



*Planning and Environment Act 1987*

# Panel Report

Ballarat Planning Scheme

Amendment C164

Former Ballarat Orphanage site rezoning

**10 June 2014**



*Planning and Environment Act 1987*

Panel Report pursuant to Section 25 of the Act

Amendment C164 to the Ballarat Planning Scheme

Former Ballarat Orphanage site rezoning



Warwick Horsfall, Chair



Ray Tonkin, Member

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**Appendix A List of Submitters**

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## List of Abbreviations

C1Z	Commercial 1 Zone
CAFS	Child and Family Services
CBD	Central Business District
CCMA	Corangamite Catchment Management Authority
Council	Ballarat City Council
DPO	Development Plan Overlay
DTPLI	Department of Transport, Planning and Local Infrastructure
EAO	Environmental Audit Overlay
GRZ	General Residential Zone
HO	Heritage Overlay
LPPF	Local Planning Policy Framework
MSS	Municipal Strategic Statement
MUZ	Mixed Use Zone
NRZ	Neighbourhood Residential Zone
Proponent	Victoria Street Developments Pty Ltd
SPPF	State Planning Policy Framework
SUZ	Special Use Zone
VHR	Victorian Heritage Register
VPP	Victoria Planning Provisions

## Amendment Summary

<b>The Amendment</b>	Amendment C164 to the Ballarat Planning Scheme
<b>Subject Site</b>	200, 200A and 200B Victoria Street, Ballarat East
<b>Purpose of Amendment</b>	The purpose of the Amendment is to rezone the subject site to facilitate its redevelopment for commercial and residential activities.
<b>The Proponent</b>	Victoria Street Developments Pty Ltd
<b>Planning Authority</b>	Ballarat City Council
<b>Exhibition</b>	<p>The Amendment was exhibited between 30 October 2013 and 13 January 2014 and included:</p> <ul style="list-style-type: none"> <li>• Direct notification to all landowners, affected individuals, Community and Family Services Ballarat (CAFS), contactable former residents of the orphanage, prescribed Ministers, referral authorities and government agencies, Office of Aboriginal Affairs (AAV) and the Wathaurung Aboriginal Corporation.</li> <li>• Public notices on Council's Notice Board and social media outlets, the Ballarat Courier newspaper and the Victorian Government Gazette.</li> <li>• Two Council convened consultation sessions with parties.</li> <li>• Public access to amendment documentation at Council offices and on Council's website.</li> </ul>
<b>Submissions</b>	34 (listed in Appendix A)
<b>Request for a Panel</b>	12 February 2014 (Council resolution)

## Panel Process

<b>The Panel</b>	Warwick Horsfall, Chair Ray Tonkin, Member	
<b>Appointment</b>	20 February 2014	
<b>Directions Hearing</b>	11 March 2014	
<b>Panel Hearing</b>	8, 16 and 17 April 2014 at the offices of Ballarat City Council	
<b>Site Inspections</b>	8 April 2014	
<b>Appearances</b>	<b>Submitter:</b>	<b>Represented by:</b>
	Ballarat City Council	Ms Briana Eastaugh of the firm Maddocks, who called the following expert witness: - Ms Annabel Neylon, Heritage Consultant from Context
	Victoria Street Developments Pty Ltd	Mr Ian Pitt of the firm Best Hooper who called the following expert witnesses: - Mr Kel Twite, Town Planning Consultant from SJB Planning - Ms Kate Gray, Heritage Consultant from Lovell Chen
	VicRoads	Mr Chris Dunlop
	Mr Frank Golding	
	Ms Sandra Gilmour	
	Ms Deborah Finlay	
	Mr Darren Ford	Ms Rosalie Bilson
	Ballarat Trades and Labour Council	Mr Brett Edgington
	Ms Phyllis Cremona	
	Mr David Clements	
	Ms Phylis Read	
	Ms Adrienne Schreuder	
	<b>Date of this Report</b>	10 June 2014

# 1 The Proposal

## 1.1 Amendment C164

Amendment C164 to the Ballarat Planning Scheme (the Amendment) was prepared by the Ballarat City Council (the Council) as the Planning Authority at the request of Victoria Street Developments Pty Ltd (the Proponent). As exhibited, the Amendment proposes to:

- rezone 200 Victoria Street, Ballarat East from Special Use Zone 5 (SUZ5) to part General Residential Zone (GRZ), part Commercial 1 Zone (C1Z) and part Mixed Use Zone (MUZ);
- rezone 200A and 200B Victoria Street, Ballarat East from Residential 1 Zone to General Residential Zone;
- apply Heritage Overlay HO196 to parts of 200 Victoria Street;
- apply a Development Plan Overlay (DPO9) to the whole of the site (200, 200A and 200B Victoria Street);
- apply an Environmental Audit Overlay (EAO) to the whole of the site (200, 200A and 200B Victoria Street);
- amend Clauses 21.03 and 21.04 to update the maps to include this site;
- amend Heritage Overlay HO177 as it applies to the site (200 Victoria Street);
- amend Clause 21.10 Reference Documents to include the *City of Ballarat Heritage Citation: Former Ballarat Orphanage 2012*;
- amend the Incorporated Document "*Ballarat Heritage Precincts – Statements of Significance, 2006*" in the form of the attached "*Ballarat Heritage Precincts – Statements of Significance, 2006 (revised November 2013)*", to remove the rear part of the site as indicated in the new HO177 and to delete any written reference to the rear part of 200 Victoria Street and Damascus College; and
- amend the Incorporated Document "*Ballarat Planning Scheme Heritage Control 2004 - Incorporated Plan (revised, 2008)*" in the form of "*Ballarat Planning Scheme Heritage Control 2004 – Incorporated Plan (revised November 2013)*" to reference the two mature Elm trees and Magnolia tree on the site's Victoria Street frontage.

Following exhibition of the Amendment, a number of changes to the documentation were recommended by Council and the Proponent and submitted to the Panel for consideration. In particular, amended versions of DPO9 were submitted by Council and the Proponent. For the purposes of assessment and common point of reference, the Panel has adopted the version of DPO9 submitted by Council on the final day of the hearing. A copy of this version is attached at Appendix B.

## 1.2 The subject site and surrounds

The subject site has a total area of 5.2 hectares and is located on the southeast corner of Victoria and Stawell Streets<sup>1</sup> in Ballarat East, approximately 2 kilometres east of the Ballarat Central Business District (see Figure 1). The Victoria Street frontage of the subject site is 102 metres, and in Stawell Street 139 metres.

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<sup>1</sup> Stawell Street at the frontage of the site is also referred to as Stawell Street South.



The northern part of the subject site features a number of abandoned buildings associated with its former use as a children's home, school and orphanage. These buildings are predominantly single storey and of varying age. Many of the older buildings have been subjected to alterations and additions over time.

From the northern part, the subject site slopes down to undeveloped land alongside a stormwater drain extending along the southern boundary. This land is subject to inundation.

Access to the subject site is obtainable from a service road in Victoria Street and directly from Stawell Street.

There are scattered trees across the subject site with the majority being located close to the street frontages and property boundaries.

Victoria Street is an arterial road and the main eastern entry to Ballarat. Public transport is available in Victoria Street and a bus stop is located at the front of the subject site. Stawell Street is a collector street for the residential area to the west and south of the subject site. On-street parking along parts of the frontage of the subject site is available in both streets.

Figure 1 Subject site  
(Source: Explanatory Report)



The predominant land use around the subject site is residential. To the south and south east is a relatively new retirement village. To the east, north and west is mostly established single detached dwellings on larger residential allotments. Some of these lots have been redeveloped for medium density housing. Occasional commercial uses also exist in proximity to the site as do a secondary school and recreational facilities.

### **1.3 Background to the proposal**

Historically the subject site was associated with child welfare services from 1865 until the mid-1980's. From 1988 the site was used as a school firstly as St Paul's Technical School and then from 1995 Damascus College. During these 150 years the site has seen the demolition of some buildings, construction of new building and alterations and additions to existing buildings.

Following the relocation of the school and subsequent abandonment of the site, it was sold in 2010 to the Proponents of the Amendment. The Amendment process was subsequently initiated by the Proponents in August 2012 with the intentions of providing for approximately 85 residential lots, a medical centre and supermarket on the subject site.

In February 2013 a planning permit application was submitted to Council by the Proponents for the demolition of the majority of buildings, structures and trees on the subject site. A total of 38 objections were received to the application. Council issued a Notice of Decision granting the permit but excluding a number of buildings and features sought to be demolished by the applicant. Applications for review were subsequently lodged with VCAT by one of the objectors to the planning permit application and another by the planning permit applicant relating to proposed permit conditions.

Having regard for the Planning Panel process already commenced for the Amendment, VCAT issued orders on 29 April 2014 to defer consideration of the two planning permit reviews until the Panel report had been considered by Council.

### **1.4 Issues arising**

The Panel considered all written submissions, as well as submissions presented to it during the Hearing. In addressing the issues raised in those submissions, the Panel has been assisted by the information provided to it as well as its observations from inspection of the site.

Heritage considerations were the primary subject of submissions and evidence. Both Council and Proponent called expert evidence relating to heritage matters.

Consequently the issues considered by the Panel to be relevant to the Amendment are:

- Planning context
- Heritage, including:
  - Heritage significance
  - Precinct boundaries
  - Statutory mechanisms
  - Heritage protection
- Traffic
- Residential amenity of surrounding area
- Flooding
- Development contributions
- Schedule 9 to Development Plan Overlay (DPO9)

## 2 Planning context

Council provided a response to the *Strategic Assessment Guidelines* as part of the exhibited Explanatory Report to explain the planning context of the Amendment. The Panel has reviewed this along with Council's submission to the Panel Hearing (including the expert planning evidence presented) and made a brief appraisal of the strategic framework and planning provisions relevant to the Amendment. The Panel notes that the Proponent accepts Council's interpretation of the strategic planning context presented to the Panel.

### 2.1 Strategic framework

#### (i) State Planning Policy Framework

The Panel is satisfied that the Amendment is generally consistent with the State Planning Policy Framework because:

- The commercial component will become part of the activity centre network in Ballarat catering for the needs of the local community.
- The site is well serviced by public transport in Victoria Street.
- It will add to the supply of commercial and residential land in Ballarat.
- DPO9 will ensure the provision of local open space within the residential component.
- It will facilitate the growth of a regional centre (Ballarat).
- DPO9 will ensure that the development of the site responds to natural and built features.
- It will “ensure the conservation of places of heritage significance” (clause 15.03-1). Submitters to the Amendment consider the heritage of the site to be a significant issue and this is addressed in some detail later in this report.
- DPO9 will ensure that a range of dwelling types will be provided in the development of the site.
- The residential component is in close proximity of schools, shopping facilities, open space and public transport.
- As infill development, it will contribute to urban consolidation and integrate with the surrounding urban environment.
- The commercial component can be regarded as ‘small scale’ and serve the community of Ballarat East.
- A medical centre on the site would provide a service to the local community.
- The location within an established urban area allows for the efficient use of existing urban infrastructure.

Within the broad context of the SPPF, the Panel considers there are no State policies that fundamentally prevent consideration of the Amendment.

#### (ii) Local Planning Policy Framework

##### Municipal Strategic Statement

The Panel agrees with Council's submission that the relevant elements of the MSS are:

- Clause 21.04 – Land Uses
- Clause 21.05 – Built Form and Amenity
- Clause 21.06 – Environment

- Clause 22.05 – Heritage Conservation

#### **Clause 21.04 – Land Uses**

Clause 21.04-1 is for settlement in general and acknowledges *“a key issue for Ballarat is population growth and increasing demand for land for residential purposes”* and *“the expansion of the urban area will be minimised by encouraging infill development within existing areas, while ensuring that the conservation of Ballarat’s built heritage is not undermined and the use of existing infrastructure is maximised.”* The objective and strategies for settlement include reference to an Overall Framework Plan, a 10 to 15 years supply of residential land and identification of a *“network and hierarchy of Activity Centres within the City of Ballarat to ensure sustainable access to services and facilities for residents”*.

Clause 21.04-2 is for housing and acknowledges *“Ballarat offers a wide range of housing choice and must continue to do so in a sustainable manner to ensure that the needs of all segments of the community are met”*. Objectives and strategies for housing include the efficient provision of residential growth and to provide for range of housing types.

One specific objective of this clause is *“to promote and facilitate urban consolidation within the older, established areas of Ballarat to maximise the use of existing resources and infrastructure”* which is particularly relevant to the residential component of the Amendment. Stated strategies to achieve this objective include the setting aside the need for a demand/supply analysis on smaller sites (such as the subject land), promote locations with good access to commercial and recreational facilities and *“protect the integrity of historic streetscapes from the intrusion of out of character (medium density) housing”*.

Clause 21.04-4 is for activity centres and commercial development for which the strategic context is expressed in some detail. In summary this part of the MSS seeks to establish the existing network and hierarchy of commercial activity centres in Ballarat.

Based on the definitional criteria in this clause, the commercial development envisaged by the Amendment would represent a ‘Local Activity Centre’ being *“a range of small businesses, which may include a small supermarket, personal service and small convenience food shopping, cafes, health community services such as medical centres or child care, opportunities for small business or home offices”*. Unlike all higher order activity centres, Local Activity Centres do not feature on the Activity Centres Framework Plan within this clause. Consequently in a spatial sense at least, there is little guidance as to the preferred location of this type of centre in Ballarat. The clause does however aspire to *“to facilitate the development of a sustainable network of activity centres across the urban area of Ballarat to provide for the needs of existing and future residents”* and this can be considered relevant to the commercial element of the Amendment.

The Panel notes Council’s intention to review the Local Activity Centre network as part of further strategic work but this has not yet been undertaken.

Clause 21.04-5 is for medical centres for which the objective and strategies is to encourage continued development of health care facilities and specifically to *“provide for other medical centre uses in the community either in neighbourhood centres or on corner sites in residential areas with access to a road in a Road Zone”*. The site within the subject land proposed for a

medical centre is located both adjacent to a Road Zone (Victoria Street) and, whilst not a neighbourhood centre, a Local Activity Centre.

#### **Clause 21.05 – Built Form and Amenity**

Clause 21.05-1 is for character for which the objectives seek *“to protect and enhance the quality and character of the City’s presentation ...”* and *“to improve the appearance of the major entrances to the urban area”*. The strategies to achieve this centre on ensuring development is sympathetic to the existing urban built form, particularly in areas of heritage significance. The northern part of the subject site is within the Victoria Street corridor and within a HO.

Clause 21.05-2 is for heritage and acknowledges *“a significant component of the Ballarat identity is embedded in its history as a gold mining town. The buildings, monuments and organizations which had their origin during this part of Ballarat’s history play a continuing role in life today. A culturally vital city is dependent on a range of infrastructure upon which opportunities can be built and a full range of experiences provided. Ballarat boasts high quality cultural infrastructure”*. The objective and strategies for this clause focus on protecting places of heritage significance through amongst other things:

- Discourage the demolition of buildings and other elements of identified local and state heritage significance.
- Require that new development interprets the cultural significance of the place and respects heritage and cultural boundaries.
- Ensure new development is consistent with the Statement of Significance of the relevant heritage precinct as listed in the *‘Ballarat Heritage Precincts – Statements of Significance, 2006’* and the *‘Ballarat Heritage Precincts Study Part A, July 2006 – Statements of Significance’*.
- Support the demolition of buildings that are ‘not of heritage significance’ in a heritage precinct as listed in the *‘Ballarat Heritage Precincts – Statements of Significance, 2006’* and the *‘Ballarat Heritage Precincts Study Part A, July 2006– Statements of Significance’*.
- Grant permits for demolition only where a permit has already been granted for the development of the land, or is to be simultaneously granted for the development of the land.

Consideration of the Amendment within the context of these strategic actions for heritage is undertaken in some detail later in the report.

Clause 21.05-3 is for ‘liveability’ and seeks to ensure development maintains existing levels of residential amenity and does not compromise safety.

#### **Clause 21.06 – Environment**

Clauses 21.06-2 and 21.06-3 address water and the floodplain and seek ensure that development adequately takes account of stormwater and floodwater flows in its design. It is a strategy of these clauses to *“ensure urban stormwater from new developments is managed effectively at source to avoid changes in the quality and quantity of urban runoff before it enters stormwater systems”* and *“prevent inappropriate development and works within flood prone areas that will impact on flood flow, water quality and river health”*. Having regard for the size of the subject site, the proposed intensification of development



and the known flooding of the southern portion, these strategies are particularly relevant to the Amendment.

Clause 21.06-5 is for land capability and includes an objective *“to manage contaminated land”* for which the responding strategy is to *“require the decontamination of affected land prior to its use for a sensitive purpose”*. The application of the EAO over the subject site is consistent with the outcome sought by this strategy.

### **Local Planning Policy**

The only Local Policy relevant to the Amendment is Heritage Conservation at clause 22.05. The policy reiterates much of what is expressed in clause 21.05-2 of the MSS (see above). A detailed assessment of the heritage issues surrounding the Amendment (both strategic and statutory) is conducted later in the report.

## **2.2 Other strategic influences**

The *Ballarat Activity Centres Strategy* (the Strategy) was completed in 2012 and sets out to plan for the future of existing and proposed activity centres within Ballarat. The introduction of Strategy describes it as providing:

1. the vision and guiding principles for Ballarat’s centres;
2. Ballarat’s existing and proposed hierarchy of centres and proposed changes to centre boundaries; and
3. key actions to be implemented by the City of Ballarat and other stakeholders to achieve key objectives.

As detailed earlier in the report, the development envisaged by commercial element of the Amendment is categorised as a Local Activity Centre in the hierarchy of activity centres in Ballarat. This is confirmed in the Panel Report to Amendment C151 where the Proponents of the proposed commercial development on the subject site sought to have it formally recognised in the Strategy. This request was rejected on the basis that the brief for the Strategy did not include consideration of existing or future Local Activity Centres under the new centre hierarchy. In other words, the scale of a Local Activity Centre did not warrant planning to the extent that existing and future sites needed to be identified and planned for.

The Activity Centre Hierarchy proposed in the Strategy recommends reclassifying a number of Local Activity Centres to Neighbourhood Activity Centres. The Panel notes that the current characteristics of these centres in terms of total floor space and size of supermarket is generally less than the characteristics of the commercial development proposed on the subject site. It is assumed that the new classifications stem from the potential for expansion of these centres to 2030.

In conclusion, the Panel considers the Strategy as having no influence on the Amendment in a spatial context. The Strategy does recommend however, that Council undertake further strategic work *“to identify the community’s needs in relation to local shopping opportunities and services outside of larger Activity Centres”*. This aligns with the MSS (see above).

## **2.3 Conclusion**

The Panel concludes that the Amendment is generally supported by, and implements, the relevant sections of the State and Local Planning Policy Framework.

## 3 Heritage significance

### 3.1 The issue

Considerable evidence was led at the Hearing with respect to the significance of the place known variously as the former Ballarat Orphanage or the former Ballarat Children's Home (from this point it will be referred to as the former Ballarat Orphanage). Originally established in 1867 as a non-denominational orphanage it gradually grew with the addition of substantial buildings including a State School in 1919 and a Toddler's Block in 1924. The whole site was redeveloped in the early 1960's to establish it as a 'cottage' style children's home.

This redevelopment resulted in the demolition of the original grand orphanage building commencing in 1961 and the construction of a number of new single storey brick residential buildings. Some of the earlier structures were retained, including the former Toddler's Block, the School building (although that was modified with a new roof) and parts of the original Sloyd Room. The farm on the open land to the south continued to operate and two residences for the Superintendent and Farm Manager were constructed on allotments at 200A and 200B Victoria Street. In 1984 the property was sold to the Catholic Church which converted it into a school. It operated as such until 2010 after which it was sold.

Much of the discussion around this Amendment has related to the relative significance of the place, in particular its social significance.

### 3.2 Evidence and submissions

#### Council

Council pointed out that the former Ballarat Orphanage is included in the Heritage Overlay (HO177) and that the Statement of Significance for this item indicates that the precinct is historically, architecturally and aesthetically, scientifically and socially significant at the local level.

Following a nomination for the place to be added to the Victorian Heritage Register (VHR) and the consideration of Heritage Victoria and the Heritage Council, the Council commissioned a further heritage assessment of the place. This resulted in a further Statement of Significance for the place which in part stated:

*What is Significant?*

*The former interwar Toddler's Block, front memorial garden (including the Magnolia tree and memorial Ludbrook seat), two 19<sup>th</sup> century Elm trees to the east, and the western brick boundary wall at 200 Victoria Street, Ballarat East have significance as tangible physical legacies of the former Ballarat Orphanage established in 1865.*

*How is it Significant?*

*The former Toddler's Block, front memorial garden (including the Magnolia tree and memorial Ludbrook seat), two 19<sup>th</sup> century Elm trees east of the former Toddler's Block and the western brick boundary wall are of local architectural/aesthetic, historic and social significance to the City of Ballarat.*

It is noted that this assessment doesn't attribute any significance to the former School House.

Council relied on expert evidence provided by Ms Annabel Neylon. Her response to the heritage assessment was:

*In my opinion, this statement of significance does not adequately portray the social significance of the subject site, nor does it include the former Orphanage School, which I consider to be of social and historical significance at the local level.*

Ms Neylon referred to evidence from social media, print and electronic media, demonstrations, petitions and submissions to this Amendment as evidence of the social significance. However, much of this material (apart from other submissions) was not presented to the Panel.

She accepted that in order for social significance to be established that significance needs to relate to a community or cultural group. In part she concluded:

*There is clearly a community associated with the former Ballarat Orphanage site; being those who shared a common experience and have a long standing identity as former residents or workers at that institution. There is a demonstrable strong and special association between this community and the Toddler's Block, Dutch Elm Trees, memorial garden (and Bull Bay Magnolia), the brick wall and the former Orphanage School meet the threshold for local social significance and meet HERCON Criterion G.*

#### **Victoria Street Developments Pty Ltd (the Proponent)**

The Proponent accepts that there is heritage significance attached to the place and stated:

*The Proponent accepts that there is a basis for heritage significance at the local level of the southern Magnolia tree, the two large Elms, the Toddler's Block and the Stawell Street wall, but contends that the remaining fabric and site layout do not demonstrate the principal characteristics of a large scale residential child welfare institution of heritage significance.*

Its submission went on to suggest that the place does not have a strong or special association with the broader community of people associated with child welfare institutions and that the difference between the experts presenting to the Panel is the heritage significance of the former School House.

Mr Pitt (for the Proponent) was particularly critical of Ms Neylon's evidence suggesting that she had failed to undertake any additional historical research or architectural assessment and relied largely on the views of Ms Christine Johnstone, the Principal of the heritage consultancy, Context Pty Ltd. (for whom Ms Neylon works) to establish social significance. He was particularly critical of her oral evidence that indicated that the houses at 200A and 200B Victoria Street made a contribution to the Victoria Street Heritage Precinct (HO177). As he pointed out, the Statement of Significance for the precinct states that the significance of the precinct relates, in part, to residences constructed between the 1860s to the 1940s. These houses were constructed in the 1960s.



Ms Kate Gray appeared as an expert on behalf of the Proponent. In her oral evidence she stated that the former School House was so significantly altered that she felt that it was not suitable for special identification or protection.

She was critical of the approach taken whereby an additional note has been placed at the front of Dr Rowe's citation referencing the social value of the School House. She went on:

*Preferably this apparent ambiguity or lack of clarity should be resolved if the citation is to be used as the basis for heritage management on the site.*

She did not believe that the residences at 200A and 200B Victoria Street were contributory to the significance of the precinct. She also pointed out that they did not fit into the date range specified in the Statement of Significance.

### **Submitters presenting to the Panel**

#### Phylis Read

Ms Read's written and oral submissions described the whole site as significant to the community of Ballarat and in particular the children who lived there.

#### Adrienne Schreuder

Ms Schreuder's submissions focussed on the work of James Kerlake who was a significant supporter and patron of the Orphanage and Children's Home. She made an important point about the social significance of the place to the community of Ballarat:

*The Toddler's Block and the School both reflect the Ballarat community's support for children in need. Virtually all people in public life served on its committees or joined the wide range of residents who raised money for its upkeep.*

#### Phyllis Cremona

Ms Cremona pointed out the houses at 200A and 200B are not significant as they have very little historical and social interest for past residents. She went on:

*The School was important in the role it played in the lives of past residents, it provided respite during the day from the constant ongoing work all were required to carry out before and after school.*

#### Darren Ford (represented by Rosalie Bilson)

Mr Ford's submission noted:

*I think the heritage features of the wall and façade of the former school house could be 'crafted' for a better outcome.*

#### Deborah Findlay

Ms Findlay submitted that a greater extent of the site was significant than what has been currently identified. However, she argued that the retention of the houses at 200A and 200B Victoria Street would be a "slap in the face" to former residents who see the School House as far more important because all children attended it.

She also pointed out the School House should be known by its correct name Ballarat Orphanage State School No 1256.

### Sandra Gilmour

In part, Ms Gilmour's submission made the following point:

*The Ballarat Community has always supported the former site of the Ballarat orphanage by fundraising and bequests. This needs to be recognised by ensuring that all Plaques and Memorabilia and the History is retained in a respectful manner by the developers.*

She submitted that she was primarily interested in the preservation of memory and memorabilia.

### Frank Golding

Mr Golding's extensive submission made the following points:

*The site and its buildings have strong personal associations with the thousands of families and their descendants – and to the City of Ballarat and its citizens. It was always a community facility from the outset.*

*It has particular significance for the Koorie community of Ballarat, and beyond, for the role it played in the history of the Stolen generations.*

He also submitted that the School is central to the Orphanage's heritage significance.

### Brett Edgington, President, Ballarat Trades and Labour Council

Mr Edgington's submission supported moves by the Council to refuse the demolition of the Stawell Street wall, former School House Building, Sloyd Storage Room, Service Block, 200A and 200B Victoria Street, Toddler's Block, the Memorial Garden, including Magnolia Trees and the Ludbrook seat and Elm trees facing Victoria Street.

### **Other submitters**

Other submissions generally supported the retention of significant elements of the site. These tended to be seen as the Toddler's Block, former School House, Stawell Street wall and the Magnolia and Elm trees.

Several submitters dealt with matters relating to the development facilitated by the Amendment.

## **3.3 Discussion**

The Panel accepts that place has historic and social significance and also that it is an important component of the Victoria Street Heritage Precinct (HO177). The Panel does not accept that the buildings on the site have any particular architectural or aesthetic significance.

Much of the discussion was about the existence and extent of social significance on the site. It was generally accepted that the Toddlers Block and Memorial Garden were of social significance. They also join the remnants of the Stawell Street wall in having historic significance and the Elm and Magnolia trees in having aesthetic significance. Several of the submitters also referred to the social significance of the place to the broader community of Ballarat which had always supported the place. However, there was considerable debate about the social significance of the School House.

In the end the Council and individual submitters made strong cases for the social importance of the School House with a number of the individual submitters making the point that this was a place where they felt they were 'normal'.

The Proponent accepted that there was some value in the building, but pointed out that it had been significantly altered. The Panel accepts that, with the changes to the form of the roof, it is difficult from the outside to identify this as a school building. However, the inspection of the interior revealed a building that was clearly a school and interior spaces that retained many of their original features.

The Council has not nominated any other buildings on the site as being of significance, but some submitters pointed to the Service Block and the former Sloyd Room as having social significance. The Panel does not believe that the arguments for the importance of these buildings were particularly strong.

The Panel found that the Statement of Significance for the Victoria Street Heritage Precinct as included in *Ballarat Heritage Precincts – Statements of Significance (2006)* was inadequate in dealing with social significance. The statement that "*the precinct is recognised and highly valued by the local community for residential, educational, religious, and recreational reasons*" hardly provides any guidance on the importance of this and other institutional complexes in the precinct.

In response to the VHR nomination, the Council commissioned Authentic Heritage Services Pty Ltd to complete a further assessment of the site. This resulted in the *Heritage Assessment of the Former Ballarat Orphanage (February, 2012)*. The revised statement prepared for this study also does not adequately deal with the social significance of the place.

It seems that the Heritage Council's determination is closer to the mark.

Ballarat's approach to identifying non-contributory items in the Victoria Street Heritage Precinct is somewhat unusual and as a consequence of 200A and 200B Victoria Street not being identified in that list, it is considered that they are contributory. The Panel concurs with the submissions of the Proponent and some of the other submitters and does not accept that they could be considered contributory to the precinct and therefore should be added to the list of non-contributory items.

The Panel was also persuaded by submissions from former residents of the institution that these places had no social significance.

### **3.4 Conclusions**

It is the Panel's view that the former Ballarat Orphanage is a place of historic and social significance within the Victoria Street Heritage Precinct and consequently to Ballarat City. It is the Panel's view that this significance particularly relates to the Stawell Street wall, the former Toddler's Block, the Memorial Garden, the Magnolia tree and the two Elm trees, various plaques and foundation stones and the former School House.

It is the Panel's view that these places should be clearly identified as contributory elements to the Victoria Street Heritage Precinct. This may have to be achieved by listing all other buildings on the site along with 200A and 200B Victoria Street as non-contributory.

### **3.5 Recommendations**

The Panel recommends:

- 1. That Council adjust its list of non-contributory buildings to the Victoria Street Heritage Precinct to clarify that only the Stawell Street wall, the Toddler's Block, the Memorial Garden, the Magnolia tree and the two Elm trees, various plaques and foundation stones and the former School House are contributory to the significance of the precinct.**
- 2. That the Statement of Significance for the precinct be adjusted so that the former Orphanage to the extent of these items, are specifically identified important to the precinct.**

## **4 Heritage precinct boundaries**

### **4.1 The issue**

The current boundaries of HO177 embrace the whole of the site of the former Orphanage. This Amendment proposes to reduce the extent of the HO by removing the open land to the south of the built complex. The Proponent (via its expert witness) has proposed an even greater reduction in the extent of the HO.

### **4.2 Evidence and submissions**

#### **Council**

The exhibited Amendment proposes reducing the boundary to align with the former Dairy Lane on the site. It did not accept the proposed alternative of 15 metres from the rear of the Toddler's Block as being adequate to manage impacts on the Victoria Street Heritage Precinct.

#### **Victoria Street Developments Pty Ltd (the Proponent)**

The Proponent, with support from their expert, submitted that the heritage significance of the precinct could be adequately recognised if the southern boundary in this part of the site was further reduced to a point some 15 metres from the rear wall of the former Toddler's Block. It felt that the larger area proposed by the Council was simply to enable it to use the HO to apply urban design or neighbourhood character considerations to an extra part of the site.

#### **Submitters**

Ms Findlay submitted that a greater extent of the site than what has been currently identified was significant. She didn't comment on the proposals for boundary changes, but provided an alternative zoning plan for the site.

### **4.3 Discussion**

The Council's proposal that the extent of the HO as it applies to the former Orphanage be reduced such that the southern boundary lies on the alignment of the former Dairy Lane appears logical. Equally the proposal put to the Panel by Ms Gray has some merit, but her rationale for this proposal is based on an arbitrary distance of 15 metres from the rear wall of the Toddler's Block.

### **4.4 Conclusions**

The Panel concludes that the boundary change proposed by the Council seems reasonable and should be supported.

### **4.5 Recommendation**

The Panel recommends:

- 3. That the revised boundary of HO177 as exhibited be approved.**

## 5 Statutory mechanisms for heritage

### 5.1 The issue

The former Orphanage is currently located within the boundaries of the Victoria Street Heritage Precinct (HO177). This site is specifically mentioned in the Statement of Significance for the precinct and none of the buildings are listed as non-contributory to the precinct. The Council has proposed that a new Heritage Overlay (HO196) be applied to the Stawell Street wall, the Toddler's Block, the Memorial Garden and the Magnolia tree and two Elm trees. The first issue to be addressed is whether this double listing is the appropriate mechanism to provide heritage protection to this site. The second is whether these aspects of the site are the only ones that warrant this treatment.

### 5.2 Evidence and submissions

#### Council

Council submitted that in its view it was necessary to apply an individual site HO to various items within the site:

*While the HO177 Statement of Significance includes references to the subject land and recognises it as an historically important place in relation to this site also requires specific consideration of the individually significant elements of the site. In Council's submission, the cultural heritage significance of these elements should be considered independently of their broader context, while also recognised as making a contribution to the broader heritage precinct in which it sits for historical, aesthetic and social reasons.*

Council also responded to Ms Gray's questioning of the appropriateness of scheduling the HO177 Statement of Significance as relevant to HO196.

*Firstly, in relation to the HO196 scheduling issue, Council concedes that listing the HO177 Statement of Significance may be unnecessary if the HO196 is applied as proposed by Council, that is, in addition to HO177. Council is conscious, however, of the Department's previous practices in 'punching holes' in the precinct where a site specific overlay is applied. If this were to occur, Council considers that references those documents which relate to the broader precinct should be flagged in as part of future decision-making.*

Ms Neylon's view was that the proposed HO196 should extend to the former School House as well as the elements proposed in the exhibited amendment. The Council was clear that it didn't propose doing that.

#### Victoria Street Developments Pty Ltd (the Proponent)

The Proponent summed up its view on the proposed HO196 being that *"in the end, two Overlays do not provide any more protection than one"*.

It went on to point out that it was within the purview of the Panel to seek the amendment of the Statement of Significance as an alternative to applying a second HO to the site.

Ms Gray supported the view that HO196 was unnecessary. She pointed out that the place is referenced in the existing and amended citation for the precinct as one of the historically important sites within the precinct as are other institutional/community places within the precinct.

She also pointed out that using the inclusion of a reference to the *Ballarat Heritage Precincts – Statements of Significance 2006* in the schedule for HO196 and the inclusion of a ‘Yes’ in the *Aboriginal Heritage Place?* column was not a justification for the need for a separate HO. The statements of significance document is already an Incorporated Document in the scheme and given that the whole site is a Registered Aboriginal Site under the provisions of the *Aboriginal Heritage Act 2006* this column should be marked ‘Yes’ in the schedule for HO177. As proposed it is suggested that Aboriginal heritage significance only applies to the places covered by HO196.

Mr Pitt in his final submissions pointed out that neither HO177 nor the proposed HO196 call up internal controls.

### **5.3 Discussion**

The Panel was concerned that the proposed HO196 would provide a duplicate heritage control to some parts of this site.

*Practice Note 1 Applying the Heritage Overlay* specifically states that places of heritage significance should not be subject to dual HO controls. The Panel understands that the rationale for this is that the heritage controls are identical for a place included in a precinct overlay as they are for a place with an individual overlay. Technically, the application of an individual overlay cuts the place out of the precinct maps, and any specific policies applying to the precinct will not necessarily be considered to apply to the individual places. It seems that this is not the outcome Council is seeking.

The Panel is concerned that this can only lead to confusion and uncertainty and this should be avoided as far as possible.

Council, in its submission, referred to precedents for this approach including the findings of the 2007 Advisory Committee on the Heritage Overlay and Panel reports for Campaspe C50, Greater Shepparton C110 and Boroondara C99. Firstly, as pointed out by Mr Pitt for the Proponent, the Advisory Committee report pre-dated the Practice Note by five years. It is also understood that the recommendations referred to by Council were predicated on the view that the way in which HO’s are incorporated in schemes should be significantly revised. This has not occurred.

Council’s selective quoting from these panel reports does not provide the total picture. For example, the recommendations of the Campaspe C50 report, in part stated:

*In Clause 22 in the Statement of Significance for each precinct, before the list of contributory properties include a sentence to indicate that some of the contributory premises have their own individual Heritage Overlays in addition to contributing to the precinct values. Notations to the Clause 22 maps to the same effect are also recommended (p53)*

In Ballarat's case, such notation would have to be to the list on non-contributory places. It might also be better to delete HO196 and simply notate the map with a statement as recommended for Campaspe along with colouring the relevant properties. If this was to occur the problems of 'punching holes' (as is the current practice of DTPLI) and scheduling of the HO177 Statement of Significance would not be an issue.

This Panel is also concerned that the separate HO approach proposed in this Amendment only deals with one of the institutional complexes in the precinct. A failure to replicate this approach with other complexes can only lead to further confusion about the heritage significance of those places.

The second issue mentioned above is probably best answered by reference to the conclusions and recommendations above. These recommendations call for identifying the Stawell Street wall, the Toddler's Block, the Memorial Garden, the Magnolia tree and two Elm trees, various plaques and foundation stones and the former School House as contributory to the precinct.

#### **5.4 Conclusions**

The Panel has concluded that the provision of dual statutory mechanisms for this site should not proceed and the documentation for HO177 (maps and list of non-contributory buildings) should be adjusted to ensure that the significance of the site and the contributory nature of particular elements should be made clear in the Ballarat Planning Scheme

#### **5.5 Recommendations**

The Panel recommends:

- 4. That HO196 not be approved.**



## 6 Heritage protection

### 6.1 The issue

Council has proposed a range of provisions in DPO9 which are designed to reinforce the provisions of the HO, in particular to control demolition and to implement certain recommendations made in the Conservation Management Plan prepared by Lovell Chen Pty Ltd. The issue is whether these DPO9 provisions are appropriate.

### 6.2 Evidence and submissions

#### Council

Council's position on heritage provisions within DPO9 was submitted as:

*In addition to the specific heritage controls, the DPO9 is an important measure through which Council has sought to protect those elements which are of particular social significance to many of the former residents of the orphanage. There are several details within the schedule which are targeted at respectfully managing the site and finding a balance between retention and redevelopment. More particularly, the measures set out in the exhibited DPO9 include requirements for:*

- *A photographic record to be prepared and submitted to CAFS prior to any demolition and/or redevelopment of the site;*
- *A register of items to be prepared in consultation with CAFS to identify those objects, items and/or artefacts that are to be protected, retained and/or relocated prior to any demolition and/or redevelopment of the site; and*
- *A Heritage and Site Interpretation Plan to form part of the development plan, which includes identification of publicly accessible areas within the site where the history of the site can be marked and interpreted and other measures to preserve the link between the site's history and future uses.*

The submission went on to discuss the post exhibition actions by Council to acknowledge the social significance of the former School House its discussions with the Proponent and the Ryan Group<sup>2</sup> and their willingness to explore proposals which incorporate the School House into future development.

Regardless of these discussions, the Council has sought to:

- include the School House in the list of exceptions to the permission contained in clause 1.0, which allows the demolition and/or removal of elements from the site;
- include more targeted requirements in relation to an Urban Design Master Plan and the form of development within the Commercial 1 Zone area, more specifically, as it relates to the School House; and

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<sup>2</sup> The Ryan Group are the developers and operators of the supermarket proposed for the corner of Victoria and Stawell Streets, which includes the site of the School House.

- provide additional notations in respect of sites of heritage on the DPO9 Concept Plan in response to submissions and expert evidence.

In its closing submissions, Council submitted that should the Panel recommend against the application of HO196, DPO9 would need to be revisited to provide greater protection to the individual elements proposed for protection via HO196.

The Council also indicated its willingness to accept a number of the changes to the DPO9 as proposed by the Proponent as part of its submission.

### **Victoria Street Developments Pty Ltd (the Proponent)**

The Proponent proposed an alternative DPO schedule for the site that, amongst other things, removed reference to the exclusion of the former School House from clause 1.0, allowing a demolition permit to be issued for that building before a development plan has been prepared. Council, in its closing submissions, did not accept this requested change.

The Proponent also submitted that it was unreasonable for it to be required to consult with a multitude of representative bodies on the Open Space Plan and that any referral obligations should be limited to CAFS (Child and Family Services).

Ms Gray indicated that she felt that referral of the Open Space Plan, and the Heritage Interpretation Plan to CAFS and other nominated bodies was important.

### **Submitters**

P & C Lacey made comment on the impact of the new development on the presentation of the entrance to the city, suggesting that the commercial developments should be shifted further into the site to preserve the heritage aspects of the streetscape and Mr B McDonald made a series of practical suggestions about works required to protect the heritage significance of the site.

## **6.3 Discussion**

The Panel believes that the application of a DPO9 is an appropriate mechanism to supplement the rezoning and other overlays proposed in the Amendment.

Given that the Panel isn't supporting the application of HO196 it seems appropriate that the specific controls sought by HO196 should be reflected in DPO9. In particular, reference to the former School House should be included. However, that would be best done by amending the citation for the Former Ballarat Orphanage to clearly indicate that this building has social significance rather than being 'tacked on' to the end of clause 1.0.

## **6.4 Conclusions**

The Panel accepts the position of the Council with respect to the School House as reflected in its final Panel version of Schedule 9 to the DPO (see Appendix B). That is that the School House should be retained to a minimum of two rooms and ensures that the original internal integrity of the building is maintained in any future use.

## 7 Traffic

### 7.1 The issue

The redevelopment of the site to be facilitated by the Amendment will generate additional traffic movements in Victoria and Stawell Streets. The issue is the impact this will have on the local road network and in particular the intersection of Victoria and Stawell Streets.

### 7.2 Evidence and submissions

No expert evidence in relation to traffic was presented at the Panel Hearing.

A number of submitters raised concerns that the proposed development facilitated by the Amendment will potentially have a detrimental impact resulting from:

- increased traffic in Stawell Street;
- vehicles accessing and egressing the site utilising Victoria and Stawell Streets;
- traffic conflicts at the unsignalised intersection of Victoria and Stawell Streets;
- truck movements generated by the supermarket;
- risk of Oak trees within the Stawell Street road pavement being removed to assist traffic movement;
- additional traffic past the Eureka Pool placing children at risk; and
- disruption to local residents during construction.

Submitters also raised a number of questions relating to design issues such as the installation of speed humps, access point, streetscape and changes to the Victoria Street service road.

Having considered the Proponents assessment of the potential traffic impacts on the intersection and undertaken its own review, Council is of the view *“that the increased levels of traffic activity are still considered to be within an acceptable range”*. Council undertook minor changes to the requirements of a development plan under DPO9 post-exhibition to address some of the concerns raised by submitters, including the movements of trucks servicing the site to be predominantly undertaken from Victoria Street.

VicRoads submitted to the Hearing however that mitigation works will be necessary to the intersection of Victoria and Stawell Streets because of the traffic generated by the proposed redevelopment of the subject site. The increased traffic (including pedestrians) will increase the safety risk at the intersection. VicRoads advised that the mitigation works *“will include the installation of traffic signals at the intersection ...”*. In addition, the existing bus stop in the Victoria Street service road may require relocation as a result of the intersection works. These works will be at the developer’s expense.

### 7.3 Discussion

The redevelopment of the subject site for residential and commercial purposes will undoubtedly result in an increase in local traffic generation. This has been recognised by the Proponent in submitting a Traffic Impact Assessment with the request for rezoning and for Council requiring a Movement Network Plan as part of the Development Plan. VicRoads has also made its position clear in regards to the effects on the function of Victoria Street (being VicRoads’ responsibility).

The Panel acknowledges Council's efforts to ensure that traffic management issues will be adequately addressed at the Development Plan stage of the development approval process. Council undertook changes to the traffic requirements of DPO9, submitted by the Proponent with its request for rezoning and again following consideration of traffic matters raised in submissions following exhibition. Both Council and the Proponent agree with the proposed minor change to the DPO schedule relating to a single access point in Stawell Street. This should provide some comfort to those submitters concerned with traffic impacts in Stawell Street.

There was however, some difference of opinion as to the requirements of the Movement Network Plan for the internal street layout. The Proponents submitted to Council following exhibition that the inferred prohibition of "*terminating roads*" in a street layout required by the Movement Network Plan in DPO9, contradicted Standard C17 to Clause 56.06-4 of the planning scheme. This clause seeks to minimise the provision of such roads, rather than prohibit them. In response Council offered the addition of the words "*where possible*" to the requirement for avoiding such roads. At the Hearing, Mr Pitt on behalf of the Proponent objected to the wording of this addition and suggested "*where practical*" as an alternative. The Panel notes that, regardless of the requirements of Schedule 9 to the DPO, clause 43.04-3 of the DPO itself requires any development plan to demonstrate compliance with clause 56, and therefore the standards for the *Neighbourhood street network* at clause 56.06-4. In one sense this makes the reference to a particular street layout outcome in the Movement Network Plan superfluous. The Panel however, does not object to the requirement of clause 56.06-4 being reinforced in the DPO schedule so long as does not create a contradiction. In this context, the Panel prefers Council's wording rather than the Proponents.

## **7.4 Conclusions**

The Panel is satisfied that the traffic requirements of DPO9 will deliver a satisfactory outcome for vehicle movement both within the subject site and the surrounding road network. The issue of traffic signals at the intersection of Victoria and Stawell Streets is not a matter for the Panel to contemplate as part of the Amendment. Whether or not signals are required will be something negotiated between the applicant, Council and VicRoads as part of the planning permit process.

Recommended changes to DPO9 are addressed in Section 11 of this report.

## 8 Amenity of surrounding area

### 8.1 The issue

The redevelopment of the site envisaged by the Amendment will intensify the use of the subject site and introduce new built forms. The issue is the impact of the intensification and built form on the residential amenity of the surrounding area.

### 8.2 Evidence and submissions

A number of submitters raised concerns that the proposed development facilitated by the Amendment will have a detrimental impact on residential amenity resulting from:

- overlooking and overshadowing from two storey buildings along the southern boundary;
- lack of transition from residential to commercial uses across Stawell Street;
- development permissible along Victoria Street will be inconsistent with existing and therefore detrimental to streetscape objectives;
- impotence of heritage controls if land is zoned for commercial development;
- lack of controls to protect existing neighbourhood character (principally lot size and dwelling density);
- lack of car parking associated with the commercial development component;
- the type of residential development envisaged in the GRZ (should use the NRZ and benefit from the stricter controls);
- a commercial zoning (whole site should be zoned residential);
- potential removal of trees in Stawell Street and the impact on streetscape; and
- commercial development at the edge of the site (should be located within the site).

Some submitters also raised issues relating to operational aspects of redevelopment such as disruption to residents in Stawell Street, tradesmen's vehicles, hours of operation, security, etc.

Council submitted that residents' concerns regarding the built form of future residential development on the subject site are adequately addressed in the requirements of DPO9, including some direction around the preferred location of two storey development.

Mr Pitt submitted that the Proponent adopted Council's position on the issue of amenity impacts.

### 8.3 Discussion

Many of the amenity concerns expressed by submitters relate to the built form of the development that may eventuate if the subject site is rezoned as proposed. As the Amendment does not concern itself with actual development plans, the Panel can only consider the amenity issue in terms of the proposed planning controls that will influence the built form. Likewise the Panel cannot consider the operational issues raised by submitters.

Within this context, the principal influence will be Schedule 9 to the DPO. This Schedule is very detailed and will require the Proponent to provide the following documentation to Council's satisfaction before a planning permit can be considered:

- Urban Design Master Plan

- Development Sequencing Plan
- Heritage and Site Interpretation Plan
- Open Space Plan
- Movement Network Plan
- Flood Investigation

The Urban Design Master Plan in particular, is required to address:

- the allocation on the types of land uses within the site;
- the provision for a range of housing types;
- a building height “*generally*” limited to two storeys;
- the transition from higher to lower residential density at the fringes of the site;
- development to face the street frontages; and
- dwellings facing Stawell Street to be single detached and limited to two storey with “*generous*” side setbacks and landscaped front setbacks.

The Panel is satisfied that these requirements of DPO9 will result in a built form at the fringes of the site that have little to no impact on the residential amenity of the surrounding area. Being located within 2 kilometres of the Ballarat CBD, it is entirely appropriate that some higher density residential development be included in the redevelopment of the site.

Without pre-empting permit conditions Council might impose, it would be anticipated they will require the provision of car parking in accordance with clause 52.06 of the planning scheme.

The effectiveness of heritage controls is not diminished by rezoning the land (unless changes are proposed as part of the Amendment). The issue of heritage has been addressed in earlier sections of this report. The trees in Stawell Street are located within the road reserve and will continue to be afforded some protection courtesy of the existing HO along Victoria Street (HO177). The future management of these trees is Council’s responsibility.

The location of the commercial zoning proposed for part of the site is appropriate having regard for the corner location and main road frontage. Any commercial development will be oriented towards Victoria Street, which will limit impacts (including traffic) on residential areas away from this arterial road.

The GRZ is considered to be the appropriate residential zone where it is applied having regard for the characteristics of the site. Whilst there are heritage elements within the site, collectively they don’t constrain redevelopment to the extent that the more restrictive controls expressed in the NRZ are warranted. Two of the principles to be considered in applying the GRZ are:

- Areas with a diversity of housing stock, diversity of lot sizes and a more varied neighbourhood character.
- Areas where moderate housing growth and housing diversity is encouraged.

Some submitters are of the view that the area surrounding the site is characterised by single storey, single detached residences and that this could be considered a neighbourhood character worthy of protection under the NRZ. Whilst single detached housing is well represented in the area, there are also numerous examples of other types and densities of development, both residential and non-residential. This mix of activities, and the area of

land available for redevelopment within the site, tend to favour the application of the GRZ. It is also noted that the GRZ is the 'default' zone for all residential zoned land if Council's have not undertaken an amendment to implement the new residential zones.

#### **8.4 Conclusions**

The content of DPO9 is considered by the Panel to be sufficiently detailed to ensure that the residential amenity of the area surrounding the site will not be affected by the residential component of the site redevelopment. The occupants of three properties in Stawell Street opposite the proposed C1Z may consider their level of residential amenity diminished by a change in the land use and built form of the land opposite from institutional to commercial. However, within the context of the site being a candidate for redevelopment and located on an arterial road in close proximity of the Ballarat CBD, these minor impacts are acceptable.

## 9 Flooding

### 9.1 The issue

The lower southern portion of the subject site is acknowledged as being subject to inundation. The issue is the suitability of this land for development having regard for the flood risk.

### 9.2 Evidence and submissions

Information relating to flooding on the subject land is provided by the Corangamite Catchment Management Authority (CCMA) courtesy of Council's referral of the Amendment. The CCMA did not request to be heard at the Panel hearing.

The CCMA advised that the site is within the floodplain of the Specimen Vale Creek that extends along the southern boundary. This drainage line is piped with an overland capability component to accommodate flows following major rainfall events. A recent flood investigation of the area confirms that the southern part of the site adjoining the creek would flood to a depth of 441.5 metres AHD at the eastern end and 439 metres AHD at the western end during a 1% AEP flood event.

In light of the results of the flood study, the CCMA refined their advice to Council seeking detailed flood investigation as part of the requirements of DPO9. These requirements include:

- A Flood Study/Hydraulic Analysis
- A Flood Risk Report
- A Drainage Report

In addition, the CCMA have requested that no development lots in a future subdivision can be created entirely within the flood prone land unless CCMA and Council agree to the placement of fill up the 1% flood level.

Mr Pitt submitted to the Panel that the Proponent accepts the need for further investigation of the flood issue but does object to the requirement in DPO9 for a waterway corridor along the creek to the satisfaction of the CCMA and Council. This requirement is based on the State Policy for *Catchment planning and management* (clause 14.02-1) "and/or" *Guidelines for greenfield development areas within the Port Phillip and Westernport Region* (the Guidelines). Mr Pitt argues that reference to the Guidelines is inappropriate because they are meant for more pristine areas than the subject site.

### 9.3 Discussion

The Panel requested, and was provided with, a contour plan showing existing ground levels in the southern part of the subject site. Reconciled with the flood information provided by the CCMA, parts of the site would flood to a depth of up to 1.5 metres in a 1% AEP event. This is a significant depth in terms of land sought to be rezoned for residential development, perhaps to the extent that it is an issue that should have been investigated and resolved prior to Authorisation being sought. However, on the basis the agency responsible for the floodplain (CCMA) doesn't object to the Amendment proceeding on the basis a detailed



Flood Investigation is a requirement of the Development Plan, the Panel is also satisfied in this regard.

The Panel agrees with Mr Pitt that the guideline referred to in DPO9 in regards to the need for a waterway corridor along the creek as part of a flood investigation is inappropriate because of its greenfield context. There may be differences of opinion as to what constitutes 'greenfield development', however in this instance the highly modified environment of the creek along the southern boundary of the site (including underground piping) and development on adjoining lands is not considered by the Panel to be 'greenfields'. The Panel prefers Mr Pitt's wording of the waterway corridor requirement of the Flood Investigation which deletes reference to the Guidelines and use of the term 'buffer' rather than 'corridor'. The Panel considers that with these changes there remains adequate provision in this requirement for Council and the CCMA to negotiate a waterway corridor along the creek.

#### **9.4 Conclusions**

Whilst the evidence presented to the Panel indicates that parts of the subject site are subject to considerable flooding in a 1% AEP event, the level of further investigation required for the Development Plan (including a waterway corridor) is adequate to determine whether development can be responsibly undertaken.

Recommended changes to DPO9 are addressed in Section 11 of this report.

## 10 Development contributions

### 10.1 The issue

Council has stated its intention to seek development contributions from the redevelopment of the subject site via a Section 173 agreement. The issue is whether the premise on which Council intends seeking contributions and the amounts thereto are valid.

### 10.2 Evidence and submissions

Both Council and the Proponent agree that seeking contributions for infrastructure as a consequence of development via agreements under Section 173 of the *Planning and Environment Act 1987* is legitimate.

Council submitted that the Proponent had been made aware of its intentions to seek development contributions before the request for the Amendment was lodged. Council had also informed the Proponent as to the contribution amounts and the rationale behind those amounts was explained to the Panel.

The Proponent agreed that it would not *“be invalid to include a development contribution in a Development Plan Overlay”*, however, any such contribution must meet the criteria upon which contributions are based. The Proponent disagreed with Council’s rationale for calculating contributions on the basis that the requirements for ‘higher level infrastructure’ were misinterpreted. Consequently the Proponent argued that the amounts Council intended seeking were *“arbitrary”* and without justification.

### 10.3 Discussion

The reference within Clause 2.0 of the exhibited DPO9 in regards to development contributions is as follows:

- *Developer contributions are required for the provision of infrastructure on the developable land, and also where the development impacts on infrastructure demand beyond the developable area, including social and road network infrastructure. Where a Development Contributions Plan has not been incorporated into this scheme, the owner must enter into an agreement under section 173 of the Planning and Environment Act 1987 providing for development contributions to the satisfaction of the Responsible Authority.*

The VPP Practice Note for *Applying the Incorporated Plan and Development Plan Overlays* (the Practice Note) provides advice as to the role and application of the section titled *“Conditions and requirements for permits”*. The Practice Note advises that whilst this section can literally specify conditions for planning permits to achieve the intention of a particular DPO schedule, it can also be *“used to set use or development objectives that address important issues but are less certain or prescriptive than a condition. For example, in a plan area with a river frontage, the schedule could require that all permit proposals must facilitate views to the river, while leaving the detail of how this is to be achieved to the applicant”*. It is in this broader context that Panel interprets the intention of the above clause rather than being something prescriptive.

Council is able to levy development contributions via Section 173 agreements, with or without a reference to such contributions within a DPO schedule. Consequently the clause above in DPO9 can be viewed as simply a stated intention of Council that it will be seeking development contributions rather than providing detail as to what infrastructure will attract a contribution and how the contribution will be calculated. The Panel notes that whilst contribution amounts were expressed in Council's submission, they are not expressed in DPO9 and are therefore not part of the Amendment.

The Panel is concerned however, that the wording of the proposed permit condition does not comply with the *Development Contributions Guidelines* as it says that the landowners must enter into an agreement, without specifying the content of any agreement. Typically, such wording is only used in a DPO where specific infrastructure items are nominated as already agreed. This can be rectified simply by replacing the word "must" with "may" in the permit condition.

There is also an error in the numbering sequence of sections within DPO9 that should be corrected.

#### **10.4 Conclusions**

In light of the above, the Panel does not need to consider what elements of infrastructure development contribution should be sought, the contribution amounts indicated by Council in their submission, or how those contributions were derived. Whilst being satisfied with the reference to development contributions in the permit conditions to DPO9, the Panel recommends a minor change to the wording to ensure that any agreement between the Proponent and Council in regards to development contributions is a voluntary process rather than a mandatory requirement.

Recommended changes to DPO9 are addressed in Section 11 of this report.

## 11 Schedule 9 to Development Plan Overlay

### 11.1 The issue

The issue is the requested changes since exhibition of the Amendment.

A reference to DPO9 in this section is a reference to that version tendered to the Panel by Ms Eastaugh on behalf of Council at the final day of the Hearing on 17 April 2014 (the reference version). The reference version tracks the changes made to the Schedule since exhibition. The Panel's recommendations will either confirm the change in the reference version or suggest an alternative. The reference version is included in the report at Appendix B.

### 11.2 Discussion

The Panel agrees with the inclusion requested by Council for including a reference to the School House as matters for which a permit cannot be issued for demolition before a Development Plan is approved by Council.

The Panel agrees with Council that the reference to development contributions in Section 2.0 of Schedule 9 should be retained, including the minor changes to the wording and heading for the purposes of clarity. Consideration of this issue is given in Section 10 of this report.

The Panel agrees with Council that there may be bodies or organisations in addition to Child and Family Services Ballarat (CAFS) that have a role in the future redevelopment process of the subject site. Within this context, the Panel disagrees with the request by the Proponent to replace the word "*other*" with "*any substituted*" following the reference to "*{CAFS}*" in the first dot point under the requirements for Open Space.

The Panel agrees with Council's replacement of the eighth dot point and addition of two dot points under the requirements for an Urban Design Master Plan. The Panel disagrees with the Proponent's request to delete the words "*a minimum of*" in the new eighth dot point. The Panel agrees with the request from both Council and the Proponent for inclusion in the new eighth dot point of the words "*to the satisfaction of the responsible authority*" following the words "*...internal and external elements*". Consideration of this issue is given in Section 6 of the report.

Contrary in part to Council and the Proponents suggestion, the Panel recommends following the word "*where*" in the first dot point under the requirements for a Movement Network Plan replacement of the word "*practical*" with "*possible*". Consideration of this issue is given in Section 7 of this report.

The Panel agrees with the inclusion of an additional dot point following the fourth dot point under the requirements for a Movement Network Plan. This change is endorsed by both Council and the Proponent.

The Panel agrees with the replacement of the requirement for a Flood Study with that for a Flood Investigation. This change was instigated by the CCMA. The Panel also agrees with the Proponents suggested wording in the third dot point of the revised requirements as follows:

- *A suitably sized waterway corridor along Specimen Vale Creek to the satisfaction of the Corangamite CMA and Council:*
  - *The design of the corridor must take into consideration State Planning Policy Framework clause 14.02-1.*

Consideration of this issue is given in Section 9 of the report.

The Panel disagrees with the Proponent's request for the deletion of stars on the Concept Plan as they assist in informing that there are heritage elements within the subject site that require consideration as part of the redevelopment.

### **11.3 Recommendations**

The Panel recommends:

5. **That the reference version of DPO9 included at Appendix B of the report be adopted subject to the following further changes:**
  - a. **Replacement of the third dot point under the requirements for a Flood Investigation with:**
    - *A suitably sized waterway corridor along Specimen Vale Creek to the satisfaction of the Corangamite CMA and Council:*
      - *The design of the corridor must take into consideration State Planning Policy Framework clause 14.02-1 – Catchment Planning and Management.*
  - b. **Replacement of the word “must” with “may” in the second dot point of Section 2.0.**

## 12 Conclusions and recommendations

Amendment C164 to the Ballarat Planning Scheme proposes to rezone the former Ballarat Orphanage site at 200, 200A and 200B Victoria Street, Ballarat East to facilitate a combination of residential and commercial development.

A considerable number of submissions were received by Council during exhibition of the Amendment. Heritage matters were the primary subject of submissions as well as evidence presented at the Panel hearing by Council and the Proponent. It is clear to the Panel that the site has significant meaning for many submitters, particularly for those with an association through its former use as an orphanage, children's home and school. Other submitters were concerned as to the impacts of the redevelopment of the site on the surrounding area.

The Panel has considered all written submissions, as well as submissions presented to it during the Hearing. In addressing the issues raised in those submissions, the Panel has been assisted by the information provided to it as well as its observations from inspection of the site.

The Panel acknowledges Council's efforts in administering the Amendment process, resolving issues with the Proponent and submitters, and preparation for the Panel hearing.

Therefore, for the reasons outlined in this report, the Panel recommends that Amendment C164 to the Ballarat Planning Scheme should be adopted, as exhibited, subject to the following recommendations:

1. **That Council adjust its list of non-contributory buildings to the Victoria Street Heritage Precinct to clarify that only the Stawell Street wall, the Toddler's Block, the Memorial Garden, the Magnolia tree and the two Elm trees, various plaques and foundation stones and the former School House are contributory to the significance of the precinct.**
2. **That the Statement of Significance for the precinct be adjusted so that the former Orphanage to the extent of these items, are specifically identified important to the precinct.**
3. **That the revised boundary of HO177 as exhibited be approved.**
4. **That HO196 not be approved.**
5. **That the reference version of DPO9 included at Appendix B of the report be adopted subject to the following changes:**
  - a. **Replacement of the third dot point under the requirements for a Flood Investigation with:**
    - ***A suitably sized waterway corridor along Specimen Vale Creek to the satisfaction of the Corangamite CMA and Council:***
      - o ***The design of the corridor must take into consideration State Planning Policy Framework clause 14.02-1 1 – Catchment Planning and Management.***

- b. Replacement of the word “*must*” with “*may*” in the second dot point of Section 2.0.**

## Appendix A List of Submitters

No.	Submitter
1	(Federal) Department of Environment
2	Phylis Read
3	Phylis Read
4	VicRoads
5	Gordon McDonald
6	Country Fire Authority
7	Barry & Maree Phelan
8	Bryan & Gwenys Cuthbert
9	Frank Golding
10	Corangamite Catchment Management Authority
11	Graeme McDonough
12	Tom & Theresia Sullivan
13	Wendy Mathews
14	John Donne
15	Daryll & Vivienne Scetrine
16	Pauline Gray
17	Department of Environment and Primary Industry
18	Darren Ford
19	Environment Protection Authority
20	Phyllis Cremona
21	Thomas Findlay
22	Deborah Findlay
23	Ken Merton
24	Department of Transport, Planning and Local Infrastructure
25	Sherrin Caird
26	Ballarat Trades & Labour Council
27	David & Faye Clements
28	Belinda Gleeson
29	Christopher Gleeson



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30	Sandra Gilmour
31	Peter & Clare Lacey
32	Adrienne Schreuder
33	St Quintins Consulting
34	Barry McDonald

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## **Appendix B Reference version of DPO9**

## BALLARAT PLANNING SCHEME

**FINAL COUNCIL PANEL VERSION**  
**17 APRIL 2014**DD/MM/YYYY  
Proposed C164**SCHEDULE 9 TO THE DEVELOPMENT PLAN OVERLAY**Shown on the planning scheme map as **DPO9****FORMER BALLARAT ORPHANAGE – 200, 200A, 200B VICTORIA STREET, BALLARAT EAST**

This schedule applies to the land known as 200, 200A & 200B Victoria Street, Ballarat East. The objective of this schedule is to ensure that the re-development of the former Ballarat Orphanage is undertaken in a manner, layout and intensity that is consistent with the character of the area and the architectural/aesthetic, historic and social values associated with the site.

**1.0 Requirement before a permit is granted**

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

- A fence.
- Boundary re-alignment which does not create an additional lot.
- Creation of super lots.
- Adaptive reuse of the former Toddlers Block for a medical centre, provided that the responsible authority is satisfied that the proposed use, buildings or works associated with the adaptive reuse of the former Toddlers Block for a medical centre will not prejudice the future use or development of the land consistent with the provisions of this schedule.
- Demolition and/or removal of ~~these~~ elements of the site, with the exception of those not identified as significant in the City of Ballarat Heritage Citation: Former Ballarat Orphanage, September 2012 ~~and the former Ballarat Orphanage School House.~~

**2.0 Conditions and requirements for permits****Application requirements**

- In addition to any other requirements of the planning scheme, an application for a permit for the adaptive reuse of the former Toddlers Block for a medical centre must be accompanied by a planning report outlining how the proposal accords with the plan in Section 5.0 of this schedule.

**Development Contributions**

- Developer contributions are required for the provision of infrastructure ~~on the developable land, and also~~ where the development impacts on infrastructure demand beyond the developable area, including social and road network infrastructure. Where a Development Contributions Plan has not been incorporated into this scheme, the owner must enter into an agreement under section 173 of the *Planning and Environment Act 1987* providing for development contributions to the satisfaction of the Responsible Authority.

**2.2 Permit conditions**

All permits (whether before or after approval of a development plan) for the demolition and/or removal of those elements that have not been identified as significant in the City of Ballarat Heritage Citation: Former Ballarat Orphanage, September 2012 must include the following requirements as conditions:

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## Photographic record

- Prior to any demolition and/or redevelopment of the site a photographic record of the site must be prepared to the satisfaction of the responsible authority.
- The photographic record must be prepared by a professional photographer in accordance with Heritage Victoria's technical note - Photographic recording for heritage places and objects and any other relevant guideline published by Heritage Victoria, for such records and include:
  - Photographs of the interiors and exteriors of the building; and
  - Photographs of general views within, into and around the site.
  - Marked up plans showing the location of photos.

Physical and electronic copies of the photographic record must be submitted to the responsible authority, Child and Family Services Ballarat (CAFS) (or other representative body/s as nominated by the responsible authority) and a suitable local repository as nominated by the responsible authority. The electronic copies of the photographic record must be submitted in a format (i.e. file sizes) that can be made available online.

## Register of items

- Prior to any demolition and/or redevelopment of the site, confirmation must be provided to the satisfaction of the responsible authority that a register has been established of the objects, items, and/or artefacts that are to be retained and/or conserved.
- The register must identify those objects, items, and/or artefacts that are to be protected, retained and/or relocated on site and those objects, items, and/or artefacts that are to be returned to the community.
- For those objects, items, and/or artefacts that are to be retained and/or relocated on site the register must specify proposed arrangements for their temporary transport and storage.
- For those objects, items, and/or artefacts that are to be returned to the community, the register must specify proposed arrangements for their return to the community.
- The register must be established in consultation with Child and Family Services Ballarat (CAFS) (or other representative body/s as nominated by the responsible authority) to the satisfaction of the responsible authority. The register may be amended with the approval of the responsible authority following consultation with the representative body/s.
- For objects, items and/or artefacts on the register that are to be returned to the community a written agreement for their storage and transport must be reached with Child & Family Services Ballarat (CAFS) (or other representative body/s as nominated by the responsible authority).

**3.0 Requirements for development plan**

A development plan must be prepared to the satisfaction of the responsible authority. Only one development plan may be approved for the entire area covered by this Schedule. The development plan must be generally in accordance with the plan in Section 5.0 of this Schedule and include:

## An Urban Design Master Plan that includes:

- An analysis of the site and surrounding land uses and development in the area, including topography, existing features, title boundaries, services, views into and out of the site, built features, landscape features, open space, adjoining roads, bike paths, pedestrian access and public transport routes.

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- The location and a description of all proposed land uses including but not restricted to roads, public open space, drainage reserves and other authority reserves.
- An integrated commercial and residential development offering a choice and diversity of housing opportunities and types in a neighbourhood setting that has been master planned to provide an attractive urban design outcome.
- Development that is generally limited to two storeys but provides opportunities for higher density development that is well located around public open space.
- Higher density development which achieves an appropriate transition to lower density development on the site and in neighbouring areas.
- Development to front and address Victoria Street and Stawell Street excluding the area of the Stawell St wall.
- Development fronting Stawell Street that is no more than two storeys and achieves a detached development pattern with generous side setbacks and landscaped front setbacks and height, responding to the general development form of the street.
- Development within the area designated for 'Commercial Use' on the plan in Section 5.0 of this Schedule that retains a minimum of the front two rooms of the Former Ballarat Orphanage School House and ensures that the original internal integrity of the building is maintained in any future use. The reuse of the School House building must include the retention of original internal and external elements where possible and to the satisfaction of the responsible authority. Whether incorporated into a larger development form or stand alone, the former School House building (or part thereof) should read as an architecturally separate built form element from any new development, which must be achieved through a combination of setbacks and finishes and materials of the new built form.
- Development within the area designated for 'Commercial Use' on the plan in Section 5.0 of this Schedule that presents a façade to Victoria Street which:
  - provides activated frontages with windows and entrances as the predominant element of the Victoria Street façade;
  - is not dominated by car parking; and
  - is set back the same distance from the Victoria Street property boundary as the front setback of the Toddler's Block building.
- A pedestrian connection linking the frontages of the building/s in the Commercial Use area with the Toddlers Block which prioritises pedestrian movement over vehicular movement. Commercial development that will facilitate the ability to interpret the historical urban pattern of the former Ballarat Orphanage site and of the streetscape (layout, height, bulk, form, scale, façade pattern, setbacks, rhythm of open spaces, building footprints, finishing materials, appearance and landscape).

**A Development Sequencing Plan** that includes:

- The stages (if any) in which the land is to be subdivided and developed. The responsible authority must be satisfied that staged development will not prejudice the ability for the future use or development of the balance of the land to achieve the overall Development Plan requirements.
- The staging and provision of infrastructure and other key facilities.

**A Heritage and Site Interpretation Plan** that includes:

- The delivery of interpretive public art and interpretive landscape design on site (this will include, where appropriate, the activation of blank walls on new commercial buildings with interpretive public art).
- Identification of publicly accessible areas or locations within the site, not limited to but including the front memorial garden, where the history of the site can be marked and interpreted using a range of mediums, which is publically accessible, and which can



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serve as a place of reflection and sanctuary for those visiting the site, including former residents and others with a direct association with the Orphanage.

- Identification of interpretative mediums, including urban design, and interpretative content throughout the site.
- Elements from the site which are to be included as interpretative features (including those objects, items and/or artefacts listed on the register as to be retained and/or to be relocated on site) and which are to be placed in areas where the display is well lit, safe and accessible, to the satisfaction of the responsible authority.
- Identification of the Stolen Generation's interpretive display forming part of the Koorie Heritage Trail and the Ludbrook memorial seat, which are to remain on the site and be publically accessible.
- Identification of the streets to be named after prominent people or families associated with the former Ballarat Orphanage or other aspects of the site's heritage, in accordance with the Department of Planning and Community Developments Guidelines for Geographic Names, 2010 or any other relevant guideline published by DPCD.
- Identification of responsibilities and roles for the implementation of the interpretation, and a timeframe for implementation.
- Provision for future maintenance, on-going evaluation, review and replacement as required.
- Details of how the history and heritage of the site will be communicated to the broader public such as on site interpretation supplemented by material accessible via an appropriate website, and/or support for supplementary interpretive publications such as books or brochures.

The Heritage Site Interpretation Plan will:

- Address the history of the former Ballarat Orphanage and detail how the architectural/aesthetic, historic and social values of the site will be appropriately acknowledged and interpreted.
- Be developed in consultation with Child and Family Services Ballarat (CAFS) (or other representative body/s as nominated by the responsible authority) to the satisfaction of the responsible authority.

An **Open Space Plan** that includes:

- A minimum of two public open space areas as follows:
  - A public open space area in the northeast area of the site to include an area around the Magnolia Tree and an area including the 2 x elm trees to the eastern side of the Toddlers Block. The public open space area on the eastern side of the Toddler's Block should incorporate a play space as defined in the guidelines listed below, with the precise layout and location to be determined in consultation with Child and Family Services Ballarat (CAFS) (or other representative body/s as nominated by the responsible authority) and the responsible authority.
- Public open space areas that have been developed in accordance with the 'Neighbourhood Recreation Parkland' category in Section 9.6 'Development Standards' of the Ballarat Open Space Strategy (2008).
- Public open space that has been provided and located so that:
  - It is accessible to future residents of the site and other nearby residents.
  - It has a minimum of 50% of active residential and/or road frontages addressing its boundaries for adequate passive surveillance. Where possible additional open space boundaries should have active frontages (i.e. housing fronting the park or low or transparent fencing to increase the safety aspects of the space).
  - Pathways are installed connecting all public spaces to existing road networks, footpaths, or off road linkages and pedestrian paths.

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- Open space to be developed for drainage or stormwater detention purposes must be developed in accordance with the general provisions for open space irrespective of whether it is encumbered open space or not, and as a minimum include:
  - 50% minimum active residential or road frontages.
  - WSUD features as required.
  - Maintenance and emergency vehicle access around all water bodies.
  - Safe connecting paths linking through or around the open space and water bodies or features.
  - Low maintenance plantings.
- Landscaping of the public open space must consider the heritage and cultural values of the overall site and the need for interpretation of those values within public open space areas, as referenced in the Site Interpretation Plan.

**A Movement Network Plan that includes:**

- A general street layout that achieves continual connectivity throughout the site, with all roads to be for through traffic. Court bowl, cul-de-sac, or other terminating roads ~~are to~~ should be avoided where possible practical.
- A street layout that includes access to the residential area from Stawell Street and a connecting roadway between the Victoria Street service road and the residential area, through utilising and acknowledging the former Ballarat Orphanage dairy laneway.
- The locations of car parking in the Commercial 1 Zone and the Mixed Use Zone.
- The loading arrangements for the Commercial 1 Zone and the Mixed Use Zone that will not conflict with sensitive uses.
- Vehicular access to the commercial uses should be predominately from the Victoria Street service road, with minimal truck movement to be accommodated through the Stawell Street access point.
- Direct dedicated pedestrian linkages between the site and public transport, including from the residential area to the bus stop located on Victoria Street.
- A footpath linkage that is as direct as possible between all public open space areas on the site. This linkage should connect through to Victoria Street and Stawell Street, including connecting to the Speciman Vale Creek Reserve.
- Internal roads that have footpaths along both sides of the road.

**A Flood Investigation that includes:**

- The subdivision layout including the location and general distribution of lots showing the natural surface elevation and proposed building parcels.  
The subdivision must not create any new lots, which are entirely within the modelled 1% AEP flood extent at this location. This does not apply if:
  - the subdivision creates a lot, which by agreement between the owner and the Corangamite CMA is to be transferred to an authority for a public purpose; and /  
or
  - by agreement with the Corangamite CMA and Council the proposal includes works to cut and fill the site within the 1% AEP floodplain. An application to fill the floodplain must be supported by a detailed cut and fill plan that demonstrates no loss of floodplain storage, no increase in flood levels, velocities or extents to surrounding areas for up to and including the 1% AEP flood event. A proposal must be supported by an independent detailed hydrologic and hydraulic assessment of the site to the satisfaction of the Authority.
- A Flood Study/Hydraulic Analysis which is to be prepared by a suitably qualified and experienced engineer. The plans are to include the extent of flooding in a 1% AEP (1:100 year) flood event for pre-development and post-development conditions.



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Detailed information pertaining to the pre-development flood prone nature of the site should be obtained by attaining a copy of the Canadian Creek Tributaries Flood Investigation 2014 from the responsible authority.

An investigation of the post-development conditions must be undertaken by a suitably qualified engineer and must employ best practice methods (to the satisfaction of the Corangamite Catchment Management Authority) for flood estimation. This review may be subject to an independent peer review at the cost of the applicant.

- A suitably sized waterway corridor (buffer) along Specimen Vale Creek to the satisfaction of the Corangamite CMA and Council:
  - The buffer must take into consideration State Planning Policy Framework clause 14.02-1 – Catchment Planning and Management and/or Melbourne Water Guidelines – “Waterway Corridors – Guidelines for greenfield development zones within the Port Phillip and Westernport Region”.
- A Flood Risk Report that must consider the following:
  - The State Planning Policy Framework and the Local Planning Policy Framework.
  - The existing use and proposed development of the land.
  - 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.
  - The susceptibility of the development to flooding and flood damage.
  - The potential flood risk to life, health and safety associated with the development.
  - Flood risk factors to consider include:
    - The frequency, duration, extent, depth and velocity of flooding of the site and access way.
    - The flood warning time available.
    - The danger to the occupants of the development, other floodplain residents and emergency personnel if the site or access way is flooded.
  - 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.
  - 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.
- A Drainage Report that:
  - 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.
  - Provides for the collection, treatment and disposal of stormwater runoff that reflects best practice such as 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.
  - Ensures a design philosophy of ‘zero adverse impacts’ to surrounding areas for up to and including the 1% AEP flood event.
  - 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.
  - Provides for the design of overflow paths for a 1 in 100 year flood event.
  - Identifies measures to improve stormwater quality before it is discharged downstream, including details of design to ensure that floating debris is removed, including such as the installation of litter and gross pollutant traps to the satisfaction of the responsible authority.



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- Details of the construction procedures and practices to ensure there is no unreasonable off-site impact to stormwater quality during the construction phase.
- 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.
- Construction techniques that incorporate the provisions within the Guidelines for Environmental Management – Doing it right on Subdivisions (EPA Publication 960).

**A Flood Study that includes:**

- Prior to commencement of construction, plans are required by the responsible authorities for a Flood Study/Hydraulic Analysis which is to be prepared by a suitably qualified and experienced engineer. The plans are to include:
- The extent of flooding in a 1:100 year flood event for pre-development and post-development conditions (specify the study area as applicable);
- The details of the flood risk in accordance with the most current flood safety criteria
- The mitigation and management measures required to ensure future development is protected from damage or risks are minimised
- These plans are to conform and be submitted to the responsible authority for inclusion in the Victorian Flood Database prior to the selling of lots

**4.0 Decision Guidelines**

Before deciding on an application for a permit or a request to approve a development plan or a request to amend an approved development plan, the responsible authority must consider, as appropriate:

- The objectives and requirements of this schedule;
- The State and Local Planning Policy Frameworks; and
- The views of any Government Department or statutory authority.

**5.0 Concept Plan**

