
Planning and Environment Act 1987

WARRNAMBOOL PLANNING SCHEME

APPLICATION FOR PLANNING PERMIT P2008/311

APPLICATION FOR REVIEW P1059/2009

APPLICATION FOR REVIEW P1476/2009

STRATEGIC REVIEW OF POSSIBLE REZONING

Report of the Advisory Committee

Pursuant to Section 151 of the Act

Kathryn Mitchell – Chair

William O’Neil - Member

2 December 2009

1. BACKGROUND

On 27 October 2009, the Minister for Planning appointed Ms Kathryn Mitchell and Mr William O'Neil as an Advisory Committee to report on the following matters as they relate to the Gateway Plaza Shopping Centre at 154 Raglan Parade, Warrnambool:

- *All relevant matters concerning Application for Planning Permit No P2008/311 and Application for Review Nos P1059/2009 and P1476/2009;*
- *The strategic merits of, and process options that could facilitate a possible stage 2 expansion of the Shopping centre.*

Terms of Reference in relation to these matters were issued on 12 October 2009 and are provided as Appendix 1.

The composition of the Advisory Committee is the same as the members of the Panel appointed to consider Amendment C63 to the Warrnambool Planning Scheme. The Panel report provided in respect of Amendment C63 was submitted to Council on 2 December 2009 and should be read as background material for this report. Many of the strategic issues relating to these matters have been dealt with in the Panel report and they are not repeated in this Advisory Committee report.

That report concluded that while the Warrnambool Retail Strategy 2007 (the Strategy) provided the basis for the inclusion of new policies in the Warrnambool Planning Scheme, it should not be included as a Reference Document in the scheme, nor should a Development Plan Overlay apply over the Gateway Plaza land. Essentially, the Panel's recommendations result in the introduction of a retail and activity centre policy framework into the Planning Scheme by changes to Clause 21.07; introduction of Local Policies at Clauses 22.04-4 and 22.03-5; and amendment of the schedules to the Business 1 Zone and Business 2 Zones.

2. SUBJECT SITE AND SURROUNDS

The Gateway Plaza Shopping Centre is located approximately 3 kilometres to the east of the Warrnambool City Centre. Gateway Plaza is a sub-regional retail centre that provides for approximately 14,000 square metres of retail floorspace, including a mix of specialty shops and an existing Kmart Discount

Department Store (DDS) and a Coles Supermarket. Gateway Plaza sits within a broader area known as the Eastern Activity Precinct which includes a substantial tract of highway frontage land used for bulky goods retailing.

On 26 October 2009 Council resolved to support the issue of a Notice of Decision (NOD) to Grant a Permit for a 6,700 square metre development on the land at 46 to 54 Gateway Road, for a Woolworths Supermarket, along with Dan Murphy and Dick Smith stores, and associated specialty shops. This land is located immediately to the west of Gateway Plaza.

3. METHODOLOGY AND CONSULTATION

The Advisory Committee held a hearing and met with the following parties on 12 and 13 November 2009 to consider these matters:

Submittor	Represented By
Warrnambool City Council	<ul style="list-style-type: none">Terry Montebello, Maddocks Lawyers, who tabled evidence from Craig Czarny, Hansen Partnership Pty Ltd
Whitehead et al	<ul style="list-style-type: none">Thomas Lindsay, Tait Leisham Taylor
AMP Capital Investors (Applicant)	<ul style="list-style-type: none">Stuart Morris QC, instructed by Gadens Lawyers, who called and/or tabled evidence from:<ul style="list-style-type: none">Justin Ganly, Deep End Services Pty LtdAnthony Dimasi, Pitney BowesAndrew Biacsi, Contour ConsultantsChris Maragos, Cardno Grogan Richards

All parties to Amendment C63 were advised of the Advisory Committee proceedings and the hearing dates.

4. STRATEGIC CONTEXT AND KEY ISSUES

Given that the Panel report for Amendment C63 deals with the strategic background to these and other matters, it should be read in conjunction with this report. Key conclusions include:

- The Panel supports the Strategy's finding that there is current demand and justification to facilitate the immediate development of an additional DDS in Warrnambool.

- The Panel does not support the Strategy's expressed intent to preclude the possibility of developing a second DDS at Gateway Plaza.
- Based on the planning, retail and economic evidence, the Panel considers that there are no legitimate grounds for the introduction of prescriptive planning policy that seeks to ensure that the next DDS locates in the City Centre of Warrnambool.
- The Panel is satisfied that net community benefits will result from the development of an additional DDS be it located in the City Centre or at Gateway Plaza.
- The Panel is satisfied that the economic impacts associated with AMP's long term expansion plans for Gateway Plaza (to a centre comprising approximately 33,600 square metres of retail floorspace and incorporating a second DDS) would not threaten the retail primacy of the City Centre nor have a deleterious effect on the City Centre to the extent that goods and services will be lost to the community.

As a summary, the key recommendations from the Amendment C63 Panel report include:

- Deletion of reference to the Warrnambool Retail Strategy (2007) from the Warrnambool Planning Scheme, including its listing as a Reference Document at Clause 21.10.
- Replacement of the exhibited Clauses 21.07, 22.03-4 and 22.03-5 with the versions contained at Appendix 2, 3 and 4 of the Panel report.
- Deletion of the exhibited Schedule 10 to the Development Plan Overlay and accompanying DPO 10 Planning Scheme Overlay Map.
- Replacement of the exhibited Business 1 Schedule with the version contained at Appendix 5 of the Panel report.
- Deletion of the proposed amendment to Planning Scheme Maps 10 and 14 as it affects land at 1 - 49 Raglan Parade and 51 Raglan Parade and retain this land in the Business 2 Zone.
- Amendment of the current Business 2 Zone schedule entry for land at 1 - 49 Raglan Parade as identified in Appendix 6 of the Panel report.

There are four matters that the Advisory Committee must review and report on, these include:

- (i) Application for Planning Permit P2008/311
- (ii) Application for Review P1059/2009
- (iii) Application for Review P1476/2009
- (iv) Strategic merits and process options for possible expansion of Gateway Plaza

The following sections of this report deal specifically with these matters.

5. APPLICATION FOR PLANNING PERMIT P2008/311

A planning application to use land at 154 Raglan Parade for the purpose of a Shop and buildings and works comprising a shopping centre and a reduction in the provision of car parking, generally in accordance with the plans accompanying the application was lodged with Warrnambool Council on 8 December 2008.

On 3 April 2009, Council issued a Notice of Decision to grant a permit for extension of the Gateway Plaza Shopping Centre to 22,220 square metres with 1,230 car parking spaces.

The Advisory Committee generally adopts that part of the Council opening submission that sets out in a concise manner the details of the application, the site and its surrounds, the planning permit triggers, and the relevant planning provisions. Additionally, the Advisory Committee notes that Council generally maintained its support of the application, subject to conditions.

One matter that emerged at the hearing related to the use of land to the north of the site, owned by AMP but located in a Residential 1 Zone. Council noted that having regard to the nature of the proposal, the proposed use of shop is prohibited in the Residential 1 Zone. (This issue arises from a decision of VCAT in Marble Swirl Holdings Pty Ltd vs Kingston City Council [2008] VCAT 973, 26 May 2008.) Council suggested that it would seek a rezoning of this land to Business 1 Zone through its consideration of Amendment C63. The Advisory Committee inquired whether Clause 52.03 might be another option and while parties agreed that it might be, it preferred for the land to be rezoned.

6. APPLICATION FOR REVIEW P1059/2009

At its meeting on 30 March 2009, Council resolved to support the issue of a Notice of Decision to Grant a Permit for the Stage 1 Permit Application for Gateway Plaza, subject to conditions. An Objector to the Application, Charles Whitehead, through Tait Leishman Taylor Lawyers, lodged an Application for Review (21 April 2009) with VCAT, seeking a review of the Council's decision. The grounds for Review were numerous and in summary included:

- The application is contrary to the provisions of the State and Local Planning Policy Framework, the Warrnambool Eastern Activity Centre Precinct Structure Plan, and the exhibited draft Warrnambool Retail Strategy.
- The proposed expansion of Gateway Plaza will have a deleterious effect on the Warrnambool City Centre and does not take into account approved or proposed development within the Eastern Activity Centre Precinct.
- The findings of the Economic Impact Statement are disputed on a number of economic grounds and there is inadequate justification for the amount of floorspace proposed.
- The application is prohibited and fails to provide adequate car parking.

In its submission, the Council recommended that this application be dismissed. Following the Council submissions, Mr Lindsay advised that his client was withdrawing its objections and a letter to this effect was provided to the Advisory Committee on 20 November 2009. The letter noted that while the Application of Review P1059/2009 had been withdrawn, the objection to removal of the condition prohibiting a second DDS at Gateway Plaza through the permit conditions and rezoning of further land to the east of Gateway Plaza is still maintained.

The Advisory Committee notes that the Applicant prepared expert evidence from four consultants in response to these grounds of review, three of whom were called to expand upon that evidence. Mr Lindsay did not seek to cross examine any of the witnesses on any matter and the Advisory Committee does not take these matters any further.

7. APPLICATION FOR REVIEW P1476/2009

On 4 June 2009, AMP lodged an Application for Review seeking review of certain permit conditions contained in the Notice of Decision. The grounds for Review principally related to the road infrastructure requirements and floorspace limitations. Specifically, these were Conditions 1a, 1b, 1c, 2, 3, 4, 5, 10, 11 and 22 of the Notice of Decision to grant a permit.

During the course of Council submissions, Council and Applicant narrowed down the contended condition to No 3 and 4 only, which originally stated:

3. *Apart from the tenancy identified a "Supermarket" on the endorsed plans, no single tenancy may be greater than 1000 square metres. For the avoidance of doubt, this condition seeks to prevent the establishment of a second Discount Department Store at the shopping centre.*
4. *The internal arrangement of the tenancies within the Business 1 Zone as shown on the endorsed plans must not be altered if the effect of the alteration is to create one tenancy of greater than 1000 square metres.*

Prior to the Advisory Committee hearings, these were revised and combined by Council to read:

3. *No part of the development authorised by this permit may be used for the purpose of a second Discount Department Store as part of the overall Gateway Plaza shopping centre.*

All other conditions were satisfactorily reviewed and amended, and the Advisory Committee accepts those modifications.

The Advisory Committee has a fundamental concern with the tenor of the revised condition. It unashamedly restricts the use of permitted retail floorspace for the purpose of a shop and puts into effect the Council opinion that a second DDS should not be permitted at Gateway Plaza. The Panel report for Amendment C63 has dealt with this matter and for reasons expressed in that report, it follows that the Advisory Committee does not support that condition. While Mr Morris made it clear that the current approval does not allow for a DDS, and his client was not entertaining a DDS, the Advisory Committee considers that if Amendment C70 was ever subsequently approved, AMP would seek to modify the development

footprint associated with its current permit, in order to facilitate the realisation of its combined Stage 1 and Stage 2 development ambitions.

The Advisory Committee recommends that Condition 3 be deleted.

8. STRATEGIC MERITS AND PROCESS OPTIONS

On 5 December 2008, AMP sought that Council initiate a rezoning of its Stage 2 land to Business 1 Zone. Council has not progressed consideration of this amendment, and noted that it wished to finalise Amendment C63 before taking the request any further.

8.1 Strategic Merits

The Council submission of this was brief and generally argued that the strategic merits of any rezoning should and could not be addressed until Amendment C63 and the Strategy were finalised. It submitted that there is no strategic basis for the proposed amendment and provided a brief analysis of the Strategic Assessment Guidelines to argue its point. Mr Montebello argued that the C70 land would have a much higher prospect of being rezoned if there is a clear policy framework in the Planning Scheme. Unfortunately, the draft Strategy does not provide that framework, so the current and proposed provisions of the scheme need to be relied upon to provide the policy discretion and consideration framework for this matter.

Given that the Amendment C63 Panel process is now complete, the Advisory Committee is comfortable that the strategic merits of a rezoning option for Gateway Plaza can now be progressed and assessed on its merits.

8.2 Process Options

Various process options can be considered to progress these matters, and these include:

- (i) Exhibit and progress Amendment C70 to the Warrnambool Planning Scheme in the normal manner, with appropriate notice and submission opportunities.

- (ii) Support and approve Amendment C70 as a Ministerial amendment through the provisions of 20(4) of the *Planning and Environment Act 1987*.
- (iii) Abandon Amendment C70 on the basis of the Strategy (noting the C63 Panel has recommended that the Strategy not be included in the Planning Scheme).

The Applicant recommended that this Advisory Committee recommend approval of the amendment via a Section 20(4) process, pursuant to the *Planning and Environment Act 1987*. Council did not support that position, neither did Mr Lindsay. Council argued that:

In terms of process, there is no reasonable basis for any future amendment to be exempt from the usual notification requirements. There is no urgency to a rezoning and even if there were, that should not strike at the heart of public participation in the planning process. In Council's submission, notification for C70 should not be limited to those persons who made submissions in respect of Amendment C63. It should be subject to the usual notification requirements set out in the Planning and Environment Act 1987.

Further, Council suggested that:

In all of the circumstances, the Advisory Committee should advise the Minister that it is important for any decisions in relation to Amendment C70 to be made only after Amendment C63 has been resolved, settled and approved. The decision as to whether to proceed or not to proceed with Amendment C70 will then tend to resolve itself.

Mr Lindsay suggested that a rezoning proposal of this nature "... would attract substantial interest and comment from a range of people and organisations who are not represented at, or participating in, this Advisory Committee process". The Advisory Committee agrees.

It follows that the Advisory Committee does not support proposed Amendment C70 being progressed via a Section 20(4) process in the absence of further work. Nor does it support that an amendment be approved on the basis of information provided through this current Advisory Committee process.

The parties to this hearing were limited to three – Council, the Applicant and Whitehead. While other submitters to Amendment C63 were informed of

these proceedings, the Advisory Committee agrees with Council that it would be difficult for them (and any other interested party) to participate, given the specificity and the timing of the matters to be resolved.

At the hearing, the Advisory Committee expressed the view that another option could be to progress the amendment via a Section 96 process, that is combining the Amendment C70 and also the planning permit application for Stage 2, so that all matters were "*laid on the table*" and all interested parties could see exactly what is being proposed. In responding to this, Mr Morris advised that his clients preferred option was that Amendment C70 be finalised through a Ministerial 20(4) process, but he could see merit in the combined process. Mr Montebello agreed there was merit in that approach, so long as Council remained as Planning Authority.

9. CONCLUSIONS AND RECOMMENDATIONS

The Advisory Committee concludes that Planning Permit P2008/311 is appropriate for the Stage 1 development of Gateway Plaza and that a permit should issue for the land, in accordance with the revised permit conditions as set out in Appendix 2.

The Advisory Committee concludes that it does not have enough information to form a definitive view that the proposed Amendment C70 should be progressed through a Section 20(4) process. There may be merit in progressing the amendment, but the Advisory Committee does not consider this current process to be the forum through which it should be progressed, particularly in the absence of third party input. However, the amendment and a planning permit application for Stage 2 could be considered under a combined process pursuant to Section 96 of the *Planning and Environment Act* 1987.

For the reasons set out in this report, the Advisory Committee makes the following specific recommendations to the Minister for Planning in relation to each of the matters under consideration:

9.1 Application for Planning Permit – P2008/311

The Advisory Committee recommends that a permit be granted for this application, subject to the modified conditions as set out in Appendix 2.

9.2 Application for Review - P1059/2009

The party to this Application for Review advised that it was withdrawing its objections and therefore this matter is now closed.

9.3 Application for Review - P1476/2009

The Advisory Committee recommends that a permit be granted for this application, subject to the modified conditions as set out in Appendix 2.

9.4 Strategic Merits and Process Options

The Advisory Committee recommends that the Minister for Planning adopt the following option to progress full consideration of the AMP proposal:

- (i) That the Applicant prepare full amendment and planning permit application documentation for the Stage 2 development of Gateway Plaza pursuant to Section 96 of the *Planning and Environment Act* 1987. This material must be generally consistent with what is already in the public domain.
- (ii) That the Minister for Planning consider being the Planning Authority for exhibition and consideration of Amendment C70 and the planning permit application to the Warrnambool Planning Scheme.
- (iii) That this Advisory Committee continue to act in these matters post submission of this report to the Minister for Planning.
- (iv) That the amendment and application be advertised for four weeks. Direct notification should be provided to neighbouring properties and an advertisement be provided for two weeks in the local paper and in the relevant section of *The Age*. Submissions must be complete documents and not be in the form of a petition or proforma.
- (v) That the proposed dates of any further hearings be provided with the exhibition material and submitters must advise if they wish to be heard with their written submissions.
- (vi) That all submissions made in response to the exhibition be provided directly to the Advisory Committee, care of Planning Panels Victoria.

- (vii) That a hearing be convened by the Advisory Committee to consider any submissions, and be structured to ensure an expeditious process.
- (viii) That the Advisory Committee prepare a report with recommendations about the proposed amendment and planning permit application.



Kathryn Mitchell, Chair

Advisory Committee

2 December 2009



William O'Neil, Member

APPENDIX 1 – TERMS OF REFERENCE

**Advisory Committee appointed pursuant to Part 7, Section 151 of the
Planning and Environment Act 1987
to report on issues concerning**

**MINISTERIAL ‘CALL IN’ PURSUANT TO SECTION CLAUSE 58(2) SCHEDULE 1 OF
THE VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL ACT
for
APPLICATION FOR REVIEW NOS P1059/2009 & P1476/2009 FOR THE AMP GATEWAY
PLAZA SHOPPING CENTRE, WARRNAMBOOL**

AND

**A REQUEST TO AMEND THE WARRNAMBOOL PLANNING SCHEME FOR A STAGE
2 EXPANSION OF THE GATEWAY PLAZA SHOPPING CENTRE**

BACKGROUND AND PURPOSE

1. The Minister for Planning, the Hon Justin Madden MLC has appointed an Advisory Committee pursuant to Section 151 of the *Planning and Environment Act 1987* (P&E Act) to consider Application for Review No. P1059/2009 & P1476/2009 for the AMP Gateway Plaza Shopping Centre, Warrnambool that was “called in” from the Victorian Civil and Administrative Tribunal (“VCAT”) by the decision of the Minister for Planning pursuant to section clause 58(2) schedule 1 of the *Victorian Civil and Administrative Tribunal Act 1988* (“VCAT Act”).
2. The Advisory Committee is also requested to consider the strategic merit and process options that could facilitate a possible stage 2 expansion to the Gateway Plaza Shopping Centre, which is the subject of a separate planning scheme amendment request being considered by the Warrnambool City Council (“Council”).

Planning Permit Application P2008/311

3. The Gateway Plaza Shopping Centre is located on the north side of the Princes Highway, at 154 Raglan Parade, Warrnambool.
4. The existing shopping centre has a leasable floor area of approximately 14,500sqm.
5. A planning permit application was lodged with Warrnambool City Council in December 2008. The key elements of the proposal are:
 - Retention of the existing shopping centre with modifications in the north-west section of the centre to activate the centre towards Gateway Road and to provide a food court opening to the outdoor seating area to the north;
 - Extension of the shopping centre to the north and north-east including a supermarket of approximately 3,350 square metres and new specialty stores, including mini majors. A total of approximately 8,560 square metres of additional leasable floorspace is proposed;

- A new east-west mall with returning north-south entry area is proposed to the north and east of the existing centre;
 - Construction of 319 additional parking spaces located predominantly on the north and east sides of the building;
 - Construction of a new vehicle access point from Gateway Road; and
 - Construction of new loading area on the north side of the building to service the development.
6. The total retail floorspace of the expanded development is 22,220 square metres with a total of 1,230 car parking spaces.
 7. The application was advertised and received three submissions, 2 from objectors and one letter of support. One of the objections contained four signatories representing interests in land and businesses in Warrnambool CBD. The other objection was subsequently withdrawn.
 8. Council issued a Notice of Decision (NOD) on 3 April 2009 subject to conditions.
 9. The objector has lodged an application for review with VCAT (Ref No P1059/2009) of the NOD and the permit applicant has also lodged an application for review with VCAT (Ref P1476/2009) against the conditions on the NOD.
 10. The parties to the VCAT proceedings are Warrnambool City Council, Gadens Lawyers, representing AMP Capital Investors (proponent) and Tait Leisham Taylor representing Charles Whitehead (the objector).

Request to Amend the Warrnambool Planning Scheme for a Stage 2 Expansion of the Gateway Plaza Shopping Centre

11. The proponent wrote to Warrnambool City Council on 5 December 2008, seeking a planning scheme amendment to facilitate the growth of the shopping centre, including the introduction of a second Discount Department Store (DDS).
12. The amendment request seeks to:
 - *“Rezone the remaining land owned by the proponent adjacent to Gateway Plaza to the Business 1 Zone;*
 - *Insert an as of right shop floor space limit into the schedule to the Business 1 Zone of 34.200 square metres for the entire AMP Capital Investments land holding in the Business 1 Zone;*
 - *Remove the redundant Design and Development Overlay DDO4 and Development Plan Overlay DPO1.”*
13. Council has indicated it will not progress the amendment request at this stage, and the request is pending the outcome of the C63 Panel process.

Task

14. The Advisory Committee is to report on:
 - all relevant matters concerning Application for Planning Permit No. P2008/311 and Application for Review Nos P1059/2009 & P1476/2009; and
 - the strategic merits of, and process options that could facilitate, a possible stage 2 expansion of the Gateway Plaza Shopping Centre.

Method

15. The Advisory Committee shall inform itself in anyway it sees fit, but shall consider:
 - Relevant documentation prepared by or for the Applicant for Application for Planning Permit No. P2008/311 or otherwise provided to the Advisory Committee and all written objections, submissions and statements of grounds made in regard to application for Planning Permit No. P2008/311 and Application for Review Nos P1059/2009 & P1476/2009.
 - The Notice of Decision and all written reports prepared in respect of Planning Permit Application No. P2008/311 prepared by the City of Warrnambool.
 - The letter from the proponent to Council of 5 December 2008 requesting to amend the Warrnambool Planning Scheme for a further expansion to the Gateway Plaza Warrnambool.
16. The Advisory Committee shall hold a public hearing and invite the objectors, the Applicant and Warrnambool City Council to make verbal and written submissions including evidence.
17. The Advisory Committee shall retain a library of any written submissions or other supporting documentation provided to it, which must be available for public inspection up to the end of the last day of the hearing date.

Outcomes

18. The Advisory Committee must produce a written report for the Minister for Planning providing:
 - An assessment of all relevant planning issues relating to the Applications for Review.
 - The strategic merit of and options that could facilitate, the request to amend the Warrnambool Planning Scheme to allow a further expansion to the Gateway Plaza Shopping Centre.
 - An assessment of the submissions to the Advisory Committee.
 - A recommendation and reasons in relation to the determination of the Application for Review for the AMP Gateway Plaza Shopping Centre, Warrnambool, including recommendations as to whether the permit should issue and if so, under what conditions.
 - Any other relevant matters raised in the course of the Advisory Committee hearing.
 - A list of persons consulted and/or heard.
 - A separate written report.

Timing

19. The hearing proper is to be conducted as soon as practicable being no later than six weeks from the date of appointment of the Advisory Committee.
20. The Advisory Committee is required to submit its report in writing within four weeks of completion of the hearing.

Fee

21. The fee for the Advisory Committee will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.

Day to day liaison for this matter will be through Marc Boxer of the Department of Planning and Community Development on ph. 9637 9067 or by email at marc.boxer@dpcd.vic.gov.au.



JUSTIN MADDEN MLC
Minister for Planning

Date:

12 OCT 2009

APPENDIX 2 – PERMIT CONDITIONS

PLANNING AND ENVIRONMENT REGULATIONS 2005 FORM 5

Notice of Decision to Grant a Planning Permit
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Application No.: P2008-311

Planning Scheme: Warrnambool

Responsible Authority: Warrnambool City Council

➤ **THE RESPONSIBLE AUTHORITY HAS DECIDED TO GRANT A PERMIT.**

➤ **THE PERMIT HAS NOT BEEN ISSUED.**

ADDRESS OF THE LAND:

**Lot 1 Plan of Subdivision 544181J and part Lot 1
Plan of Subdivision 544176B**

154 Raglan Parade, Warrnambool

WHAT WILL THE PERMIT ALLOW:

To Construct and Use land as a Shop (supermarket, speciality shops and new shopping mall) totalling approximately 8560 square metres of additional floorspace; and to vary the requirements of Clause 52.06 (Carparking).

WHAT WILL THE CONDITIONS OF THE PERMIT BE ?

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and two (2) copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - a) A footpath must be provided on the Princes Highway frontage of the site to the satisfaction of the responsible authority.
 - b) Pedestrian linkages from the carparking area(s) are to be shown to each of the building entrances.
 - c) Bicycle facilities as required by Clause 52.34, totalling 31 spaces must be shown in close proximity to the building entrances.
 - d) The location or relocation of the bus bays is to be to the satisfaction of the responsible authority.
 - e) The proposed roundabout at the northern end of the site on Gateway Road must be designed to accommodate the heavy vehicle turning movements at this location, and must be shown to be located within the parcel land and the road reserve.

- f) The landscaping plan drawn generally in accordance with the landscape concept plan submitted with the application, except that the plan must be amended to show:
- Details of surface finishes of pathways and driveways
 - A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
 - Landscaping along the Gateway Road and Raglan Parade Road Reserve frontages. The plan must show:
 - a) A survey of all existing vegetation to be retained and/or removed
 - b) Details of surface finishes of pathways and driveways
 - c) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.

All species selected must be to the satisfaction of the responsible authority.

The landscape plan must also indicate that an in-ground irrigation system is to be provided to all landscaped areas.

2. The development of the land as shown on the endorsed plans must not be altered without the consent of the responsible authority.
3. Prior to the occupation of any of the building or works authorised by this permit, the Owner must enter into an agreement under section 173 of the Planning and Environment Act 1987 which, in addition to the usual machinery provisions, provides for the following matters:

- The construction of a northern extension of Bescott Street to a local road standard (18 metre cross section) from the existing terminating point of Bescott Street to a point at the north where it will intersect with the proposed east west road (Link Road in the Eastern Activity Precinct Structure Plan);
- Build the east west road (Link Road in the Eastern Activity Precinct Structure Plan) between the northern extension of Bescott Street and the eastern boundary of the Stage 2 land to at least the same standard as the Bescott Street works;
- Provide a public pedestrian accessway between the northern residential areas and the activity centre/east west link road;
- The obligations to carry out the works are to be triggered by the construction of any development for retail premises or car parking associated with retail premises on the Stage 2 land;
- The various road works are to be completed before the occupation of any development on the Stage 2 land;
- The various works are to be carried out all at the cost of the owner.

(Note Stage 2 land is the land subject to draft Amendment C70)

4. Before the development starts, a schedule of construction materials, external finishes and colours to the satisfaction of the responsible authority must be submitted to and

approved by the responsible authority. When approved, the schedule will be endorsed and will then form part of the permit.

5. Before the occupation of the development starts or by such later date as is approved by the responsible authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority.
6. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority, including that any dead, diseased or damaged plants are to be replaced.
7. The use and development must be managed so that the amenity of the area is not detrimentally affected through the:
 - Transport of materials, goods or commodities to or from the land
 - Appearance of any building, works or materials
 - Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil
 - Presence of vermin
8. All trolleys must be retained on site and managed through a “coin lock” system or another appropriate arrangement to the satisfaction of the responsible authority.
9. All external plant and equipment must be acoustically treated or baffled so as to comply with S.E.P.P. N1 to the satisfaction of the responsible authority.
10. With regard plant/equipment or features on the roof – No plant, equipment, services or architectural features other than those shown on the endorsed plan are permitted above the roof level of the buildings without the written consent of the responsible authority.
11. All pipes (excluding down pipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the responsible authority.
12. Provision must be made on the land for the storage and collection of garbage and other solid waste. This area must be graded and drained and screened from public view to the satisfaction of the responsible authority.
13. External lighting must be designed, baffled and located to the satisfaction of the responsible authority to prevent any adverse affect on adjoining land to the satisfaction of the responsible authority.
14. Protective kerbs or other barriers must be provided to the satisfaction of the responsible authority to prevent damage to buildings, fences or landscaped areas.
15. Vehicular crossing(s) must be constructed to the road to suit the proposed driveway(s) to the satisfaction of the responsible authority and any existing crossing or crossing opening must be removed and replaced with footpath, nature strip, and

kerb and channel to the satisfaction of the responsible authority. No Vehicular crossing will be permitted within 10 metres of an intersection.

16. Before any works within the development commence, computations and plans relating to stormwater management must be submitted to and approved by the responsible authority. The plans must be drawn to scale with dimensions and three (3) copies must be provided. The plans must include:
 - The stormwater management system, complying with the current best practice performance objectives outlined in “Water Sensitive Urban Design Engineering Procedures – Stormwater Technical Manual” to the satisfaction of the responsible authority.
 - Stormwater facilities designed for a 1 in 20 year storm event. The stormwater discharge from this development must be limited to the equivalent of the predevelopment site run-off as determined by engineering computations (base parameters $c = 0.30$, ARI = 10 years. The stormwater analysis and design must be undertaken by a suitably qualified civil engineer.
 - The stormwater management system must include an approved outlet and/or on site retention facilities for the development.
17. Before any access, carparking or drainage works associated with the development start, detailed construction plans to the satisfaction of the responsible authority, must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. All works must be undertaken at the full cost of the developer, under the supervision of the responsible authority. The plans must be drawn to scale, with dimensions, and must be designed in accordance with the Warrnambool City Council Design Guidelines for Subdivisional Developments Urban/Rural Road & Drainage Projects and Traffic Management. The plans must include the following:
 - Detailed design of all carparking and trafficable areas, including drainage infrastructure.
18. Before the occupation of any new floor area of the development starts the areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
 - Constructed pavement with an all-weather-seal coat.
 - Drained.
 - Line marked to indicate each car space and all access lanes.
 - Clearly marked to show the direction of traffic along access lanes and driveways.
 - Contain relevant street lighting.
19. The areas set aside for access and the parking of vehicles must be set aside for the specified use and must not be used for any other purpose.
20. Before the occupation of any new floor area of the development starts all works identified in Condition 1 must be constructed at the full cost of the developer, to the satisfaction of the responsible authority.

21. The loading and unloading of goods from vehicles must only be carried out on the land within the designated loading bay(s) to the satisfaction of the responsible authority.
22. Except in circumstances where a permit is not required pursuant to Clause 52.05 of the Warrnambool Planning Scheme, no advertising signage may be erected without the further approval of the responsible authority.
23. To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period:
 - a) Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site.
 - b) Building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken on site. The pollutants from these building operations shall be contained on site.
 - c) Builders waste must not be burnt or buried on site. All waste must be contained and removed to a Waste Disposal Depot.