for further consideration and discussion of heritage values relating to those six buildings</li> </ul>
24	Community	<ul style="list-style-type: none"> <li>• Site of the former Ballarat Children's Home / Ballarat Orphanage is of huge historical significance at local, state and national level. It is noted as being one of the very first children's institutions to be built and that many thousands of children were forced to endure childhoods there, many were neglected and abused in all types of ways, and some innocent children sadly lost their lives there. To former residents the site is as significant as the site of the former twin towers in New York, which is respected and provides a place where many people seek to pay their respects, to sit and reflect and remember individual victims. The submitter notes that the site of the Ballarat Children's home does not receive the respect or acknowledgement for its true historic value.</li> <li>• It is discussed that lives were lost at the site and there are many former institutional sites around Australia that have uncovered bodies and mass unmarked graves. The questions are asked why this site would be any different, considering it is the oldest of its kind in Australia, and why do former residents deserve such a lack of respect?</li> <li>• It is argued that the historical evidence of what occurred on the site stand, not be changed and never be forgotten, and that the history be taught, seen and respected so the country never returns to institutionalising the innocent, vulnerable and young.</li> <li>• Many buildings need to be retained in their entirety and unchanged, especially the Stawell Street wall (crying wall) which is the most important element for the majority (refer survey of former residents).</li> <li>• The submitter outlines wide-ranging concerns with the way that former residents have been treated by the developers (or those paid to represent them) and feel let down by the planning system that their history at 200 Victoria Street stands to be lost and torn down, and is being disrespected, fought over, desecrated and neglected. Former residents are pleading that they be heard and understood, and that what is morally right and is historically important, prevails.</li> <li>• A Facebook survey was provided outlining how supporters and former residents currently feel about the site of the Ballarat Children's Home /</li> </ul>



		Orphanage, asking for responses to the questions: what would you like to see saved? What would you like to see happen on the area? Why would you like to see the Ballarat Orphanage / Children's Home saved? Have you any other comments or suggestions.
25	Community	<ul style="list-style-type: none"> <li>• Submission from an organisation that advocates for and supports former residents and staff of the site.</li> <li>• No objection to some rezoning, realising best way to preserve and protect the heritage buildings and structure on site for the long term is to have them incorporated as part of a new development. However, the development plan as exhibited will need to undergo alterations to allow for the preservation, restoration and incorporation of existing significant buildings into the proposed new development.</li> <li>• Supports the decision of Council in October 2013 in regards to Planning Application PLP/2013/119 to preserve and extend Heritage Overlay over a number of significant buildings and structures on the site. Submission also notes support for the developers' intention to preserve and incorporate the former Toddlers Block, Stawell Street wall (albeit with a breach) and the Memorial Garden, magnolia tree and mature elms into the new development. Former State School building, Sloyd room and service block also have significant historical and cultural significance to the community and should also be retained.</li> <li>• It is noted that the submitter organisation will do everything within its power to support the retention of the former State School building in particular. The preservation, restoration and incorporation of this building is noted as providing an exciting opportunity for the developers, community and former residents and staff to see it protected for longevity and could provide a juxtaposition of old and new on the site. It is suggested it could also be set aside by the developers as an area of interpretation and reflection on the history and heritage of the site, and could incorporate items in collections currently held by CAFS, the Gold Museum and Ballarat Base Hospital. Items such as memorials, foundation stones, plaques and other significant historical and cultural items could also be permanently displayed, protected and preserved in this building.</li> <li>• Suggests that reflection and interpretation of the site could extend to pathways with names of former residents, plaques and other signage and the potential naming of areas with historical references.</li> <li>• Submitter notes that a number of alternative rezoning proposals put forward by former residents have successfully shown how relatively simple it could be to achieve the same zones and space while incorporating historically and culturally significant buildings, structure and features.</li> </ul>
29	Community	<ul style="list-style-type: none"> <li>• Submitter is a former child care worker who has had involvement with former residents and previously lived on the site.</li> <li>• It is noted that the Ballarat community has always supported the site of the former Ballarat Orphanage by fundraising and bequests, and that this needs to be recognised by ensuring all plaques and memorabilia, and other history, are retained in a respectful manner by the developers.</li> <li>• It is of great importance for families of forgotten Australian's and future generations to have a resting place that acknowledges the site where loved ones were placed into institutional life for over 100 years, and that the good times and abuse and sadness associated with the site are recognised.</li> <li>• It is suggested that the old school building would make an ideal museum, with each of the classrooms potentially containing the story of institutional care including the history of the Alexander Baby Home, the Ballarat Asylum / Orphanage / Children's Home, former Nazareth Girls Home and St Joseph's Boy's Home. Such a museum could be used as a teaching tool sharing knowledge of the site. It is noted that vandalism is less likely to occur if the history of the site is understood in the community.</li> <li>• Supports retention of the Toddlers Block and suggests it be considered for a Ballarat East community centre, medical centre, library, youth centre, arts / dance facility or a hub for local residents.</li> <li>• Clarification is sought on the design of the proposed medical centre, and whether it includes medical rooms, dental, x-ray, blood bank and a chemist.</li> </ul>

		<ul style="list-style-type: none"> <li>• Concern is raised that the rezoning of the site will occur without consultation with interested parties.</li> <li>• Clarification is sought regarding what would become of the bricks, materials and other items of the buildings? Will there be public notification and will they be used to incorporate a memorial on the site?</li> <li>• Submitter notes concerns regarding the current condition of the site, and the need to minimise any further damage.</li> </ul>
--	--	---

**Response:**

The submitters comments about retaining the former School House building and the Heritage Council's comments as to the local significance of the buildings are noted. This request has been passed to the proponent, along with the call for the use of the building for a museum / education site / 'heritage with heart centre', along with the statements that this building is of significance to more former residents than the Toddlers Block. Council agrees that heritage values can include more than architectural significance. The comments around 200A and 200B have also been passed to the proponent. It should be noted however that these buildings are currently included within the Victoria Street precinct Heritage Overlay and any change to these sites would require approval under this control.

The submitters comments around the need to retain the Toddlers Block, garden and Stawell Street Wall are noted. The proponent is proposing to reuse the Toddlers Block for a medical centre. In response to comments around retaining other elements of the site, it has been established via the Heritage Assessment & Citation as well as the demolition planning permit assessment, that certain elements of the site should be able to be removed (it's acknowledged that this planning permit is currently before VCAT).

The proposed Development Plan Overlay Schedule 9 includes many details aimed at managing the site respectfully and finding a balance between, retention and redevelopment. The comments around the potential for street naming, plaques and other signage have been passed to the proponent.

The comments regarding buried children on the site are currently being investigated outside of this process. The submitter's comments relating to a blood claim are also outside of this process as per the submitter's comments.

It should also be noted that the proposed application and extent of the site specific Heritage Overlay Schedule HO196 is being tested through this process and it is expected that this will be discussed in light of these submissions at a Planning Panel Hearing.

No.	Name / Organisation	Traffic
11	Community	<ul style="list-style-type: none"> <li>Concerns regarding traffic generated from leaving &amp; entering the site, with the Stawell and Victoria Street intersection also being un-signalled. Traffic issues will need to be dealt with when commercial development occurs and has requested Council take the issue of traffic on board but is confident a solution will be found</li> </ul>
10	Community	<ul style="list-style-type: none"> <li>Concerns Stawell St Sth will become a busy traffic route</li> <li>Proposed supermarket will also be a warehouse – how many trucks?</li> <li>New homes would greatly increase traffic in Stawell St Sth especially as entry will be on that street</li> <li>Would not like to see the oak trees in Stawell St sacrificed for traffic flow</li> <li>Would like to see traffic/pedestrian lights in front of No.29 [Officer's note: this is believed to mean Stawell St Sth which is Hemsley Park Retirement Village]</li> <li>Increase traffic would also travel past Eureka Pool where children are</li> </ul>
30	Community	<p>Submitter owns property directly abutting the development site. Concerns are raised regarding traffic, impact on streetscape and character of entrance to Ballarat, and logistical impacts on residents during construction. A series of clarification questions are sought, including:</p> <ul style="list-style-type: none"> <li>Has traffic modelling been undertaken to assess the impact on the slip road of the future development of the site?;</li> <li>Will the slip road outside 202 Victoria Street be used to access residential properties on the site?;</li> <li>Has consideration been given to closing the current entrance to the service road outside 202 and 204 Victoria Street and creating a new entrance outside 200B Victoria Street?; and</li> <li>Will speed humps be implemented as part of the proposal?</li> <li>How will the size and number of contractors' vehicles entering and leaving the site during development be managed along the service road outside their property?</li> </ul>
27 & 28	Community	<ul style="list-style-type: none"> <li>Particular concern is raised with increased traffic flow and associated road safety impacts that a shopping complex would have on Stawell St South, particularly the addition of delivery trucks that would access the site on a 24/7 basis and mixture of light and heavy traffic using the street. Street has sightline issues and the geographic fall to the bottom of the Stall Street South hill is a road safety issue.</li> <li>The submitters raise concerns with the proposed single entrance to the redevelopment on Victoria Street and two entrances on Stawell Street South. They note that as Victoria Street is a main thoroughfare and currently has a service road and off-street parking, it would be a more suitable option to have a minimum of two entrances on Victoria Street and one entrance on Stawell Street South thus maintaining a more manageable traffic flow on Stawell Street that is appropriate for a residential street.</li> </ul>

**Response:**

The concerns expressed by these submitters regarding traffic are noted and the Development Plan Overlay will be reviewed. Council has sought comment from the relevant authorities (VicRoads) as well as Council's internal Traffic unit, with VicRoads raising some concerns that need to be investigated to determine if changes should be made to the proposed DPO9 (see comments below under 'referral authorities').

Given there are two proposed entrances to the development, it is argued that whilst there will be some impacts on Stawell St Sth not all access/egress journeys will occur at the Stawell St Sth entrance. The pedestrian lights at Hemsley Park would need to be considered within Council's overall Capital Works program and will require further consultation with all relevant parties.

No.	Name / Organisation	Amenity / Zoning
4	Community	<ul style="list-style-type: none"> <li>• Would like a footpath installed on the east side of Stawell St – particularly important during construction time</li> <li>• Asked question: Due to the graffiti &amp; vandalism to the site, which is spoiling the good work of Council along the Victoria Street approach, can the development start sooner rather than later?</li> <li>• Overlooking, privacy and light reduction is a concern. Want only single storey dwellings on south boundary of subject land via an 'enduring covenant'</li> </ul>
7	Community	<ul style="list-style-type: none"> <li>• Submitter concerned with the height of the proposed housing development along southern boundary of the subject site, which would restrict light into their house and overlooking into their backyard</li> <li>• Would like to see a footpath formed along the east side of Stawell Street to connect to the proposed shopping facility</li> </ul>
10	Community	<ul style="list-style-type: none"> <li>• No mention of housing density or type</li> <li>• Would need to be restrictions on building height along southern boundary to ensure privacy</li> </ul>
14 & 15	Community	<ul style="list-style-type: none"> <li>• Concerns regarding height of dwellings, along with overlooking from balconies and overshadowing from the southern side of the subject site towards Conn Street, Hemsley Park</li> <li>• Submitter requests that dwellings in this part of the site face Victoria Street and would like these issues considered when planning permits are issued</li> </ul>
17	Community	<ul style="list-style-type: none"> <li>• Submitter believes that rezoning land to Commercial Use is particularly harsh against the established residential neighbourhood character of Stawell Street</li> <li>• Submitter states that they were informed that the proposed HO would protect the amenity and character of Stawell Street, however if the land is zoned to Commercial, this may not achieve very much (within what is considered to be reasonable use of commercial land)</li> <li>• The northern 40-50 metres of the Stawell Street Wall is not very old and hence offers little heritage value, therefore the submitter questions what protection will the proposed HO really afford</li> <li>• Submitter believes that the land should be rezoned to residential along Stawell Street to allow a transition to other zoning within the development, with it being appropriate that the developers address concepts of buffer and blight within their land</li> </ul>
26	Community	<ul style="list-style-type: none"> <li>• Submission raises concerns with the lack of adequate control on future development to ensure that the amenity and character of the area is preserved.</li> </ul> <p><u>Lot sizes and density</u></p> <ul style="list-style-type: none"> <li>• Whilst existing lot sizes provide a natural limitation to the size of future subdivided lots, a lack of additional lot size controls will enable small lots incompatible with overlay requirements. The submitter argues this issue may not be determined until housing approvals are determined, which will be too late in the process to rectify.</li> <li>• The intended 90 new residential lots at density of over 23 houses / hectare is inconsistent with the current housing density in the area of 10 to 14 houses / hectare. It is argued that whilst providing some specific protections, the DPO does not prevent housing development at a density that is not sympathetic with existing built form and would be detrimental to the quality and character of the city's presentation, especially</li> </ul>

		<p>within the Victoria Street Heritage Overlay.</p> <ul style="list-style-type: none"> <li>Traffic for a development of 90 dwellings will flow into surrounding residential areas. The DPO9 should require the developer to demonstrate how development of the area with very narrow lots can accommodate approximately 130 resident related vehicles.</li> </ul> <p><u>Victoria Street frontage and Heritage Overlays</u></p> <ul style="list-style-type: none"> <li>There is no specific reference to the nature of development on residential land fronting Victoria Street, although City of Ballarat's own Entrances Strategy nominates this eastern entrance as Ballarat's most important entrance. Specific concern is identified with lots fronting Victoria Street with a depth of 30m and an area of 400 square metres, as such lots would not be able to accommodate housing located in accordance with the requirements of Heritage Overlay 177, such as setback and house style, without compromising the requirements and character of the area. Updated wording of the Urban Design Master Plan section of the DPO9 should specify that any allotments created within the Heritage Overlay must allow housing development on those lots to accord with provisions of the Heritage Overlay and associated documents, including the <i>Ballarat Planning Scheme Heritage Control 2004 – Incorporated Plan (revised 2008)</i>, in particular in relation to setbacks and eave heights.</li> <li>Small lot sizes fronting Victoria Street shown on indicative plan encourages two storey housing, which for Victoria Street frontage would be totally inconsistent with the character of the area, and a specific prohibition on multi-level housing for the area under the Heritage Overlay should be included in the DPO9.</li> </ul> <p><u>Proposed retail centre</u></p> <ul style="list-style-type: none"> <li>Proposed retail centre will adversely affect the amenity of the area unless adequate parking provisions included. It is suggested that DPO9 include a requirement that the Urban Design Master Plan specifies the area of the commercial zone that is to be dedicated to buildings, car parking and roads, pedestrian spaces etc. Without this land use budget there is no control for Council to ensure staff parking and customer overflow parking will not affect the surrounding neighbourhood, as currently occurs at Pleasant Park shopping centre.</li> <li>Implementation of one of the reformed residential zones is supported for this site, prior to being implemented elsewhere across Ballarat, however the zone should be the more conservative Neighbourhood Residential Zone (NRZ) rather than the currently proposed General Residential Zone (GRZ). Submitter argues that the NRZ will ultimately be applied to the surrounding neighbourhood, but that even if GRZ is ultimately implemented through the Ballarat Strategy, a more conservative approach with NRZ should be undertaken for the interim period.</li> </ul>
27 & 28	Community	<ul style="list-style-type: none"> <li>Submitters note concern regarding direct impact on their adjacent property and on their neighbours, and consider that the site should be rezoned to General Residential Zone only. They specifically object to the currently proposed inclusion of Commercial and Mixed Use Zones, and the associated partial demolition of the Stawell Street wall to allow a second entry / exit point onto Stawell Street, and the potential removal or damage to historical and mature trees in Stawell Street that line the wall of particular concern. It is considered that the concept plan would result in a significant change in the streetscape and aesthetics of the residential street.</li> </ul>
30	Community	<p>Submitter owns property directly abutting the development site. Concerns are raised regarding traffic, impact on streetscape and character of entrance to Ballarat, and logistical impacts on residents during construction. A series of clarification questions are sought, including:</p> <ul style="list-style-type: none"> <li>How does the proposed commercial and mixed use zoned buildings facing Victoria Street comply with Council's reinforcement of existing streetscape and entrance character? The suggestion is made that the commercial and mixed use buildings should be relocated within the development site to lessen the visual impact on Victoria Street.</li> <li>How will the size and number of contractors' vehicles entering and leaving the site during development be managed along the service road outside their property?</li> </ul>

- |  |  |
|--|--|
|  | <ul style="list-style-type: none"><li>• What time restrictions will be placed on the hours of operation of the development site?</li><li>• Concerns are also raised regarding ongoing security arrangements at the site.</li></ul> |
|--|--|

**Response:** In terms of when development can start, the amendment and planning permit processes can be lengthy, in order to ensure that all appropriate issues are addressed and parties consulted. In terms of the footpath on Stawell Street, this is matter relating to the Hemsley Park development (not this site) and has been forwarded to Council's compliance Unit who are currently working to resolve this matter.

The DPO allows for dwellings which are generally limited to 2 storeys that are well located around public open space. The current proposal indicates higher density would be located towards the front of the development around the open space in this area. The wording of the DPO can also be reviewed through the Panel process to try to address some of the submitters concerns around overlooking, overshadowing and housing density.

The comments from submitters relating to the undesirability of commercial and mixed use are noted and have been passed onto the proponent. These matters will need to be considered by the Panel; however it is common to have these zones located next to each other, particularly given the location on Victoria Street. In terms of the layout of the commercial aspect of the site, the DPO9 will require the applicant to produce a detailed plan before any planning permits can be granted. In terms of operating hours, these can be addressed through future planning permits for the site.

The existing Victoria Street precinct HO, the proposed DPO9 and proposed HO 196 will provide development controls to try to manage amenity and other concerns; DPO9 should ensure that the controls of HO177 can be met for future development facing Victoria Street. The trees along Stawell Street are protected under the Victoria Street precinct HO and the proposed site specific HO196 will require a planning permit to be issued for any alteration to the Stawell Street wall.

Council officers are currently reviewing the implementation of the new residential zones and the General Residential Zone is considered to be the 'default' zone more than Neighbourhood Residential Zone (as evidenced by the Minister for Planning's mandatory implementation of GRZ on 1 July 2014 if Council has not undertaken its own amendment).

No.	Name / Organisation	Other issues
4	Community	<ul style="list-style-type: none"> <li>• Asked question: Due to the graffiti &amp; vandalism to the site, which is spoiling the good work of Council along the Victoria Street approach, can the development start sooner rather than later?</li> <li>• Asked question: Can the owners speak to Hemsley Park about what type of commercial development may be suitable for a large number of the possible clients?</li> <li>• Advised that Hemsley Park Residents Committee is available for further comment via the Manager</li> </ul>
12	Community	<ul style="list-style-type: none"> <li>• General email to City of Ballarat suggesting Ballarat needs a fresh food market similar to what is found in Melbourne (Victoria Market) - wouldn't it be possible to use one of your heritage sites like the former orphanage in Victoria Street for something like that? Surely that would be preferable to another supermarket of which there is a plethora of in Ballarat</li> </ul>
22	Community	<ul style="list-style-type: none"> <li>• Submitter was a former resident of Pleasant Creek, a government run orphanage in Stawell</li> <li>• Submitter believes that it is really important for people such as former orphanage residents to have somewhere they can go to when they feel the need to revisit their past</li> </ul>
33	Community	<p>Submitter advises of residency in the ATH (Officer's note: also known as The Toddlers Block as per City of Ballarat Heritage Assessment Feb 2012)</p> <p>At the ATH the submitter would like to see:</p> <ul style="list-style-type: none"> <li>• Trees protected (distance of trunk from proposed paving)</li> <li>• Distance of proposed development from ATH building</li> <li>• Short term maintenance of ATH buildings – repair of damage and protection from vandals, now and during construction</li> </ul> <p>Submitter also requests:</p> <ul style="list-style-type: none"> <li>• An artists projected image of completed development</li> <li>• Temporary protection of walls before and during construction, until proper remediation work can be completed</li> <li>• Depth of excavation for services – proximity to trees</li> <li>• Aware of sensitivities of indigenous people and wants an observer in place during excavations</li> </ul>

**Response:** This request for the proponents to talk to the Hemsley Park residents has been passed onto the proponents. The submitters request for a fresh food market has also been passed onto the proponent. The submitter's comments around the importance for former residents to have a place to revisit are noted, with the proposed public open space areas having been included in part to provide this space for former residents, their families and the broader community.

The submitter request for an artist projected image of the completed development has been passed onto the proponent, along with the call for protection of the walls and trees and the question around distance of the proposed development from the Toddlers Block. The Development Plan Overlay can be reviewed through the Panel process to ensure that the document includes enough direction around these elements.



No.	Name / Organisation	Support
6	Community	<ul style="list-style-type: none"> <li>• Supports the proposed re-zoning to General Residential, Commercial Zone 1 and Mixed Use one</li> <li>• Supports retaining the Victoria Street heritage overlay over the land except for the oval</li> <li>• Supports adding heritage overlay HO196 to protect the toddlers block, magnolia tree and 2 elm trees (fronting Victoria Street) along with the Stawell Street Wall</li> <li>• Supports adding a Development Plan Overlay for detailed requirements to be completed before any future development</li> <li>• Supports adding an Environmental Audit Overlay before future development</li> <li>• Supports the manner in which the Council has promoted this, including the public consultation period and consultations sessions at the Eureka Hall</li> <li>• Do not support applications to retain a further number of buildings that are definitely not building heritage. Submitter believes the aspect of social heritage has been retained in the above application</li> </ul>
11	Community	<ul style="list-style-type: none"> <li>• Acknowledge attachment that many people have to the site and the potential of redevelopment to destroy that connection</li> <li>• There may be a way of weaving the history of the site into future development so that the history is not lost and respect is given to former residents</li> <li>• Support the amendment as the proposal will reinvigorate the site and the entrance to Ballarat. The site is looking unloved and its appearance detracts from the main entrance into Ballarat</li> <li>• Former Sunshine Biscuit Factory is an example of a site which has been redeveloped and now has a new life. The subject site can have a new life and the amendment is the mechanism to achieve this outcome</li> </ul>
13	Community	<ul style="list-style-type: none"> <li>• Original gap (around 1950) in Stawell St Wall was created for the convenience of the Superintendent Mr Ludbrook. The gap was bricked up again some years later</li> <li>• The removal of part of the wall for the convenience of the developers will do nothing for the historical significance of the wall</li> <li>• Former residents can verify 'full fence' position and names can be supplied</li> <li>• There are already two gaps in the wall which could be used to enter/exit</li> <li>• An additional gap will add to the traffic on Stawell Street South</li> <li>• Currently a narrow road with the memorial drive of oaks prohibiting any further widening of the road</li> </ul>
31	Community	<ul style="list-style-type: none"> <li>• Support for overlays proposed for the site, particularly the Heritage Overlay (HO196) to give additional protection to the Toddlers Block, magnolia tree, 2x elm trees and the Stawell Street walk. Protection of these elements represent an expression of the local communities values during a particular period.</li> <li>• The submission discusses in some detail the generous support of the orphanage by James Kerslake, who provided numerous financial bequests to the orphanage during the first half of the 20<sup>th</sup> century. He is noted as having funded the construction of the Toddlers Block, which the submission notes as meriting protection for its architectural significance and its social heritage value. It is requested that a memorial for James Kerslake be considered for the site.</li> </ul>

	<ul style="list-style-type: none"><li>• Historical information and newspaper clippings on John Kerslake and the former Orphanage was also provided.</li></ul>
--	---

**Response:** The support for the amendment is noted. The proposed DPO includes many elements aimed at respecting the heritage of the site and the importance of the site to former residents, whilst allowing for future development. The comments about the Stawell Street wall are also noted with the proposed HO196 applying to the Stawell Street wall. The submitter’s support for the application of the individual Heritage Overlay Schedule 196 is noted. The detailed history of James Kerslake is also noted and appreciated. The request for a memorial for Mr Kerslake has been forwarded to the proponents.

No.	Name / Organisation	Referral Authorities
1	Department of the Environment	<ul style="list-style-type: none"> <li>• A rezoning is not an action under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) in that a plan cannot impact on matters protected under the Act. However, subsequent actions such as clearing, building etc may impact on EPBC matters.</li> <li>• It is the responsibility of the person taking the action to decide whether a proposed action is likely to have a significant impact on one or more of the matters protected by the EPBC Act and require referral. If the action is found to have a potentially significant impact on a matter of national environmental significance and is not referred, compliance action could be taken.</li> </ul>
3	VicRoads	<ul style="list-style-type: none"> <li>• No objection</li> </ul>
5	CFA	<ul style="list-style-type: none"> <li>• Supports the amendment in its current form – CFA agrees with the assessment that this amendment relates to an area of low bushfire risk</li> <li>• Requests the opportunity to be heard at any Panel hearing</li> </ul>
9	Corangamite Catchment Management Authority	<ul style="list-style-type: none"> <li>• Proposed location is within the floodplain of the Specimen Vale Creek</li> <li>• Flooding has previously occurred on this site</li> <li>• Provided map of previous flooding in 1990</li> <li>• Canadian Creek Tributaries Flood investigation has commenced and will include the Specimen Vale Creek. The detailed flood mapping produced by the study will inform future land use planning and flood response within the study area. The Study which is now well progressed is anticipated to be completed in April 2014</li> <li>• Preliminary information produced by the study indicates that the southern portions of the property would become inundation during 1% AEP flood events. Preliminary flood levels at this site are estimated to range between 441.5 – 439 meters AHD</li> </ul> <p>Recommends changes / inclusions to the DPO:</p> <ul style="list-style-type: none"> <li>• The general subdivision layout including location and general distribution of lots showing natural surface elevation and proposed building parcels. The subdivision should not create any new lots, which are entirely within the estimated flood extent at this location. This does not apply if the subdivision creates a lot, which by agreement between the owner and the relevant floodplain management authority is to be transferred to an authority for a public purpose</li> <li>• The development must include minimum buffers along the waterway in accordance with Clause 14.02-1 of the Planning Scheme.</li> <li>• Flood risk report that must consider the following, where applicable: <ul style="list-style-type: none"> <li>- The State Planning Policy Framework and the Local Planning Policy Framework.</li> <li>- The existing use and proposed development of the land.</li> <li>- Whether the proposed use or development could be located on flood-free land or land with a lesser flood hazard outside the identified flood extent.</li> <li>- The susceptibility of the development to flooding and flood damage.</li> <li>- The potential flood risk to life, health and safety associated with the development.</li> <li>- Flood risk factors to consider include: <ul style="list-style-type: none"> <li>○ The frequency, duration, extent, depth and velocity of flooding of the site and access way.</li> </ul> </li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>○ The flood warning time available.</li> <li>○ The danger to the occupants of the development, other floodplain residents and emergency personnel if the site or access way is flooded.</li> <li>- The effect of the development on redirecting or obstructing floodwater, stormwater or drainage water and the effect of the development on reducing flood storage and increasing flood levels and flow velocities. No loss of floodplain storage will be permitted as part of any development.</li> <li>- The effects of the development on river health values including wetlands, natural habitat, stream stability, erosion, environmental flows, water quality and sites of scientific significance.</li> <li>- (CCMA advise how to obtain this information)</li> <li>● Drainage Report that:             <ul style="list-style-type: none"> <li>- Identifies waterways, major flood paths, drainage depressions and high hazard areas which have the greatest risk and frequency of being affected by stormwater and overland flooding.</li> <li>- Provides for the collection, treatment and disposal of stormwater runoff that reflects best practice including the provision of water detention basins and water quality treatment wetlands within the open space and bio-retention systems within the local street network;</li> <li>- Ensures a design philosophy of ‘zero adverse impacts’ to surrounding areas for up to and including the 1% AEP flood event;</li> <li>- Details short and long term maintenance requirements and responsibilities for the wetlands, detention basins and aesthetic lakes; Identifies any other elements or issues to assist long-term management of these systems;</li> <li>- Provides for the design of overflow paths for a 1 in 100 year flood event;</li> <li>- Identifies measures to improve stormwater quality before it is discharged downstream, including details of design to ensure that floating debris is removed,</li> <li>- including installation of litter and gross pollutant traps to the satisfaction of the responsible authority;</li> <li>- Details of the construction procedures and practices to ensure there is no unreasonable off-site impact to stormwater quality during the construction phase.</li> <li>- The measures to be undertaken for the management and control of erosion and silt discharged beyond the site during the construction phase of the development.</li> <li>- Construction techniques that incorporate the provisions within the Guidelines for Environmental Management – Doing it right on Subdivisions (EPA Publication 960).</li> </ul> </li> </ul>
16	DEPI	<ul style="list-style-type: none"> <li>● No objection</li> </ul>
18	EPA	<ul style="list-style-type: none"> <li>● EPA has no concerns with the amendment but notes that the Environmental Site Assessment conducted by Coffey Environments (11 May 2012) confirms that sensitive uses may be precluded by contamination identified on the southern part of the site. The level and type of contamination in the north west corner of the site has been identified as being consistent with former mining activities, however the PAH concentration identified on the southern portion of the site requires further investigation as part of an Environmental Audit process</li> <li>● By applying the EAO Council has made an assessment that the land is potentially contaminated and is unlikely to be suitable for a sensitive use without more detailed assessment and remediation works or management</li> <li>● The EAO requires that an Environmental Audit in accordance with Section 53X of the Environment Protection Act 1970 be undertaken prior to</li> </ul>

		<p>any works being undertaken on the site</p> <ul style="list-style-type: none"> <li>• Whilst this approach is consistent with Ministerial Direction No.1 – Potentially Contaminated Land, and will ensure the land is not used for a sensitive use without appropriate remediation works taking place, EPA notes that this approach means the site may remain contaminated until development is proposed</li> </ul>
23	DTPLI	<ul style="list-style-type: none"> <li>• Overall the transport agencies are not opposed to the proposal</li> <li>• The rezoning will cause a significant increase in traffic movements at the intersection of Victoria Street and Stawell Street South, which may increase the crash risk at this intersection due to the service road</li> <li>• Concerns that the proposed retail fronting the service road may result in traffic entering the wrong way – it is therefore suggested that the service road connection to Stawell Street be removed and an exit lane onto Victoria Street be constructed to the east site of the existing intersection</li> <li>• PTV do not seek any changes to the amendment, however VicRoads notes that the location of the existing bus stop on the service road may result in some conflict between the increase in traffic onto the service road and it could possibly be relocated 100m east of its existing location. The proponent / Council should liaise with PTV prior to any changes to the bus stop location</li> <li>• PTV are currently reviewing bus networks in this vicinity and the proponent should be advised to consult with PTV prior to the preparation of the future Development Plan to incorporate links to current and / or proposed public transport networks</li> </ul>

**Response:** The referral authorities comments are noted. VicRoads suggestions have been presented to the proponent to be discussed at the Planning Panel Hearing, where changes to the DPO may be able to be resolved.

In response to the flood concerns raised by the CCMA (and Submitter 4), the DPO will need to be amended through the Panel process to include the CCMA's requirements. The proponents' drainage and flood risk reports will need to address all flood concerns to an acceptable level. It is expected that the final Canadian Creek Tributaries Study will be completed in early 2014, with the information available to be used by the proponent. It is also expected that flood related overlay/s will be applied to this site through the subsequent planning scheme amendment process that is planned to follow the completion of the flood study.

No.	Name / Organisation	Proponent
32	Proponent	<ul style="list-style-type: none"> <li>• Supports the exhibition of Amendment C164 but has concerns regarding the proposed approach to Heritage Overlay (HO) controls. HO196 was not a part of the amendment request that was submitted to Council by the proponent, and is not supported as it is argued it would result in the creation of a site-specific Heritage Overlay (HO196) located within a precinct-based Heritage Overlay (HO177), and the two overlapping controls apply the same requirements.</li> <li>• Development Plan Overlay 9 (DPO9) references CAFS “or other representative body’s as nominated by the responsible Authority”. It is submitted that as Child and Community Services (CAFS) is the representative body agreed between Council and the proponent that the reference to another representative body be removed from the DPO.</li> <li>• DPO9 includes a requirement for the Development Plan to include a Movement Network Plan, with “all roads to be for through traffic”. It is submitted that whilst Standard C17 to Clause 56.06-4 seeks to minimise the provision of cul-de-sac roads, it does not prohibit them in the way proposed by DPO9, and that cul-de-sacs, court bowls and other terminating roads are a legitimate component of urban development. The proposed requirement is suggested as elevating vehicle and traffic movement requirements above all other urban design considerations, in particular place making. It is requested that the Movement Network Plan requirements be amended to “A general street layout that achieves continual connectivity throughout the site”.</li> <li>• It is submitted that a Planning Permit cannot include a condition that requires payment for facilities and services (ie development contributions) in the absence of an approved Developer Contributions Plan. As such the proposed Conditions and Requirements for Permit as contained within the draft DPO9 is beyond Council’s legal power or authority.</li> <li>• Submission suggests that Council has not sufficiently justified the level of development contributions that are being sought by Council via the proposed mandatory S173 Agreement permit condition. Council’s proposed approach to development contributions is described as follows: lacks a strategic basis; does not nominate or justify which infrastructure projects development contributions will be put towards; does not demonstrate that the development of the subject site is likely to use the (as yet undefined) infrastructure that is to be funded by development contributions; does not indicate the subject sites share of uses of the (as yet undefined) infrastructure that is to be funded by development contributions; and does not commit Council to provide the (as yet undefined) infrastructure that is to be funded by development contributions. It is requested that the amendment be changed to ensure relevant development contributions are dealt with and documented in a fair, reasonable, transparent and accountable manner.</li> </ul>

**Response:** The comments and concerns raised by the proponent are noted. In terms of the site specific HO proposed, this is at Council’s discretion and Council’s heritage assessment of the site indicates the need for this overlay control. This exhibition process is a test of the proposed overlay control. In terms of the reference to CAFS or ‘other representative bodies as nominated by the Responsible Authority’, this is considered necessary to ensure that the Schedule is still technically correct if CAFS name changes or another organisation is involved / takes over this aspect of CAFS current role.

In response to the comment regarding through traffic, this is Council’s preference however an alteration to the wording can be discussed at a Panel Hearing. Council must consider the layout of roads having regard to their function and relationship to existing roads and the movement of pedestrians and vehicles

throughout the subdivision along with the ease of access to all lots before deciding on an application, officers will make these considerations when a development plan is submitted.

In terms of the concerns around the justification of development contributions and the inclusion of this as a permit condition through the DPO, Council officers are reinforcing the principle of obtaining contributions to support community facilities and infrastructure delivery. Council is currently awaiting the Minister's review on development contributions that will inform Council's future policy in this regard. In the interim Council needs to utilise the provision of the section 173 agreements to negotiate development contributions.

A full response to the proponents' concerns will be provided in Council's submission at the independent Planning Panel Hearing.