

*Planning and Environment Act 1987*

**Advisory Committee Report**

# **Ballarat Station Precinct Advisory Committee**

**3 May 2016**

*Planning and Environment Act 1987*

Advisory Committee Report pursuant to Section 151 of the Act

Ballarat Station Precinct Advisory Committee

3 May 2016



Rodger Eade, Chair



Peter Allen, Member



John Hartigan, Member



Ann Keddie, Member

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## List of Abbreviations

DEDJTR	Department of Economic Development, Jobs, Planning and Resources
DPO	Development Plan Overlay
EPA	Environment Protection Authority
IPO	Incorporated Plan Overlay
PUZ	Public Use Zone
RDV	Regional Development Victoria
SPPF	State Planning Policy Framework
SUZ	Special Use Zone
VHR	Victorian Heritage Register
VRI	Victorian Railways Institute

## Executive Summary

### (i) Summary

The Ballarat Station Precinct Advisory Committee's Terms of Reference state that its purpose is:

*...to provide advice on the appropriate form and process of a proposed amendment to the Ballarat Planning Scheme to facilitate redevelopment of the Ballarat Railway Station Precinct.*

To facilitate such redevelopment, a proposed planning scheme amendment was advertised. It provided three options for a planning scheme amendment to facilitate the adaptive reuse of the former Goods Shed and the development by the private sector of a hotel and conversion/exhibition centre. It is proposed that the land for the private sector development will be excised and sold to the preferred developer.

The proposal in part implements the *Ballarat Station Precinct Master Plan, 2014*. The Victorian Government has contributed \$25 million towards the project.

The planning options proposed can be summarised as:

**Option 1** – Include the land in the Special Use Zone with embedded requirements for approval of a development plan.

**Option 1A** - Include the land in the Special Use Zone with requirements for the approval of a development plan included in a Development Plan Overlay.

**Option 2** – Include the land in the Commercial 1 Zone with requirements for the approval of a development plan included in a Development Plan Overlay.

Forty seven submissions were received in response to the notification of the Committee's Terms of Reference and proposed Amendment C198 to the Ballarat Planning Scheme. Issues raised in those submissions which were relevant to the Committee's Terms of Reference include traffic and parking both in the precinct and in surrounding streets, heritage, urban design and landscape, soil contamination and other environmental issues, interface and residential amenity in the adjacent area, signage, and liquor licensing and gaming. These issues are considered in this report.

In addition there were a number of issues raised which the Committee regarded as beyond its Terms of Reference. In a number of cases these were raised as a result of community concerns about the proposed development.

The Committee has considered the issues and their relevance to the future planning provisions to facilitate the redevelopment of part of the site. The emphasis in this report is on those planning provisions. The Committee notes that there is a broadly parallel process to identify a private sector developer for the proposed hotel and convention centre development.

The Committee considers that none of the three planning options proposed are the best approach to facilitating the proposed project. It proposes an approach which is summarised in its conclusions in this report and its recommendations which are set out below.

**(ii) Recommendations**

Based on the reasons set out in this Report, the Committee recommends that the Minister for Planning:

1. **Prepare and approve an amendment to the Ballarat Planning Scheme subject to:**
  - a) **Including the Private Development Area in the Special Use Zone. The provisions of the zone should be as described in section 5.2.3. of this report**
  - b) **Including the Project Site in an Incorporated Plan Overlay. The provisions of the overlay and associated incorporated document (the Concept Plan) should be as described in section 5.2.4 of this report**
  - c) **Including the proposed Special Use Zone include a requirement for a development plan and matters that are consistent with that plan, be exempt from notice and review. The development plan must be consistent with a Concept Plan included in the planning scheme and have been through an informal process of community consultation before it is adopted or substantially modified**
  - d) **Matters requiring a permit in the proposed Special Use Zone not be exempt from the usual notice and review provisions of the *Planning and Environment Act 1987*.**
2. **Approve the Amendment pursuant to section 20(4) of the *Planning and Environment Act 1987*.**
3. **Amend Clause 61 of the Ballarat Planning Scheme to make the Minister for Planning the responsible authority for future planning approvals in the Project Site.**

# 1 Introduction

## 1.1 Background

In January 2015 the Premier committed an amount of \$25 million to towards the implementation of elements of the *Ballarat Railway Station Precinct Master Plan (2014)* (Master Plan). The funding is to be made available through the Regional Jobs and Infrastructure Fund. The Master Plan was prepared in a partnership between Regional Development Victoria (RDV), VicTrack, the City of Ballarat and the former Department of Transport, Planning and Local Infrastructure. It has been endorsed by the City of Ballarat and a Board Committee of VicTrack, the owner of the site. The development of the part of the site which is the subject of proposed Amendment C198 is the responsibility of a Project Control Group which includes representatives of VicTrack, the City of Ballarat and the Transport Division of the Department of Economic Development, Jobs, Transport and Resources (DEDJTR). This Project Control Group reports to the Executive Director, Infrastructure at RDV.

## 1.2 Advisory Committee process

The Ballarat Station Precinct Advisory Committee was appointed under section 151 of the *Planning and Environment Act 1987* on 9 December 2015. The Terms of Reference of the Committee are at Appendix C.

As set out in its Terms of Reference the Purpose of the Committee is:

*...to provide advice on the appropriate form and process of a proposed amendment to the Ballarat Planning Scheme to facilitate redevelopment of the Ballarat Railway Station Precinct.*

As part of the process, draft options for Amendment C198 (the proposed Amendment) to the Ballarat Planning Scheme have been prepared. The proposed Amendment was prepared at the request of the City of Ballarat. At its meeting of 28 October 2015, Council resolved to:

*Request the Minister for Planning to authorise, prepare and approve Amendment C198 to the Ballarat Planning Scheme to facilitate the redevelopment of the Ballarat Station Precinct to achieve the vision of the adopted Ballarat Railway Station Master Plan (2014), using the provisions of section 20(4) of the Planning and Environment Act 1987.*

*Request the Minister for Planning, in collaboration with Council officers, to consult with the community and key stakeholders including Heritage Victoria, using provisions of section 20(5) of the Planning and Environment Act 1987 for Amendment C198, on:*

- the potential concept scenario for the Ballarat Station precinct;*
- heritage concerns and considerations for the redevelopment of the land;*  
*and*
- a range of planning controls and mechanisms to best achieve the adopted vision for the land, including the use of a Development Plan.*

*Request the Minister for Planning to appoint an Advisory Committee as part of the assessment of Amendment C198 to hear from submitters and provide advice on the most appropriate Planning Scheme Amendment for the project.*

*Request the Minister for Planning to be the Responsible Authority for approving the development of the site under the amended controls introduced into the Ballarat Planning Scheme through Amendment C198.*

The request to prepare the Amendment has the support of the Minister for Regional Development.

The proposed Amendment to facilitate the development (in part) of the Ballarat Station Precinct (the Precinct) included two options and a further sub-option.

Public comment about the proposed Amendment options was sought from 21 December 2015 until 5 February 2016. As a result, 47 submissions were received. These are detailed in section 1.4.

A Directions Hearing was held by the Advisory Committee in relation to its Terms of Reference and the proposed Amendment on 19 February 2016. Following the Directions Hearing, the Panel undertook an inspection of the subject site and its surrounds. A further site inspection was undertaken on Thursday 10 March 2016.

The Committee met in the Annexe to the Ballarat Art Gallery from Tuesday 8 March 2016 to Thursday 10 March 2016 to hear submissions made under its Terms of Reference. Those in attendance at the Committee Hearing are listed in Table 1.

Table 1 Parties to the Committee Hearing

Submitter	Represented by
Regional Development Victoria	Mr Rory O'Connor of Norton Rose Fulbright, assisted by Ms Jillian Smith Senior Project Manager, Invest Assist, DEDJTR and Ms Yogeeta Silva, Acting Planning Manager, Regional Development Victoria, who called the following expert witnesses: <ul style="list-style-type: none"> <li>- Mr Andrew Rodda, Planner, of Contour Consultants</li> <li>- Mr Stephen Hunt, Traffic Engineer, of Cardno</li> </ul>
City of Ballarat	Ms Jessie Keating, Coordinator Strategic Planning assisted by Ms Janelle McCallum, Senior Strategic Planner and Mr Anthony Scheenan, Investment Facilitator
VicTrack	Mr Sotirios Katakouzinis, Acting Planning Manager
Mr John Manton	
Mr Gerald Jenzen	
Ballarat Residents and Ratepayers Association	Mr John Barnes
Ms Jeanne Wheeler	
Ms Dinah McCance	

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Ballarat Heritage Watch    Dr Anne Beggs-Sunter

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Mr Sean O’Keeffe

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Dr Penelope Greenslade

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## 1.3 The proposal

### (i) The subject area

The proposal being considered by the Committee is located within the Ballarat Station Precinct as defined in the Master Plan and is shown in Figure 1.



Figure 1 Ballarat Station Precinct

The Precinct is broadly bounded by Nolan Street to the north, Lydiard Street to the west, Mair Street to the south and Peel Street to the east. Nolan Street and Lydiard Street have residential properties opposite the Precinct. Some of the residential properties in Lydiard Street are occupied by non-residential uses in the southern section. Mair Street is mainly commercial uses with some car parking.

The site has embankments to Lydiard and Nolan Streets in the north west corner but otherwise is essentially flat. A Victorian Railways Institute (VRI) building is located at the corner of Lydiard and Nolan Streets at street level, abutting the embankments.

The proposal under consideration by the Committee applies to land shown hatched in red in Figure 2. This is referred to in this report as the ‘Project Site’.

The Master Plan divides proposed redevelopment work in the Precinct into two stages with indicative timelines as follows:

Stage One: 2014-2023

Stage Two: 2024 onwards

The Stage One works are divided into two packages as follows:

Package A: Station, transport and movement including:

- bus interchange
- north station building works
- south station building works
- pedestrian footbridge
- south station forecourt
- commuter car parking
- pedestrian underpass
- Mair Street upgrade.

Package B: Goods Shed re-use and associated redevelopment opportunities including:

- adaptive reuse of Goods Shed
- forecourt works
- commercial development site
- car parking associated with commercial development and Goods Shed
- Mair Street and station interface
- Mair Street development area works.



Figure 2 Ballarat Station Project Site

Package A works do not require an amendment to the Ballarat Planning Scheme. Package B works as listed in section 1.3 (i) excluding the Mair Street/station interface and the Mair

Street development area works are the subject of Amendment C198. Commuter car parking is part of the proposed Stage 1 works and is listed in the Amendment documentation as such but does not need to be part of the Amendment to be implemented.

**(ii) The Advisory Committee's role**

The role of the Committee is set out under the heading 'Purpose' at paragraph 4 of its Terms of Reference and reproduced in section 1.2 of this report.

There was initially some uncertainty about the breadth of the Committee's ambit, both amongst submitters and the Committee. At the Hearing, Mr O'Connor for RDV submitted that the Committee's role was limited to the Project Site as set out in Figure 2 and not to the broader Precinct, despite reference to the 'precinct' in the Terms of Reference.

The Committee agrees that its role focuses primarily on determining the most appropriate planning tools to facilitate redevelopment in the Project Site. As set out in RDV's submission, these are:

- development of an integrated Hotel and Exhibition/ Convention Centre
- remediation and adaptive reuse of the goods shed
- enhanced public realm and open space areas
- transport improvements including commuter car parking, access roads and pedestrian linkages.

The Committee was advised that the \$25 million provided by the Government will contribute towards these works.

In this report the Committee uses the following terminology:

Precinct	when referring to the whole of the Ballarat Station precinct as defined in the Master Plan
Project Site	when referring to the area in the northern part of the precinct that is covered by the Special Use Zone (SUZ) in exhibited option 1 and as represented in Figure 2 of this report
Private Development Area	when referring to the land that will be subdivided and sold for the proposed commercial development.

At paragraph 23 in its Terms of Reference:

*The Committee must produce a written report to the Minister providing*

- *A recommendation on the appropriateness of the proposed planning scheme amendment in light of the relevant provision of the Ballarat Planning Scheme, the State Planning Policy Framework and Ministerial Direction No 1, including whether the proposal should proceed and in what form.*
- *A recommendation on the planning controls to best facilitate redevelopment of the Ballarat Railway Station Precinct including, but not limited to, whether the Minister for Planning should be the responsible authority for approving matters in relation to future planning approvals and,*

*if the relevant to the recommended approach, whether there should be exemption from notice and review provisions.*

- *A recommendation of a process to implement any new planning controls.*
- *Any other relevant matter raised in the course of the Committee's hearing/s.*
- *A list of persons who made submissions.*
- *A list of persons consulted and/or heard.*

In order to perform the role pursuant to its Terms of Reference, it is necessary for the Committee to identify and examine issues which it considers to be relevant. In a number of instances this involves identifying and examining those issues, not just as they pertain to the Project Site but also in the context of the broader Station Precinct and the surrounding urban area. In some cases, for example traffic, parking and movement, this necessitates the Committee discussing and drawing conclusions with respect to prospective works and controls in the Precinct and surrounding street network.

In the case of heritage issues, only heritage assets on the Project Site are of direct relevance. Some discussion of heritage issues in the Project Site may be relevant to heritage assets in the broader precinct but this is only incidental to the main purpose. The Committee sets out this explanation to provide a context for its identification and discussion of issues and any conclusions and recommendations in this report.

A number of submissions raised issues about the future use and development of the north and south railway station buildings and the future development of the railway station as a key transport hub. A number of submissions identified the importance of the primacy of the transport role of the Precinct. The Committee notes that works relating to the station buildings, some commuter car parking, kiss and ride and some pedestrian access facilities, and a bus interchange are part of Package A of Stage 1 and are not the subject of this process.

The Committee accepts the primacy of the transport role of the Precinct and does not discuss this issue except where there is any part of the proposal which it considers may impact significantly on this role.

#### **1.4 Submissions received**

Forty seven submissions were made to the Committee. While it is difficult to clearly classify some submissions, 10 were in favour of the proposal or offered suggestions to improve it and a further five were from government agencies. The remaining 32 submissions objected to either the entire proposal, aspects of it, or offered alternatives. The issues which are raised in submissions and which the Committee believes are within its Terms of Reference to examine are set out in section 1.5.

A number of the submissions received raise issues that are outside the Committee's Terms of Reference. These include:

- the need to review the *Ballarat Station Precinct Master Plan (2014)*
- alternative uses for the former Goods Shed
- traffic and parking issues impacting nearby businesses
- the need for and commercial viability of a residential hotel on the Project Site

- the protection and future use of heritage assets in the broader precinct area
- the sale of public land to the private sector to be used for commercial purposes.

Given the initial uncertainty about the breadth of the Committee's role as discussed in section 1.3 (ii), it is not surprising that a significant number of submissions raised issues which are considered by the Committee to be outside its Terms of Reference.

It was clear to the Committee that a section of the local community considers that their ideas, including those for the future use of the former Goods Shed, have not been incorporated in the endorsed Master Plan. The Committee appreciates the sincerity with which these views are held but indicated to submitters at the Directions Hearing and on a number of occasions during the Hearing that it is not its role to review the Master Plan nor to consider a range of alternative uses for the former Goods Shed. The Committee notes that in his written right of reply, Mr O'Connor stated that *"the AC and community has expressed frustration that the ToR do not allow it to do more"*. Mr O'Connor later withdrew this comment at the Hearing. The Committee was not frustrated by its Terms of Reference and reiterates that it accepted its appointment under them. Some submitters equated the lack of incorporation of their ideas and suggestions in the Master Plan with a lack or failure of consultation. The Committee sees no evidence that there has been inadequate consultation with respect to this current process.

A number of submissions suggested that there was no need for a hotel on the site and that hotel related studies in relation to other sites in Ballarat in years past suggest that a hotel on this site is not likely to be commercially viable. The Committee notes that there is a process to canvass expressions of interest on the commercial development opportunities for the project site which is running broadly parallel to the current planning process. At the Hearing, Mr O'Connor informed the Committee that the Expression of Interest phase of the commercial procurement process had concluded and that there had been a good response from the private sector. The Committee explained to submitters that commercial viability of a particular development is not a planning consideration and that as such the Committee would not be commenting on demand and viability issues.

Following the conclusion of the Hearing the Committee was made aware that four proposals made in the Expression of Interest phase of the commercial procurement process would proceed to the Request for Proposal stage.

## **1.5 Issues dealt with in this report**

The Committee considered all written submissions as well as submissions presented to it during the Hearing. In addressing the issues relevant to its Terms of Reference raised in those submissions, the Committee has been assisted by the information provided to it as well as its observations from inspections of the Precinct and the surrounding area. In addressing the issues in this report the Committee has concentrated its discussion on the issues of direct relevance to an assessment of the Amendment options proposed and limited other issues directly raised in its Terms of Reference.

This report deals with the issues under the following headings:

- Planning context

- Issues relevant to the Terms of Reference including:
  - Traffic movement and parking
  - Heritage
  - Urban design, landscaping and the public realm
  - Interface and amenity issues
  - Site contamination
  - Environmental issues
  - Liquor licensing and gaming
  - Advertising signage
- Proposed planning controls
- The form of the proposed Amendment
- Other issues including who should be the responsible authority and how to ensure consistent and transparent processes.

## 2 Planning context

A response to the Strategic Assessment Guidelines was provided as part of the Explanatory Report.

The Panel has reviewed the strategic and policy context of the Amendment.

### 2.1 Policy framework

#### (i) State Planning Policy Framework

The Amendment and the project which it facilitates support the following clauses of the State Planning Policy Framework (SPPF):

Clause 10.04 Integrated decision making whereby Planning Authorities should attempt to integrate a range of relevant policies and balance conflicting objectives in favour of net community benefit.

Clause 11.01-1 Activity centre network has the objective to build up activity centres as a focus for high-quality development, activity and living for the whole community by developing a network of activity centres.

Clause 11.01-2 Activity centre planning encourages the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres which provide a variety of land uses and are highly accessible to the community.

Clause 11.05-1 Regional settlement networks promote the sustainable growth and development of regional Victoria through a network of settlements identified in the Regional Victoria Settlement Framework Plan.

Clause 11.06-1 Planning for growth has the objective to plan for population growth in sustainable locations throughout the region.

Clause 13.03 Planning should adopt best practice environmental and risk management approaches which aim to avoid or minimise environmental degradation or hazards.

Clause 15.01-1 Urban design seeks to create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.

Clause 15.01-2 Urban design principles seek to achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties.

Clause 15.01-5 Cultural identity and neighbourhood character has the objective to recognise and protect cultural identity, neighbourhood character and sense of place.

Clause 15.03-1 Heritage conservation seeks to ensure the conservation of places of heritage significance.

Clause 17.01-1 Business - encourages development which meets the communities' needs for retail, entertainment, office and other commercial services and provides net community

benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.

Clause 17.03 Encourages tourism development to maximise the employment and long term economic, social and cultural benefits of developing the State as a tourist destination.

**(ii) Local Planning Policy Framework**

The Amendment supports the following local planning objectives:

Clause 21.02-1 Land Use Tourism - references the importance of the tourism industry to the local economy, protecting existing tourism assets, encourage appropriate tourism related use and development, and promotes day trips to include overnight stays.

Clause 21.02-2 Built Form and Amenity - identifies the character, heritage and liveability issues and requires new development to build on existing character, improving negative character attributes, identifying and protecting sites of heritage significance, the importance of heritage to Ballarat's identity, minimising land use conflict and creating a safe environment in which to live and work.

Clause 21.04-4.2 Activity Centre Objectives and Strategies - has the objective to recognise, enhance and facilitate the function of the Ballarat CBD as the dominant, administrative, commercial, financial, cultural, recreational, tourist, and entertainment centre within the City and region.

Clause 21.04-6 Tourism Objective - seeks to create prosperity through the development of the tourism sector.

Clause 21.05-1 Character Objective - has the objective to protect and enhance the quality and character of the City's presentation, considering its context in its built and natural environments.

Clause 21.05-2 Heritage Objective - requires the protection of places of heritage significance.

Clause 21.09 Further Strategic Work - seeks to identify existing buildings of heritage and cultural significance that could be used for tourism related projects, creating public access, and expanding the inner city product offer for visitors.

Clause 22.05 Heritage conservation - applies to all places affected by a Heritage Overlay including the Project Site.

Amendment C194 to the Ballarat Planning Scheme, a review of the Municipal Strategic Statement, is currently on exhibition. It has been rewritten to reflect the policy directions of the Ballarat Strategy and the Ballarat Economic Program. It was submitted by Council that it contains the following relevant Clauses:

Clause 21.01-3 Land Use Vision - outlines the shared community vision for a greener, more vibrant and connected Ballarat, embracing the concepts of "*The 10 Minute City*" and "*The City in the Landscape*".

Clause 21.06-1 Urban Design - seeks to protect and enhance the quality and character of built areas, considering context and local values, increase the vitality, amenity and

experience of the public realm and improve the permeability, legibility, safety and comfort of the public realm.

Clause 21.06-2 Heritage - protects, conserves and enhances areas, features, structures and sites of historic, aboriginal, natural and cultural significance.

Clause 21.07-2 Regionally Significant Precincts - identifies the Ballarat Railway Station Precinct as a Regional Transport Gateway which seeks to maximise the efficiency of passenger, freight, knowledge and commodity transfers between Ballarat and key destinations and markets, and in a Regional Activity Centre that encourages significant new mixed use development which supports the knowledge sector and retail employment opportunities, more inner city living and street level and out of hours activation.

21.07-3 Activity Centres - seeks to facilitate the development of a sustainable network of activity centres.

21.07-5 Tourism - has the objective to create prosperity through the development of the tourism sector.

21.09-1 CBD - states that the area will be managed as a key entertainment destination, a hub of a knowledge sector, retail employment activities and inner city living precinct with street level and out of hours activation. There is a strong emphasis on a high quality public realm, pedestrian amenity and a people first approach to managing space.

### **(iii) Other planning strategies or policies used in formulating the Amendment**

As expected for a significant State supported project such as this, there are a range of other State and local strategies and policies which support the project and the Amendment.

Central Highlands Plan (2014) - The Plan recognises Ballarat's role as a regional city and supports development and investment that is consistent with this role. This includes supporting development in the CBD including major employment, cultural, service and retail attractors.

Council Plan 2013-2017 Review 15/16 - This Plan outlines the current Council's vision for Ballarat. Under the heading of strategies Council says it will develop a vision for the redevelopment of the Ballarat Railway Station in partnership with key state authorities. A relevant action is to develop a master plan and work with key stakeholders to implement the goods shed project.

Making Ballarat Central - The CBD Strategy (2010) This Strategy identifies the Precinct as Precinct 8 in the CBD. This supports the development of a transport hub master plan to encompass how existing and future uses could be fitted within land available for redevelopment. The strategy also seeks to enhance the heritage qualities of the bluestone sheds.

Today Tomorrow Together - The Ballarat Strategy: Our vision for 2040(2015) This strategy recognises the Precinct as a regionally significant economic precinct. It further recognises the existence of the Master Plan which predates this strategy. It identifies development in the Precinct as an opportunity for a broad range of infill development that will lift levels of

commercial and community activity in the CBD. The Strategy includes initiatives to increase tree canopy cover. This is relevant to the future development of the Precinct.

Ballarat Activity Centres Strategy (2012) - The Strategy identified the Precinct as part of the CBD but noted that it was not part of the CBD as defined in the Ballarat Planning Scheme at that stage. The strategy does not identify a specific role for the Precinct as its focus was on the functions and future size and role of the totality of the various centres it identified as part of the activity centre hierarchy.

## **2.2 Planning scheme provisions**

### **(i) Zones**

The Project Site is currently in the Public Use Zone Schedule 4 (PUZ4) which reflects its past and current use for rail transport related purposes. Among the purposes of the PUZ are:

*To recognise public land use for public utility and community services and facilities*

*To provide for associated uses that are consistent with the intent of the public land reservation or purpose*

The proposed Amendment sets out options for rezoning including the SUZ and C1Z.

### **(ii) Overlays**

The Project Site has Heritage Overlay Schedule 59 (HO59) applied to it. The Schedule indicates that the land is included on the Victorian Heritage Register – Ref No H902.

### **(iii) Particular provisions**

The following particular provisions are relevant to the approval of proposed works in the Project Site:

- Clause 52.05 – Advertising signs
- Clause 52.06 – Car parking
- Clause 52.07 – Loading and unloading of vehicles
- Clause 52.17 – Native vegetation
- Clause 52.27 – Licensed premises
- Clause 52.29 – Land adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road
- Clause 52.34 – Bicycle facilities
- Clause 52.36 – Integrated public transport planning.

Schedules or an incorporated document included in the exhibited options propose to ‘turn off’ these particular provisions. This is discussed further in section 5.2.3 (xiii).

### **(iv) General provisions**

The following general provisions apply:

- Clause 61 – Administration of this scheme
- Clause 65 – Decision guidelines

## **2.3 Ministerial Directions and Practice Notes**

### **(i) Ministerial Directions**

Ministerial Direction 1 (Potentially Contaminated Land) and Ministerial Direction 11 (Strategic Assessment of Amendments) are relevant to the Amendment.

The Amendment must be consistent with the Ministerial Direction on the Form and Content of Planning Schemes under Section 7(5) of the Act.

### **(ii) Planning Practice Notes**

In the Explanatory Statement prepared as part of the exhibited Amendment it was noted that the following Planning Practice Notes were taken into account in preparing the Amendment:

Planning Practice Note PPN02 – Public Land Zones

Planning Practice Note PPN03 – Applying the Special Use Zone

Planning Practice Note PPN10 – Writing Schedules

Planning Practice Note PPN23 – Applying the Incorporated Plan Overlay and the Development Plan Overlay

Planning Practice Note PPN30 – Potentially Contaminated Land

## **2.4 Discussion**

The Committee concludes that the proposed Amendment is broadly supported by the relevant sections of the State and Local Planning Policy Frameworks. Specific sections of the SPPF and the Local Policy Planning Framework and the way in which the proposed Amendment implements them are discussed in later sections of this report.

## 3 Issues relevant to the Committee's Terms of Reference

In this section of the report the Committee identifies and examines a number of issues relevant to the options for planning controls put forward in the proposed Amendment.

The way in which in which these issues are addressed in the Schedules and the appropriate form of the recommended planning controls are addressed in following chapters of the report.

### 3.1 Traffic movement and parking

Traffic and parking issues were raised in 18 submissions. The issues related to:

- the potential traffic and parking impacts on surrounding streets
- safety concerns with the proposal to locate the main vehicular access point for the Precinct on Nolan Street
- the adequacy of parking for rail commuters and the prospect of commuters being charged a parking fee, and
- the amount of parking proposed for the hotel/convention centre and ancillary uses on the Project Site.

The Master Plan includes a new two-way access point from Nolan Street for buses, commuter parking and kiss and ride facilities and an exit only link to Lydiard Street. Mr O'Connor submitted that the proposed access arrangements would ease congestion and improve safety on Lydiard Street. He noted that the proposed relocation of the vehicular access point to Nolan Street was considered "highly desirable" by the traffic expert called by RDV, Mr Stephen Hunt, and that the precise location and control of the Nolan Street access point would be considered further at the detailed design stage.

Some submitters questioned the veracity of the Cardno traffic analysis report believing that existing traffic volumes on surrounding streets had been understated. In his written statement and at the Hearing, Mr Hunt stated that in his view, the surrounding streets and intersections had sufficient capacity to cater for the traffic generated by the proposed uses in the precinct in terms of the surrounding street layout and the collector street function of Nolan and Lydiard Streets. Mr Hunt agreed that the location of the access point on Nolan Street raised some safety issues with respect to sight distances. He considered that these issues could be resolved at the detailed design stage as part of the required Movement Network Plan. He suggested that signalisation of the access point could be one option and that signalisation could also be used to improve pedestrian safety and access to the Precinct from the north.

On the issue of commuter car parking, Mr O'Connor noted that it is a requirement of DEDJTR that there be no net loss of commuter car parking. Mr O'Connor submitted that the replacement commuter car parking would be a significant improvement with the car park formally constructed and line marked and accessed through a new entry point on Nolan Street. He stated that there was no intention to charge commuters a car parking fee.

Some submitters questioned the DEDJTR required replacement number of 270 commuter car spaces. They suggested that their ad hoc surveys indicated that more than 270 cars were often parked on the site and also queried why there had been no estimate of future rail commuter parking demand. RDV could not explain to the Committee how DEDJTR determined the replacement number other than it was based on surveys. RDV confirmed that there was no consideration given to future rail commuter parking demand. Mr Hunt suggested the proposed 266 spaces shown on the concept plan would cater for existing demand and that was appropriate given the 'generous' amount of commuter parking provided in areas to the west of the station. In his view, it was better to improve operations of the station area by focussing on the movement of buses, taxis and pedestrians in the station surrounds rather than providing more commuter parking on the site. He accepted that there may be latent and higher demand in the future for rail commuter parking and that there could be a spill over of commuter parking into the surrounding residential streets. He said that this should be monitored and on-street restrictions introduced if necessary in the future. He suggested, however, that it was more sustainable to manage the demand for parking and to encourage commuters to use improved bus services, cycle or walk to the station.

The Concept Plan for the site which was included in various schedules in each of the exhibited options includes a multi-level car park accessed from Lydiard Street with 136 car spaces plus a further 32 spaces on a ground level area to meet demands for car parking from the proposed hotel and Goods Shed uses. The Precinct Conceptual Plan in the SUZ Schedule 16 does not show the access link from Lydiard Street into the multi-level car park.

Mr Hunt suggested that this level of parking would meet demands generated by up to 450 people using the commercial areas at any one time. He said that this was a 'ball park' estimate and that a more detailed assessment should be done against the provisions of clause 52.06 of the Planning Scheme at the detailed design stage as part of the Movement Network Plan. He considered that there should be a reference to clause 56.06 in the proposed SUZ schedule.

The Council did not make a substantive submission on traffic movement and parking issues.

The Committee notes that the Cardno traffic and parking report provides a preliminary, high level assessment of the traffic movement and parking issues based on the Master Plan and Concept Plan. However, the Committee has not heard any evidence to suggest that any of the traffic movement and car parking issues are insuperable.

The Committee is perplexed by the lack of analysis to assess future rail commuter car parking demand. It accepts that any attempt to cater for all future latent commuter parking demand would be futile but requiring only 'no net loss' of rail commuter parking seems short sighted. The Committee considers that the redevelopment of the Precinct presents an opportunity to supplement on site commuter parking and further analysis on future rail commuter parking demand should be done to determine an appropriate number of additional commuter spaces for inclusion in the Project or in later stages of the Precinct's development.

The proposed planning controls require a detailed Movement Network Plan to be approved as part of an overall development plan. The Committee is satisfied that these controls will

be sufficient to ensure that a thorough, comprehensive analysis on the safety and efficacy of the access and internal circulation arrangement and the adequacy of the parking provisions will be done before any development approval is given for the Project Site. The Committee supports the changes proposed by Mr Rodda to the Movement Network Plan in the SUZ Schedule and the suggestion made by Mr Hunt that this Plan should consider the future development of the whole precinct and not be limited to the development of the Project Site. It also agrees with Mr Hunt that specific reference to car parking requirements as set out in clause 56.06 of the Planning Scheme should be added to the SUZ schedule to assist in the detailed assessment of the adequacy of the commercial car parking proposed for the development.

The Committee concludes that the planning requirements should include:

- the changes recommended by Mr Rodda to the Movement Network Plan as set out in the SUZ Schedule 16
- a specific reference to clause 56.06 of the Planning Scheme to guide the assessment of car parking to be provided for the commercial uses
- a requirement that the Movement Network Plan consider the future development of the whole precinct not just the Project Site.

### **3.2 Heritage**

RDV recognised the importance of Ballarat Railway Station as *“one of the most significant and complete collections of historic railway buildings and structures to survive in Victoria, if not Australia.”*

In October 2015, VicTrack commissioned a heritage report<sup>1</sup> with the aim of clarifying the heritage constraints and considerations pertaining to the implementation of Stage 1 of the Master Plan. The heritage report proposes Design Principles in relation to the adaptation of the Goods Shed, the proposed hotel and associated car parking. The Committee notes that there is a conservation management plan for the Station Precinct<sup>2</sup> and that the heritage report includes a schedule of Conservation Works.

The area defined by the heritage report comprises approximately 3.2 hectares of land bounded by Lydiard Street to the west and Nolan Street to the northeast. It includes the Goods Shed and weighbridge but not the North Station building, the VRI building or the former carriers office on Lydiard Street. The heritage report notes the lack of detail in the Master Plan about how to avoid or minimise heritage impacts on the site and emphasised that the implementation requirements are ‘subject to further detail.’ It notes the importance of maintaining the visual relationship between the Goods Shed and Northern Station building where a landscaped public square is proposed. This area was the original focus on station activity and was historically free of structures, allowing views of the long elevations of the two heritage related buildings. It emphasises the importance of maintaining views to the Goods Shed from Lydiard Street.

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<sup>1</sup> Ballarat Station Precinct Heritage Report, Stage 1 Master Plan Implementation, prepared for VicTrack by Lovell Chen, Architects and Heritage Consultants, October 2015

<sup>2</sup> Ballarat Conservation Management Plan, prepared by Allom Lovell (Lovell Chen), dated May 2002

The design principles suggested in the heritage report focus on the need to avoid the impact of car parking on views of the Goods Shed and ensuring that its reuse minimises the impact on the internal volume and character of the shed. It recommends that the weighbridge remain in situ. The report further emphasises the importance of procuring a high quality contemporary design for the new hotel building, given the significance of the Ballarat Railway Station and the Lydiard Street context. It recommends that any attachment between the hotel and Goods Shed should be through a lightweight linking structure so that the visibility of the gabled west elevation of the Goods Shed is retained. In relation to the car park that forms part of the hotel, it should be no higher than Lydiard Street to maintain views of the shed from that street.

Mr O'Connor's submission was that the proposed amendment seeks to facilitate elements of the Stage 1 Master Plan, amongst which is the adaptive reuse of the Goods Shed. The land is affected by a Heritage Overlay - Schedule 59 (Ballarat Railway complex) but approval for any works is subject to a separate approval process through Heritage Victoria as the whole site is on Victorian Heritage Register (VHR). Any future development of the site needs to address heritage related requirements for all buildings and rail infrastructure included on the VHR listing. RDV submitted that the development requirements in any of the options include design principles that reinforce the importance of conserving heritage buildings and protecting important views to them.

Ms Keating for the City of Ballarat submitted that the planning controls ultimately adopted will require the restoration of the Goods Shed and more particularly that the new works comprising the hotel and car parking are undertaken in a way which respects the public heritage precinct which is central Ballarat. The Council made no further submission about the importance of heritage nor has it an explicit position as to how protection of heritage assets would be achieved.

Submissions from residents groups and individuals largely welcomed the rejuvenation of the Railway Station. They see it as an opportunity to combine the historic and the contemporary and to address neglected infrastructure. Issues identified included:

- the retention of the Goods Shed as a public asset
- the opportunity to address the neglect of station infrastructure over many years
- the necessity of retaining all historic infrastructure to allow for a comprehensive interpretation of the site. The recent removal of track has expunged an important contribution to the interpretation of the site
- the failure to recognise the role played by small items such as tracks, signals and sheds. Submitters noted that neither of the two weighbridges (one for horse drawn carts and one for freight wagons) were included nor shown on the Master Plan
- the opportunity to conserve the station's heritage for future generations. Submitters were unsure whether the options presented were adequate to protect heritage assets, particularly as the Master Plan fails to note even those items identified on the VHR listing
- the importance of maintaining historic sight lines and concern that the new buildings may be too close to the Goods Shed.

The Committee agrees with the proposition put by all parties that heritage considerations are crucial to the long term success of the redevelopment of the Precinct. They need particular consideration and adequate protection in any planning controls proposed. RDV supported the inclusion of Design Principles in any option facilitating the redevelopment of the Project Site.

The Committee concludes that the planning requirements should include:

- Decision guidelines requiring consideration of the Design Principles articulated in the Lovell Chen Heritage Report in reference to the landscaped plaza, the Goods Shed, the weighbridges, the hotel building and the two storey associated hotel car park structure.
- Implementation of the Schedule of Conservation Works relating to the Goods Shed.

### **3.3 Urban Design, landscaping and the public realm**

The proposed Amendment aims to deliver a new hotel and convention centre, public realm works and car parking in partnership with the private sector, *“as the first step in delivering on the vision identified in the master plan”*. The object of stimulating the economic growth of Ballarat includes improving the public realm and creating open space to enhance the amenity and cultural vibrancy of the Precinct. A landscape report<sup>3</sup> identifies possible design strategies to respond to heritage elements. It includes a new public square between the Goods Shed and the North Station building. Mr O’Connor submitted that the proposed planning controls include the requirement for a landscape plan and accepted Mr Rodda’s recommendation that the schedule to the SUZ in Option 1 should include a specific response to the streetscape of Lydiard Street and Nolan Street.

The City of Ballarat identified urban design, landscaping and the movement network as matters that needed to be addressed through the proposed planning controls.

At the Hearing, resident submitters identified the importance of improved pedestrian access and highlighted the benefits of green spaces within urban developments. In particular the beneficial effects of trees in city environments in terms of improvement in air quality, stormwater management and in mitigating the effects of climate change were emphasised. The incorporation of the existing trees to the east of Lydiard Street into any redevelopment was suggested.

In relation to urban design, issues of relevance to the Committee are whether sufficient public open space is provided in terms of pedestrian accessibility to buildings and car parking, an appropriate setting for the Goods Shed, an acceptable response to Lydiard Street and whether the landscape treatment including considering the inclusion of existing trees will be assured. A related issue is the requirements for the new built form to achieve excellence in architecture as required by the planning scheme, and highlighted in the Heritage Report and the City of Ballarat’s strategic documents.

The Committee concludes that the planning requirements should include:

- decision guidelines in relation to pedestrian accessibility across the site

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<sup>3</sup> The Station Forecourt Landscape and public realm Schematic Design Report: Hassell Limited October 2015

- assessment and inclusion if possible of existing trees, particularly those along the Lydiard Street interface.

### **3.4 Interface and amenity issues**

Mr O'Connor asserted that the primary consideration related to the interface with Lydiard Street and including a requirement in the proposed planning controls for an 'Urban Design, Heritage and Planning Report' that included a detailed analysis of the surrounding area would address any concerns.

Issues raised by residents included the loss of privacy to adjacent housing, blocking of existing outlook over the site, increased noise, light and air pollution and the potential visual bulk of a building whose height and extent are unknown. They said that the Option 1 development plan, apart from requiring traffic impacts on the surrounding road network to be assessed, does not address in any detail the offsite amenity issues raised. Submitters fear that the vagueness of the Concept Plan may mean that a reduction in planning requirements may occur without third-party oversight.

The Committee is not convinced that the requirement for an 'Urban Design, Heritage and Planning Report' will result in the implementation of essential elements to ensure that appropriate measures are included to retain and enhance the amenity of, in particular, Lydiard Street.

As discussed in section 5.2.4 (v), the Committee concludes that any Concept Plan for the project site needs to include specific objectives and decision guidelines that give both the community and decision makers clarity about what objectives are to be achieved and what guidelines will indicate whether or not those objectives have been achieved.

### **3.5 Site contamination**

Clause 13.03 of the SPPF seeks to ensure that potentially contaminated land is suitable for its intended future use and development, and that contaminated land is used safely. To achieve this, applicants must provide adequate information on the potential for contamination to have adverse effects on the future land use, where the subject land is known to have been used for industry, mining or the storage of chemicals, gas, wastes or liquid fuel.

Ministerial Direction No 1 requires that, in preparing an amendment which would have the effect of allowing (whether or not subject to the grant of a permit) potentially contaminated land to be used for a sensitive use, agriculture or public open space, a planning authority must satisfy itself that the environmental conditions of that land are or will be suitable for that use.

Information provided to the Committee in an environmental site assessment<sup>4</sup> prepared for VicTrack indicates that there is significant soil contamination across the site, particularly in the northern portion. This report suggests however, that this contamination can be managed to allow commercial and open space use and recommends various approaches to how this management might occur.

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<sup>4</sup> *Supplementary Environmental Site Assessment, Ballarat Station Precinct, Senversa, October 2015*

Dr Greenslade made submissions on how soil contamination issues should be dealt with.

Clearly, as soil contamination is known to be present on the site, any amendment must include provisions that ensure soil contamination is properly managed and remediated in a way that satisfies the requirements of Ministerial Direction No 1, allows safe use of the land for the purposes intended by the amendment and ensures nearby properties are not adversely affected.

The General Practice Note (PPN30) *Potentially Contaminated Land*, June 2005, gives guidance about the appropriate application of the various planning tools that can be applied to managing contaminated land.

There are two forms of assessment that can be made before making a decision about the future use of potentially contaminated land. These are:

- Require an *environmental audit*: a statutory audit undertaken by an environmental auditor under the *Environment Protection Act 1970*. The outcome is either a Certificate of Environmental Audit or a Statement of Environmental Audit.
- Require a *site assessment*: a preliminary review of the site history (including current and previous uses and activities) by a suitably qualified environmental professional.

The Practice Note provides a matrix at page 4 to indicate the appropriate assessment level in different situations. This matrix indicates that for areas of high contamination potential (such as a railway yard), where residential buildings (such as a hotel) are proposed, an environmental audit should be required. Where open space or retail and office use is proposed, a site assessment is appropriate.

Ministerial Direction No 1 also expects that an environmental audit be prepared before notice of a planning scheme amendment is given. The Direction also recognises, however, that it may be appropriate to defer this requirement where the requirement is included in the amendment.

In response to the site contamination issues the proposed Amendment options suggest that the approved development plan include an Environmental Site Assessment prepared by an EPA appointed environmental auditor and that all development be constructed in accordance with the findings of this assessment. The proposed Amendment options also suggest a requirement that, where certain proposals for a sensitive use require a planning permit, a Certificate or Statement of Environmental Audit be provided prior to commencement or construction.

Given that the site contamination conditions of the site are generally known, the Committee considers that it is reasonable in this case to rely on a site assessment in the formulation of the development plan. The Committee considers however, that the requirements in the proposed Amendment need to be strengthened by ensuring that:

- the Environmental Site Assessment includes a set of specific actions about how protection and remediation are to be managed in the development plan and any subsequent proposals that require a permit
- the provisions for Environmental Assessment apply to all development not just development that requires a planning permit.

### 3.6 Environmental issues

Dr Greenslade's submission included a detailed paper about the values of open space in cities with particular reference to the Ballarat Station Precinct. Dr Greenslade noted that there has been no review of environmental assets on the site and that there is a grove of mature eucalypts in the northern corner of the site that she particularly considers should be protected. Dr Greenslade also noted that Council's recent strategy document *A Greener More Vibrant and Connected Ballarat*, July 2015 includes Initiative 5.8 that seeks to double Ballarat's canopy coverage to 40 per cent, including by protecting existing trees. Existing vegetation on the site also needs to be considered in the context of its role in the setting of the heritage assets on the site.

The Committee supports the need for a more detailed assessment of the value of the exiting environmental features of the site. The Committee considers that this can be achieved by expanding the scope of the Landscaping Plan proposed as part of the development plan to include environmental values and adding a further dot point requiring retention and protection of any environmental features of value, in particular existing trees.

A management regime for any environmental assets to be retained should also be required. This could be included in the proposed Construction Management Plan and Operations Management Plan.

Central Highlands Water is the water and sewerage authority for the precinct. Central Highlands Water has requested that a condition be added to the requirements for the development plan to promote the application of Water Sensitive Urban Design Principles to the proposed development. The condition is:

*A water and sewerage management plan that addresses water sensitive urban design principles for any proposed use of the site must be prepared to the satisfaction of Central Highlands Water.*

The Committee supports the application of water sensitive urban design principles and considers an appropriate requirement to this effect should be included in the Amendment. This is probably best done by expanding the requirements proposed for the Stormwater Management Plan.

The Committee concludes that the planning requirements should include:

- an expanded Landscaping Plan to include an assessment of existing vegetation and a requirement to retain and protect environmental features of value
- a management regime for any environmental assets to be retained
- the condition requested by Central Highlands Water to promote the application of Water Sensitive Urban Design Principles.

### 3.7 Liquor licensing and gaming

Two submitters expressed opposition to a liquor licence being issued to the proposed hotel. At the Hearing, concern was also raised by submitters that premises in the development could become a gaming venue.

Mr O'Connor noted that any venue that wished to sell alcohol would require a licence from the Victorian Commission for Gambling and Liquor Regulation. He added that Mr Rodda had

recommended changes to the SUZ Schedule 16 to include requirements in relation to a liquor licence. These changes were intended to ensure that matters such as the impact on the amenity of the surrounding area, patron numbers and hours of operation were appropriately assessed and managed.

At the Hearing, Mr Rodda indicated that he had not contemplated that any premises in the development would become a gaming venue. He stated that there was no express consent in the SUZ Schedule to gaming. Mr O'Connor stated that RDV was prepared to make gaming a prohibited use in the SUZ Schedule.

After the Hearing, Mr O'Connor circulated on behalf of RDV a proposed revised Schedule 16 to the SUZ which incorporated the changes recommended by Mr Rodda to expand the 'Urban Design, Heritage and Planning Report', the 'Operations Management Plan' and the 'Development and Operating Schedule' to include liquor licence requirements. This proposed revised schedule is included at Appendix D.

The Committee notes that clause 52.27 of the Ballarat Planning Scheme already sets out requirements with respect to liquor licensing. The changes suggested by Mr Rodda are therefore not necessary. The Committee considers that no provisions for liquor licensing additional to those already in the Ballarat Planning Scheme should be included in the amendment.

The proposed revised Schedule also includes Gaming premises as a prohibited use. The Committee considers that this will address the concerns raised about this by submitters.

### **3.8 Advertising signage**

While the proposed provisions for advertising signs were not specifically raised in any submissions, four submissions raised the general issue of loss of residential amenity in nearby areas as a result of the proposed development.

Advertising signs are normally controlled by Clause 52.05 of the planning scheme which among other things creates categories of advertising sign control that are then assigned to zones. The default category for the Special Use Zone (SUZ) is Category 3 High amenity areas, Medium limitation. The purpose of Category 3 is:

*To ensure that signs in high-amenity areas are orderly, of good design and do not detract from the appearance of the building on which a sign is displayed or the surrounding area.*

The amendment options presented to the Committee all propose to exempt any sign shown on the development plan from the need for a planning permit and to apply Category 1 Commercial areas, Minimum limitation to the site.

The purpose of Category 1 is:

*To provide for identification and promotion signs and signs that add vitality and colour to commercial areas.*

Given the direct interface with residential land and the need to integrate development with significant heritage buildings, the Committee considers that a commercial area signage category is not appropriate on this site.

The Committee concludes that the normal default category for a SUZ of Category 3 should apply, together with a provision that exempts an advertising sign specifically shown on the approved development plan from the need for a permit. The decision guidelines for approval of the development plan must retain the cross reference to the decision guidelines of Clause 52.05 to ensure that all signs are considered against the usual requirements of the planning scheme.

## 4 Proposed planning controls

Under its Terms of Reference, the Committee is asked to determine:

*...the appropriateness of the proposed planning scheme amendment in light of the relevant local provisions of the Ballarat Planning Scheme, the State Planning Policy Framework and Ministerial Direction No 1, including whether the proposal should proceed and in what form.*

The Committee takes ‘the proposal’ above to mean the proposed amendments, rather than the development proposals variously described in the *Ballarat Station Precinct Master Plan, April 2014* and in other submissions made to the Committee.

### 4.1 What matters should the Amendment address?

In order to determine whether or not any proposed planning scheme amendment is appropriate, regard needs to be had to the matters that an amendment should properly address to be effective and appropriate for its purpose.

Some of these matters are identified and discussed in Chapter 3. Table 2 describes, in summary, all of the matters the Committee considers should be addressed by the Amendment (in column 1) and the elements that need to be present to satisfy these matters (in column 2).

Table 2 Matters which the Amendment should address

What matters does the amendment need to address?	What elements need to be present to address these matters?
1. The amendment needs to clearly express the expected development parameters and design objectives for the designated Private Development Area.	<ul style="list-style-type: none"> <li>- Consistency with relevant adopted planning policies and the <i>Ballarat Station Precinct Master Plan April 2014</i>.</li> <li>- Site location and built form requirements.</li> <li>- Site access, traffic circulation and car parking requirements.</li> <li>- Any necessary requirements for the treatment of public land that are linked to development of the designated Private Development Site.</li> </ul>
2. The amendment needs to encourage a high quality design and development outcome on the designated Private Development Area.	<ul style="list-style-type: none"> <li>- Effective design objectives and assessment criteria.</li> </ul>
3. The amendment needs to provide surety to the community and to nearby landowners and residents that the amenity impacts resulting from	<ul style="list-style-type: none"> <li>- Site location.</li> <li>- Site access, traffic circulation and car parking requirements.</li> <li>- Requirements to identify and remediate soil contamination consistent with Ministerial Direction No 1.</li> </ul>

What matters does the amendment need to address?	What elements need to be present to address these matters?
development of the designated Private Development Area will be within reasonable and clearly articulated parameters.	<ul style="list-style-type: none"> <li>- Requirements to identify and appropriately manage any valued environmental assets on the designated development site.</li> <li>- Built form requirements</li> <li>- Interface amenity protection requirements</li> <li>- Requirements to appropriately manage advertising signage on the designated development site.</li> </ul>
4. The amendment needs to provide an efficient and timely approval pathway for a prospective developer of the designated Private Development Area.	<ul style="list-style-type: none"> <li>- The form of necessary approval requirements (and approval exemptions if proposed).</li> <li>- The details of all necessary information to be provided to facilitate and document approval.</li> <li>- Who will be the responsible authority.</li> </ul>
5. The amendment needs to provide for the effective identification and management of soil contamination on the designated Project Site, consistent with regulatory requirements.	<ul style="list-style-type: none"> <li>- Requirements to identify and remediate soil contamination consistent with Ministerial Direction No 1.</li> </ul>
6. The amendment needs to provide for the effective identification and future management of all valuable environmental assets on the Project Site.	<ul style="list-style-type: none"> <li>- Requirements to identify and appropriately manage any valued environmental assets in the Project Site</li> </ul>

There are two significant matters that do not appear in the above table. These are the identification, conservation and re-use of heritage assets and the use of public land for its designated purpose (in this case for transport use, which includes commuter car parking). This is because these matters are either dealt with by a separate approval process in the case of heritage matters or are not intended to be restricted by planning schemes in the case of transport use of VicTrack land.

## 4.2 How should these matters be addressed?

The content of the three proposed amendment options is generally similar. This proposed content is considered in turn against the six matters the Committee considers the amendment should address.

**(i) Does the proposed Amendment clearly express the expected development parameters and design objectives for the Private Development Area?**

The Committee does not consider any of the options clearly describe the expected development parameters or design objectives.

**(ii) Does the proposed Amendment encourage a high quality design and development outcome on the private development area?**

While there are statements that show that a high quality design outcome is sought, there is little substantive guidance about what the elements of a high quality design might be on this site or what a designer or decision maker should be looking for in a design.

**(iii) Does the proposed Amendment provide surety to the community and to nearby landowners and residents that the amenity impacts resulting from development of the Private Development Area will be within reasonable and clearly articulated parameters?**

The proposed Concept Plan lacks any real detail and the structure of the amendment transfers all design detail to the development plan, which can be changed without any meaningful consultation with the community or potentially affected parties.

**(iv) Does the proposed Amendment provide an efficient and timely approval pathway for a prospective developer of the designated Private Development Area?**

Evidence from Mr Rodda indicated that the proposed mechanism to 'fast track' development that was consistent with an adopted development plan was an attractive approach for potential developers of the Private Development Area.

**(v) Does the proposed Amendment provide for the effective identification and management of soil contamination on the Private Development Area, consistent with regulatory requirements?**

As discussed in section 3.4.1, the Committee concludes that the provisions proposed in the amendment, modified as recommended, will appropriately manage site contamination issues.

**(vi) Does the proposed Amendment provide for the effective identification and future management of all valuable environmental assets on the Private Development Area?**

Information was provided to the Committee (see section 3.6) that vegetation of potential significance exists on the site, in particular the eucalypts growing in the northern corner. Before any development proposal is finalised, the significance of all environmental assets on the site should be verified and taken into account in the preparation of the development plan. A management regime for any environmental assets to be retained should also be required.

The Committee considers that with the additional requirements proposed in section 3.6 the Amendment will appropriately manage environmental issues.

### 4.3 Other matters

Mr Katakouzinis raised two matters relating to the application of planning controls to VicTrack land and the operation of the station.

The first matter was whether the current provision in the PUZ that limits the size of a shop in a railway station should be carried over to any new zoning. The provision reads *“The total leasable floor area for the selling of food, drink and other convenience goods and services must not exceed 50 square metres”*.

Mr Katakouzinis considered that this limitation should either be removed or should not apply where allowed by the development plan. Mr O’Connor informed the Committee that RDV would agree that this limitation could be deleted.

Mr Katakouzinis also noted that a subdivision will be required to create a lot for the proposed Private Development Area and that creating this lot will trigger a requirement under clause 52.01 of the planning scheme to make a contribution for open space. Mr Katakouzinis sought to have this subdivision made exempt from this requirement. Ms Keating informed the Committee that Council would agree to such an exemption.

The Committee draws no conclusion on this matter as it falls outside its Terms of Reference.

## 5 Form of the proposed Amendment

### 5.1 The issue

The Committee's Terms of Reference require it to provide advice on the:

*...appropriate form and process of a proposed planning scheme amendment to facilitate redevelopment of the Ballarat Station Precinct.*

This section of the report considers the appropriate form of that amendment.

Public comment was sought on three options for the possible form of the amendment. These were:

**Option 1** - Include the land in the Special Use Zone with embedded requirements for approval of a development plan.

**Option 1A** - Include the land in the Special Use Zone with requirements for the approval of a development plan included in a Development Plan Overlay.

**Option 2** - Include the land in the Commercial 1 Zone with requirements for the approval of a development plan included in a Development Plan Overlay.

At the Hearing, RDV and VicTrack indicated a preference for Option 1 and also proposed a number of modifications to the exhibited provisions. The City of Ballarat did not indicate any preference as to the form of the Amendment.

### 5.2 Committee deliberations

#### 5.2.1 What is the purpose of the Amendment?

In order to form a view on the most appropriate form for the Amendment, the Committee would have benefitted from a clear statement of the purpose of the Amendment, as opposed to descriptions of the technical detail of what each option would do. Unfortunately, a clear statement was not provided.

The Explanatory report says that the Amendment is required to "*...facilitate the use and development of land at the Ballarat Station Precinct for new uses such as a Residential hotel and Conference centre/Exhibition centre as envisaged in the Ballarat Railway Station Precinct Master Plan 2014.*"

Mr O'Connor's submission says that the Amendment "*...provides an opportunity to implement planning controls which are designed to facilitate the project*" and that the Amendment will "*...facilitate a streamlined planning process*".

As to what constitutes 'the project', no consistent description could be provided to the Committee, although Mr O'Connor's submission listed (at paragraph 20) the outcomes 'the project' sought to deliver as:

- *Development of an integrated Hotel and Exhibition/Convention Centre*
- *Remediation and adaptive reuse of the Goods Shed*
- *Enhanced public realm and open space areas; and*

- *Transport improvements including commuter car parking, access roads and pedestrian linkages.*

The joint request by DEDJTR and the City of Ballarat to prepare an amendment<sup>5</sup> says that the amendment is to “...*facilitate the implementation of a number of elements of stage 1 of the Ballarat Precinct Master Plan 2014, including adaptive reuse of the heritage goods sheds, associated commercial development opportunities and public realm and transport improvements (the Project)*”.

Despite listing the adaptive reuse of the Goods Shed as a reason for the amendment, this report says on the same page that the amendment “... *does not need to include heritage approval for the refurbishment and re-use of the Goods Shed as this will be subject to a separate approvals process through Heritage Victoria*”.

The report goes on to say that “...*the objective of the planning process implemented by the amendment is to be timely, efficient, embed a degree of flexibility and provide certainty to all stakeholders, and potential private sector partners on the planning framework as early as possible in the process*”.

The City of Ballarat stated (p31 of its submission) that “...*it does not have an explicit position in relation to the best mechanism to guide development moving forward...*” and that (p32) “... *the Council seeks the Advisory Committee’s recommendations as to the appropriate land use planning controls*”.

The Committee notes that the form of the Precinct Conceptual Plan included in the proposed draft amendment options is derived from a revision of the Master Plan (Revision 01, December 2015), that is substantially different in the location of the proposed commercial activities, and some other matters, from the plans in the *Ballarat Station Master Plan April 2014* referenced at a number of places in the proposed Amendment documents.

In his concluding submission, Mr O’Connor noted the confusion about what actually constitutes ‘the project’ and commented “*The reason for this is understandable. The Project doesn’t exactly align with a particular stage of the Masterplan. Nor does the Conceptual Plan in the proposed SUZ16 exactly reflect the Masterplan. The public fairly asks, what is being proposed, what land is affected, the documents are too vague and uncertain?*”

As Mr Manton pointed out in his written and oral submissions, an amendment is only required to achieve the first of the outcomes sought to be delivered by ‘the project’, the development of an “*integrated Hotel and Exhibition/Convention Centre*”.

Mr Manton submitted:

*No amendment at all is needed to facilitate the implementation of the Master Plan as it relates to transport functions – railway station development, bus terminal, car parking for commuters, pedestrian links, and so on. That can all happen within the existing Public Use Zone. Important areas covered by the Master Plan – notably the railway equipment, the station itself, and all land south of the railway, are not covered by the amendment at all.*

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<sup>5</sup> Document 2, Tab 14, page 1

The Committee agrees with Mr Manton.

The Committee notes that:

- While there is an expectation that the form of that commercial development will be some form of hotel, conference and exhibition facility, the exact nature and final footprint of a commercial development is not known at this stage.
- The anticipated exhibition centre is expected to be delivered by the adaptive reuse of the Goods Shed, however the form of this development will be controlled by a Heritage Victoria consent.
- The works anticipated in the Master Plan for enhancing the public realm and open space areas, transport improvements, commuter car parking, access roads and pedestrian linkages can all be implemented now under the current PUZ and will not be subject to any planning consent.

The Committee therefore concludes that:

- The **primary purpose** of the Amendment is simply to facilitate the excision and sale of the Private Development Area to a private owner and the development of the excised area for a commercial facility generally as described in the Precinct Conceptual Plan included with the draft amendment options (and based on Revision 01, December 2015 of the *Ballarat Railway Station Precinct Master Plan*).
- A **secondary purpose** of the Amendment should be to introduce some form of statutory framework that gives decision makers some guidance, and the community some surety, about the ongoing implementation of the *Ballarat Railway Station Precinct Master Plan*, to the extent that there is a valid statutory basis for such a framework.

## 5.2.2 What are the appropriate planning provisions to achieve these purposes?

### (i) The zoning of the land

The Committee was informed that it was the clear intention of the Government that the necessary land for the development of the commercial hotel and conference facility together with the Goods Shed would transfer to private ownership.

*Ministerial Direction No 1, The Form and Content of Planning Schemes* states that a planning scheme may only include land in a PUZ if the land is public land. Mr Katakouzinis and Mr O'Connor both advised that it is Government policy that land that is being divested by a government agency should be rezoned to a suitable zone consistent with its best and ultimate use and development.

The necessary land for the development of the commercial hotel and conference facility together with the Goods Shed cannot therefore remain in the PUZ and must be rezoned to a suitable zone to achieve the primary purpose of the amendment.

While there are several possible zoning options for this land, the Committee agrees with the submissions made by Mr O'Connor and Mr Katakouzinis, supported by Mr Rodda, that the SUZ is the most appropriate zone.

The Committee does not agree however, that the SUZ needs to apply over the whole of the Project Site, as envisaged by Options 1 and 1A. As noted above, it would appear that all of the activities envisaged as being undertaken on that part of the Project Site not to be sold are able to be undertaken under the existing PUZ. As this land is to remain in public ownership there seems little reason to change the current zoning.

The Committee notes that the effect of the proposals in Options 1 and 1A would effectively be to take the land out of the PUZ then replicate the provisions of that zone in the proposed SUZ and through various exemptions. This seems unnecessarily awkward and complex.

If the SUZ is to be applied only to the land to be excised for private ownership, the schedule to the zone can be substantially simplified.

The Committee therefore concludes that the appropriate zoning of the land to be excised for private ownership should be the SUZ and the balance of the precinct should remain in the PUZ.

## **(ii) Implementing the vision for the precinct in the Master Plan**

There was general agreement that, in addition to the zone, two further layers of control are necessary:

- Some form of concept plan that sets out the overall framework of how the Project Site will be developed
- A development plan that allows use and development of the Private Development Area consistent with that plan to proceed without the need for public notification or a planning permit.

The Committee notes significant confusion and inconsistency in the various documents and statements associated with this proposed Amendment around what the planning scheme might control or manage in order to implement the vision of the Master Plan across the Project Site.

In reality, the planning scheme will have little or no effect over works implemented public on public land, whether or not they are funded or constructed by a private sector entity.

Despite this, the Committee considers that there are a number of significant matters that could be managed by planning provisions across the Project Site and that the achievement of the overall vision for the Precinct would benefit from including these in the scheme.

These matters relate to the issues identified in section 3 of this report, in particular:

- articulating an overall concept for the ongoing development of the Precinct
- promoting high quality design outcomes in relation to heritage, architecture and urban design
- ensuring that there are no adverse amenity effects on nearby land
- ensuring that site contamination, water management and environmental issues are properly identified and managed
- encouraging good traffic and parking design outcomes.

While these provisions may mostly only come into play if a planning permit is required, they can usefully serve to set out a level of expectation for any development in the Project Site and the broader Precinct.

Dr Greenslade, Mr Jenzen and Mr Manton, among others, expressed concern about the lack of any formal opportunity for the community to have any input into the form of development plan that is approved. Mr Manton observed that:

*The amendment needs to also provide certainty to the local community about what may take place on the land, and it needs to manage the interface issues ...there are effectively no checks and balances built into the process – a Development Plan, prepared and approved without any formal public process, will allow use and development to become “as of right” or to be granted a permit without any community rights of notice, submission or review. There might be an informal process, or there might not. This cannot be realistically claimed to provide sufficient checks and balances.*

At the Hearing, Mr O’Connor referred to an informal process for community consultation that had been undertaken by RDV in relation to the recent Vibe Hotel development at Marysville, suggesting that this process had been successful and could also be applied here. RDV indicated a commitment to consult further with the community in preparing the development plan, using the ‘Marysville model’.

Given that a substantial component of the works that will be needed to implement the Master Plan concept will be on public land and require no planning approval, the Committee recognises that it is not possible for planning scheme provisions to ensure that the community is provided with complete certainty about the fine detail of timing and design for these works. However the Committee strongly endorses RDV and the City of Ballarat using an appropriate means, such as the ‘Marysville model’, to engage the community in decisions about those matters wherever they are able to do so.

While the Committee accepts that this may be sufficient for the development plan, it considers that the fundamental elements of the concept for the Project Site need to have some greater statutory strength and should not be able to be changed in an *ad hoc* way. This is a project that will take many years to complete and different decision makers will come and go, making the importance of a clear and respected concept plan critical to achieving the long-term vision. This is not to say that the vision held now cannot be changed in the future, only that any substantial change should be made with the community transparently engaged.

The Committee examines two approaches to achieving this through the application of overlays. The essential difference between the Development Plan Overlay (DPO) and the Incorporated Plan Overlay (IPO) is the method by which the associated document or plan can be changed. Planning Practice Note 23 *Applying the Incorporated Plan and Development Plan Overlays* says that “...the IPO should normally be used for sites that are likely to affect third party interests...” and “Most redevelopment of existing land will fall into this category, particularly where the surrounding land use is residential”.

The Practice Note also says that the DPO should not be applied where a site is likely to significantly affect third party interests or where a site adjoins established residential areas.

The Committee agrees with Mr Manton that an IPO is the appropriate provision that should be applied to the Project Site to set out the key elements of the development framework in

a Concept Plan. The Concept Plan needs to include a complementary set of decision principles suitable to guide all development proposed for the precinct towards the vision expressed in the Master Plan. An IPO will provide the necessary surety for all parties that there will be adherence to these basic elements over the longer term and that any change to these elements will be made in an open and transparent way through a planning scheme amendment.

### **(iii) The Precinct Conceptual Plan**

There were a number of issues raised about the Precinct Conceptual Plan included in the proposed Amendment options.

Some submitters, including Mr Manton and Mr Jenzen, were concerned that the plan was so conceptual as to be meaningless. Mr Hunt agreed that the proposed new access to Lydiard Street was a matter that should be shown on the Precinct Conceptual Plan and currently was not. Mr O'Connor agreed that there were differences between the Precinct Conceptual Plan and the Master Plan on which the Precinct Conceptual Plan was supposedly based.

The most significant issue is, however, that because the Precinct Conceptual Plan is so high level, it does not exercise any effective control over the form of the development plan or how key decisions relating to the development of the precinct should be made. In the proposed provisions, all real control lies with the development plan and that plan can be changed at any time without public or any other input or scrutiny.

The Committee considers this to be unsatisfactory. Where there has been a commitment to engage with the community in the development of a plan, as there has been in the development of the Master Plan, and there is an intention to proceed with the implementation of that plan, then the community is entitled to some surety the plan will not be significantly changed without further meaningful consultation. The Committee concludes that including an appropriately detailed Concept Plan in an IPO will remedy this.

### **(iv) The development plan**

There are two ways that a development plan for the Private Development Area can be included in the planning scheme.

Options 1A and 2 propose the application of a DPO to the Project Site. Option 1 proposes that the development plan be embedded in the SUZ.

The effect of either approach is to require the preparation of a development plan. Any planning permit must then be generally in accordance with the development plan.

Either method will work. The Committee considers, however, that it would be simpler in this case to include the development plan requirements in the schedule to the SUZ, rather than apply a further overlay to the Private Development Area.

**(v) The recommended package**

In summary, the Committee concludes that the most appropriate zoning for the Project Site is:

- The land to be transferred to private ownership (the Private Development Area) should be included in the Special Use Zone. The schedule to the Special Use Zone should include a requirement to prepare a development plan.
- The balance of the Project Site, which will continue in public ownership, should remain in the Public Use Zone.
- The Project Site should be included in an Incorporated Plan Overlay that requires all development to be consistent with an incorporated Concept Plan that also sets out decision considerations and requirements for those matters that require a consistent response across the Project Site. These matters are listed in section 5.2.4.

**5.2.3 What provisions should be included in the Special Use Zone?**

The schedule to the SUZ should be constructed to focus only on the provisions necessary to achieve appropriate development outcomes on the land that will become privately owned. The Committee makes the following comments on the construction of the zone.

Apart from sub-sections (i) and (ii) below, the comments in this section refer to the revised draft Schedule 16 circulated to the Committee after the Hearing by RDV. A copy of that revised draft schedule is included in Appendix D.

**(i) Application of the Special Use Zone**

The SUZ should be applied to all the land in the lot or lots that will become privately owned.

**(ii) The name and purpose of the zone schedule**

The name of the schedule to the zone should make it clear to what the schedule applies. The Committee suggests the schedule be named BALLARAT STATION PRIVATE DEVELOPMENT AREA.

The purposes of the schedule should focus only on the outcomes intended for this land. The Committee suggests the following:

- To enable the development of the site for a range of uses that complements the vision and design objective for the site set out in the *Ballarat Railway Station Precinct Master Plan*.
- To ensure that development of the site is consistent with, and is not detrimental to, the ongoing operation of the Ballarat Station Precinct as a transport hub.
- To ensure that use and development:
  - is consistent with any applicable concept plan and the development plan required by this schedule
  - respects the heritage character and assets of the Project Site, the Precinct and nearby land

- achieves high standards of architecture and urban design for buildings and for spaces
- does not unreasonably affect the residential amenity of nearby residentially zoned land.

### **(iii) Table of uses**

The table of uses in the revised draft schedule includes a very broad range of uses, mostly with the condition that *“The use must be generally in accordance with the approved development plan”*. A number of these uses will not be relevant if the SUZ applies only to private land and should be deleted. The uses that should be deleted are Bus terminal, Railway, Railway station, Tramway and Any other transport related use. None of these uses are intended to occur on the site and the condition proposed is not appropriate as there will not be a public land manager for this land.

Mr O’Connor indicated at the Hearing, in response to the concerns of some submitters that RDV would agree to make gaming a prohibited use in the precinct. The revised draft schedule proposes to include ‘Gaming premises’ as a prohibited use.

As noted in section 4.3, at the Hearing Mr Katakouzinis sought to have the limitation on the floor space of a shop in a railway station removed. As the Committee has concluded the SUZ should not apply to railway land, this condition is not relevant and is not required.

### **(iv) Requirement for a development plan**

The first part of this section of the revised draft schedule sets up the requirement to prepare a development plan. The second sentence, relating to the public land manager, should be deleted as it is no longer relevant. The second last sentence in this part should be amended to read *“The development plan must be generally in accordance with any applicable concept plan”*.

The following sections of the revised draft schedule require the preparation of various reports and plans. As the objectives and design guidelines are recommended to be located in the concept plan under the IPO, these sections can be simplified to focus the development plan on:

- an analysis of the site against the vision and objectives set out in the Concept Plan
- site layout plans and elevations and other information that describe the proposed use and development
- an explanation of how the proposed use and development meets the objectives and satisfies the decision guidelines of the Concept Plan.

The Committee considers that the plans identified in the revised draft schedule for inclusion in the development plan would be a useful framework. These plans were:

- the site layout plans, elevations and perspectives of proposed development
- a landscaping plan which includes Mr Rodda’s suggestion which were accepted by RDV
- a movement network and car parking plan
- a stormwater management plan

- a construction management plan
- an operations management plan.

As noted in section 3.1, the movement network and car parking plan should indicate that parking provision for all uses in the Private Development Area should be based on the provisions of clause 52.06 Car parking of the planning scheme. This plan should consider the future development of the precinct not just the Project Site.

The Committee notes that Central Highlands Water sought a requirement for the development plan include the condition:

*A water and sewerage management plan that addresses water sensitive urban design principles for any proposed use on the site must be prepared to the satisfaction of Central Highlands Water.*

The Committee agrees that a provision to this effect should be included in the requirements for the stormwater management plan.

The Committee also notes that the revised draft schedule seeks to include requirements in relation to a liquor licence. If a liquor licence is sought at any stage, the provisions of Clause 52.27 of the Ballarat Planning Scheme already set out the requirements. Alternative requirements are not appropriate elsewhere in the planning scheme.

#### **(v) Conditions and requirements for permits**

Unless there are specific permit conditions identified as required for any permits issued on the Private Development Area, this section is not necessary. Matters relating to environmental assessment are dealt with in the provisions of the IPO.

#### **(vi) Use of land**

The second paragraph of the application requirements should be deleted, as there is no public land manager for the privately owned land.

#### **(vii) Subdivision**

This section should be deleted as the requirement for a permit is already in the zone.

As noted in section 4.3, the Council agreed to a request from VicTrack that any public open space contribution required as a consequence of creating a lot or lots for sale to a private developer would be waived. Any amendment may need to make appropriate provision for this in Clause 52.01 or by other appropriate means. This may be achieved by setting the open space requirement for this site as zero in the Schedule to Clause 52.01 of the planning scheme.

#### **(viii) Buildings and works**

The third dot point should be deleted, as there is no public land manager for the privately owned land.

**(ix) Advertising signs**

As discussed in section 3.8, the Committee does not agree that the advertising sign category should be changed from Category 3, the default category for the Special Use Zone. This section therefore only needs to include a provision that no permit is required for an advertising sign specifically shown in the development plan.

**(x) Exemption from notice and review**

This provision only applies to matters that require a permit which means a matter that would normally require a permit and which has not been exempted from that requirement by being consistent with the development plan. The Committee considers that any matter that is significant enough to need a permit and has not been envisaged in the development plan should be considered through the normal permit process. There should not therefore be any notice exemption provision.

**(xi) Development and operating conditions schedule**

This section is not required as these matters can be covered by the operations management plan that is part of the development plan.

**(xii) Decision guidelines**

The long list in the revised draft schedule is not necessary. Most of these matters will be adequately covered by reference to the general decision guidelines of the scheme plus the specific decision guidelines set out in the concept plan and the responses required by the development plan provisions.

**(xiii) Concept plan**

This should be deleted as the Concept Plan is recommended to be located in an IPO.

**(xiv) Other matters**

In the exhibited draft document *Ballarat Station Precinct Redevelopment Incorporated Document November 2015*, it was proposed that the following provisions of the Ballarat Planning Scheme not apply to the Project Area:

- Clause 52.05 – Advertising signs
- Clause 52.06 – Car parking
- Clause 52.07 – Loading and unloading of vehicles
- Clause 52.17 – Native vegetation
- Clause 52.27 – Licensed premises
- Clause 52.29 – Land adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road
- Clause 52.34 – Bicycle facilities
- Clause 52.36 – Integrated public transport planning.

All of these matters are standard requirements for private development across Victoria. No argument was put to the Committee as to why these normal requirements should not be applied and the Committee sees no reason why development on this site should be exempt

from them. The Committee therefore considers that there should be no exemption from the normal requirements and considerations for these matters for the Project Site.

#### **5.2.4 What provisions should be included in the Incorporated Plan Overlay?**

For the reasons previously noted, the Committee considers that an IPO should be applied to the whole of the Project Site.

This will require the amendment to include the IPO in the scheme (the Incorporated Plan Overlay is not currently included in the Ballarat Planning Scheme), apply it to the relevant land and introduce a schedule to the overlay in the planning scheme that sets out various matters including the matters that need to be included in the incorporated plan, which will be the Concept Plan.

The Committee considers the schedule should include the matters set out below.

##### **(i) Purpose**

A simplified version of the purposes set out in the revised draft Schedule 16 to the Special Use Zone would be suitable. The Committee suggests the following:

##### ***Purpose***

*To facilitate the revitalisation of the Ballarat Station Precinct in accordance with Part B the Ballarat Station Precinct Master Plan, 2014 generally through:*

- *The refurbishment of the heritage Goods Shed and associated development opportunities, a rejuvenated and activated public realm and transport improvements.*
- *Promoting the adaptive re-use of the heritage Goods Shed for appropriate land uses.*
- *Improving accessibility and legibility of the Precinct through improved internal road circulation and safe and convenient access for pedestrians and cyclists.*
- *Encouraging excellent urban design and architecture that is responsive to the heritage values of the Precinct and the Ballarat CBD and contributes positively to the public realm and streetscapes.*
- *Protecting and improving the strategic transport functions of the Precinct.*

##### **(ii) Environmental assessment**

As discussed in section 3.5, the Committee is concerned to ensure that the known soil contamination issues in the project area are properly addressed. The Amendment proposed to include requirements to ensure that the intent of Ministerial Direction No 1 is met. The Committee considers that these requirements should apply across the Project Site and meeting them should be a pre-condition of any development activity.

The Committee suggests the following requirement:

##### ***Environmental assessment***

*Prior to the commencement of any development an environmental site assessment must be prepared by an environmental auditor appointed by the Environment Protection Authority to determine the condition of the site and its suitability for the proposed use and development.*

If an environmental site assessment recommends an environmental audit of all or part of the land, then:

- before the commencement of any use for a sensitive purpose; or
- before any buildings or works which are intended for use for a sensitive purpose; or
- before the certification of a plan of subdivision –

whichever comes first, the following must be provided to the responsible authority, either:

- A Certificate of Environmental Audit issued for the relevant land in accordance with Part 1XD of the Environment Protection Act 1970, or
- A Statement of Environmental Audit issued for the relevant land in accordance with Part 1XD of the Environment Protection Act 1970 stating that the environmental conditions of the relevant land are suitable for a sensitive use (with or without conditions on the use of the site).

### **(iii) Exemption from notice and review**

Similarly to the discussion in section 5.2.3 (ix), the Committee does not consider that any matters that require a permit should be exempt from notice and review except those that meet the requirements of the development plan under the Special Use Zone.

### **(iv) Decision guidelines**

In addition to the decisions guidelines referred to in clause 43.03-2 of the IPO, the schedule should require the responsible authority to consider the decision guidelines set out in the Concept Plan.

### **(v) Preparation of the incorporated plan**

The Committee considers the incorporated plan (the new Concept Plan) should include a description of the area to which the plan applies, a statement of the vision sought to be achieved for the project area and a set of objectives and decision guidelines that will guide proponents and decision makers in understanding what is required to be achieved. The concept plan should be concise and clear and does not need to include extensive background information or descriptive material. The plan should include:

- A plan that describes the framework for the long-term development of the Project Site to achieve the vision of the Master Plan
- Design and amenity performance objectives and decision guidelines that should be met by any development.

To achieve this, the Committee recommends the following structure:

- About this concept plan
  - *area of application*
  - *short background*
- The vision
  - *a statement and map of the vision*
  - *the linkages to the Ballarat Strategy and the Master Plan*
- Design objectives and guidelines

- *the outcomes sought*
- *key design influences (most likely a map)*
- *design decision guidelines including building massing, connection and treatment, public realm landscaping and views into and out of the land (this section may benefit from addressing the privately and publically owned areas separately)*
- *issue specific objectives and decision guidelines, particularly heritage, access and parking, protection of residential amenity and environmental issues. For example, all intended access points to the site should be identified.*

Most of the elements of the Concept Plan are already available in The Ballarat Strategy, the Master Plan and various reports provided to the Committee. The *Ballarat Station Precinct Heritage Report* prepared by Lovell Chen for VicTrack for instance, includes a comprehensive set of ‘Design Principles’ that would readily translate into the Concept Plan. A range of urban design principles are also set out in the revised draft schedule to the Special Use Zone that would also readily translate into the Concept Plan.

### **5.3 How should this amendment be introduced?**

The Committee process to consider the draft options for this proposed amendment has been comprehensive. Alternative options for the form and content of the amendment have been openly tested and the proposal itself has been broadly although not unanimously supported. There has been an open process with public hearings and the Committee considers the views of interested parties are now well known.

The Committee therefore concludes that the process has been sufficient for the Minister for Planning to proceed pursuant to section 20(4) of the *Planning and Environment Act 1987*, to implement an appropriate amendment, provided that the content of that amendment is not substantially different (including the size and location of the land proposed to be transferred to private ownership) from the proposals considered by the Advisory Committee.

The Committee also considers that, provided the concept plan is derived from the various adopted plans and expert reports that have been available through the advisory committee process, an appropriate concept plan can be prepared and included as part of that amendment without the need for further consultation or review.

The Committee does note however, that if the final preferred development proposal is significantly different from that put to the Committee and other parties through this process, then the need for further consultation will need to be considered.

### **5.4 Conclusions**

In respect of its Terms of Reference the Committee concludes that:

- The planning provisions described in section 5 of this report would best facilitate the redevelopment of the Project Site
- It is not appropriate for changes to the Concept Plan to be made without an opportunity for formal community engagement through the planning scheme amendment process

- It is appropriate to facilitate development that is consistent with an adopted development plan by making such development exempt from the need for a permit, provided that the community has had an opportunity to view and comment on the development plan before it is adopted
- It is not appropriate for matters that require a planning permit in the proposed Special Use Zone to be exempt from third party notice and appeal
- the Advisory Committee process to consider the draft options for this proposed amendment has been comprehensive and is sufficient for the Minister for Planning to proceed pursuant to section 20(4) of the *Planning and Environment Act 1987* to implement an appropriate amendment, provided that the content of that amendment is not substantially different (including the size and location of the land proposed to be transferred to private ownership) from the proposals considered by the Advisory Committee
- provided the Concept Plan is derived from the various adopted plans and expert reports that have been available through the Advisory Committee process, an appropriate Concept Plan can be included as part of that amendment without the need for further consultation or review.

## 5.5 Recommendations

The Committee recommends that the Minister for Planning:

- 1. Prepare and approve an Amendment to the Ballarat Planning Scheme subject to:**
  - a) Including the Private Development Area<sup>6</sup> in the Special Use Zone. The provisions of the zone should be as described in section 5.2.3 of this report**
  - b) Including the Project Site<sup>7</sup> in an Incorporated Plan Overlay. The provisions of the overlay and associated incorporated document (the Concept Plan) should be as described in section 5.2.4 of this report**
  - c) Including the proposed Special Use Zone include a requirement for a development plan and matters that are consistent with that plan, be exempt from notice and review. The development plan must be consistent with a Concept Plan included in the planning scheme and have been through an informal process of community consultation before it is adopted or substantially modified**
  - d) Matters requiring a permit in the proposed Special Use Zone not be exempt from the usual notice and review provisions of the *Planning and Environment Act 1987*.**
- 2. Approve the Amendment pursuant to section 20(4) of the *Planning and Environment Act 1987*.**

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<sup>6</sup> See section 1.3 (ii) for the meaning of Private Development Area.

<sup>7</sup> See section 1.3 (ii) for the meaning of Project Site.

## 6 Other issues

### 6.1 Responsible authority for the project site

The Committee's Terms of Reference at paragraph 23, require it to report to the Minister for Planning on whether the Minister for Planning should be the responsible authority for the approving matters in relation to future planning approvals.

The Amendment options in the Schedule to Clause 61.01 propose to make the Minister for Planning the responsible authority. Mr O'Connor submitted that the development project is of State and regional significance and that it is therefore appropriate for the Minister to be the responsible authority.

At its 28 October 2015 meeting, the City of Ballarat resolved to request the Minister for Planning to become the responsible authority for approving the development of the site. Mr Barnes submitted that Council adopted this position on the advice of officers who he submitted had a request from RDV to this effect.

Submitters including Dr Greenslade, Mr Jenzen, Mr Barnes and Mrs Thompson objected to the Minister becoming the responsible authority and/or the Council abrogating what submitters saw as its responsibility with respect to the site. Mr Jenzen submitted that he failed to see how this project could be regarded as of State and regional significance given that no one outside Ballarat was aware of it.

The Committee accepts that the project is of regional significance but does not believe that a case has been made that it is of State significance, nor is the Committee convinced that a strong case has been made for the Minister to become the responsible authority. The Committee accepts, however, that as Council does not wish to play this role, the Minister for Planning should be the responsible authority.

### 6.2 Consistent and transparent process

The Committee's Terms of Reference at 10, states:

*The Committee process has been established to provide a consistent and transparent process for considering the appropriate form and content of a draft planning scheme amendment to facilitate redevelopment of the Precinct*

This section of the report examines whether the process that has been implemented fulfils that requirement.

The Committee is of the view that meeting this requirement should be addressed under the headings of the three stages of the Committee's work as set out in its Term of Reference:

- *Stage 1: Exhibition*
- *Stage 2: Public Hearings*
- *Stage 3: Outcomes*

#### (i) Exhibition

Whilst the Committee was appointed as an Advisory Committee under section 151 of the Act, rather than as a Panel, prescribed exhibition processes were followed. Documents

exhibited included the amendment options, a planning report, and Explanatory Statement and concept and public realm scenarios. No other background reports were provided initially. After being contacted by Mr Jenzen about background reports the Committee requested that reports be made available. This was agreed by RDV with the exception of two reports which were regarded as Commercial in Confidence. The 12 reports were made available progressively from 18 to 20 January 2016. Further notice was given by way of a letter posted to the initial distribution list on 21 January 2016 and notice in the Ballarat Courier on 22 January 2016.

Dr Greenslade contacted the Committee about the short time available to read and respond to issues raised in reports. She was advised that she would have time between the close of submissions and the Hearing to read the reports and that she would have the opportunity to expand on her written submission at the Hearing. She availed herself of that opportunity.

The Committee accepts that the background reports were not specifically prepared to support the current process and for this reason were not made available initially. However the Committee understands the scepticism amongst some in the community and believes that in the interests of transparency the reports, which are relevant to issues being addressed in the Amendment, should have been made available publicly well before they were. Having said this, the reports were available for a little over two weeks before the close of submissions. Whilst the short timeline was mentioned in Dr Greenslade's submission at the Hearing, the Committee does not believe that any submitter was disadvantaged by the later release of some documentation and therefore considers that the exhibition process was satisfactory.

#### **(ii) Hearing**

The Hearing was held based on Planning Panels Victoria protocols. At the Directions Hearing RDV offered to take written questions from submitters in lieu of the ability to directly question RDV at the Hearing. Mr Barnes and Dr Greenslade took up this offer and the questions they asked which were relevant to the Committee's Terms of Reference were addressed by Mr O'Connor for RDV as part of his Right of Reply. At the Hearing the Committee attempted to ensure that submitters present were clear on why certain matters not relevant to the Committee's Terms of Reference would not be addressed by the Committee or RDV. It further attempted to ensure submitters understood relevant procedural matters.

The Committee is of the view that every effort was made to ensure that the hearing process was transparent and consistent.

#### **(iii) Outcomes**

Each of the proposed Amendment options removes requirements for further notice and third party appeal rights. This is proposed both because considerable opportunity for input has already been given and also in the interests of an expedited process. In the interests of transparency surrounding the eventual project outcome, at the Hearing Mr O'Connor indicated that a process of informal exhibition and consideration of submissions would be undertaken with respect to the development plan along the lines of the 'Marysville model' discussed in section 5.2.2(ii).

The Committee notes this and considers that the recording of both the offer made and the Committee support for it in this report should go some way at least to ensure that appropriate levels of transparency are achieved.

### **6.3 Conclusion**

In respect of its Terms of Reference the Committee concludes that:

- It is appropriate in the circumstances that the Minister for Planning be the responsible authority for future planning approvals in the Project Site.

### **6.4 Recommendation**

The Committee recommends:

- 3. Amend Clause 61 of the Ballarat Planning Scheme to make the Minister for Planning the responsible authority for future planning approvals in the Project Site.**

## Appendix A Submitters to the Amendment

No.	Submitter
1	Mr Ian Hastings
2	Ms Stacey Quinlan
3	Mr John Damien Phillips
4	Dr Penelope Greenslade
5	Goulburn Murray Water
6	Mr Sean O’Keeffe
7	Mr Kevin William Porter
8	Mr Brett Quinlan
9	National Trust Victoria – Ballarat Branch
10	Central Highlands Water
11	Mr Alan Thomas Ford
12	Mr Patrick Hope
13	Ms Hellen Fersch
14	Mr Chris Zeegers
15	Mr Roger Gillard
16	Mr Russell Green
17	Mr John Manton
18	Ms Dinah McCance
19	Mr Ronald Egeberg
20	Collaborative Research Centre in Australian History, Federation University
21	Mr George Jacovou
22	Mr Nathan Tracy
23	Mr Paul Atkins
24	Ms Jeanne Wheeler
25	Mr Robert Frederick John Larkin
26	Mr James Meaden
27	Mr Adam Foale
28	Ms Margaret Bytheway
29	Mr Gerald Jenzen
30	Child and Family Services Ballarat Inc

31	Haymes Paint
32	Mr Jeffrey W Rootes
33	Ballarat Heritage Watch Inc
34	Mr Sean Fishlock
35	Ballarat Residents and Ratepayers Association
36	Ms Lisa Fishlock
37	Mr John Vernon
38	Mr Christopher Arnold Bluett
39	Mr Desmond Rix
40	National Trust of Australia (Vic)
41	SCA Property Group
42	Mr Neil Sinclair
43	VicTrack
44	Regional Development Victoria
45	Ms Pamela Thompson
46	Mr Geoffrey Ebbs
47	City of Ballarat

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## Appendix B Document list

No.	Date	Description	Presented by
1	8/03/16	Submission by Region Development Victoria	R. O'Connor
2	8/03/16	Documents folder	R. O'Connor
3	8/03/16	Submission by City of Ballarat	J. Keating
4	8/03/16	Today Tomorrow Together – The Ballarat Strategy	J. Keating
5	8/03/16	Submission by VicTrack	S. Katakouzinis
6	9/03/16	Murrindindi Planning Scheme - Amendment C39 Explanatory Report	R. O'Connor
7	9/03/16	Submitters map within central Ballarat area	R. O'Connor
8	9/03/16	Summary of submissions received	R. O'Connor
9	9/03/16	Submission to Advisory Committee	J. Manton
10	9/03/16	Addendum to comments on Heritage Issues	G. Jenzen
11	9/03/16	Photograph – Horse shunting at Ballarat Station	G. Jenzen
12	9/03/16	Plan c1926 – Rail lines in Station precinct	G. Jenzen
13	9/03/16	Photograph c1930 – General carriers at Ballarat Station	G. Jenzen
14	9/03/16	Submission by Ballarat Residents and Ratepayers Association	J. Barnes
15	10/03/16	VicTrack letter to R. Eade – 8/03/2016	R. O'Connor
16	10/03/16	Photographs – internal areas of goods shed	R. O'Connor
17	10/03/16	Submission	D. McCance
18	10/03/16	Submission	A. Beggs-Sunter
19	10/03/16	PowerPoint presentation	P. Greenslade
20	10/03/16	Paper - Values of Open Space in Cities	P. Greenslade
21	10/03/16	Submission	P. Greenslade
22	10/03/16	Submissions in reply by Regional Development Victoria	R. O'Connor

## **Appendix C Advisory Committee Terms of Reference**

# Ballarat Station Precinct Advisory Committee

## *Terms of Reference*

Version: December 2015

**Advisory Committee appointed pursuant to Part 7, Section 151 of the *Planning and Environment Act 1987* to provide advice on options for a proposed amendment to the Ballarat Planning Scheme to facilitate redevelopment of the Ballarat Railway Station Precinct.**

### Name

1. The Advisory Committee is to be known as the 'Ballarat Station Precinct Advisory Committee' (the Committee).
2. The Committee is to have members with the following skills:
  - Statutory and strategic planning
  - Economics and tourism
  - Urban design/built form/architecture/heritage
  - Transport planning
3. The Committee may seek specialist advice as appropriate.

### Purpose

4. The purpose of the Committee is to provide advice on the appropriate form and process of a proposed amendment to the Ballarat Planning Scheme to facilitate redevelopment of the Ballarat Railway Station Precinct (the Precinct).

### Background

5. The Victorian Government has committed \$25 million from the Regional Jobs and Infrastructure Fund towards the development of an integrated hotel and convention centre, including the remediation and adaptive re-use of the Goods Shed, and transport related outcomes at the Precinct in partnership with the private sector.
6. The project proposes to deliver substantially on two key catalyst projects identified in Stage 1 of the *Ballarat Station Precinct Master Plan, April 2014*; a vision document to guide public and private investment in the Precinct.
7. The Master Plan was adopted by Council in August 2014 and developed in partnership with VicTrack, PTV, the former Department of Transport, Planning and Local Infrastructure, and Regional Development Victoria. The Master Plan was prepared with extensive community consultation and input throughout 2013 and 2014.
8. Regional Development Victoria expects to sign a Development Agreement for the Precinct with a successful private consortia in September 2016 following an Expressions of Interest process and subsequent Request for Proposal process from a shortlist of respondents.
9. Ballarat City Council, with support from the Minister for Regional Development, has requested the Minister for Planning to prepare an amendment to the Ballarat Planning Scheme under section 20(4) of the *Planning and Environment Act 1987* to facilitate the redevelopment of the Ballarat Railway Station Precinct.



Two options for a draft amendment have been proposed for exhibition and the Committee’s review:

**Option 1:**

- Rezone to Special Use Zone (SUZ) with integrated development plan requirements and Clause 52 requirements; and
- Apply an Incorporated Document to switch off Particular Provision permit triggers at Clause 52.



Figure 1: Area of Option 1 rezoning.

**Option 1a:**

- Rezone to Special Use Zone (SUZ); and
- Apply a Development Plan Overlay (DPO).



Figure 2: Area of Option 1a rezoning and DPO.

**Option 2:**

- Rezone proposed commercial development area only to Commercial 1 Zone (C1Z); and
- Apply a Development Plan Overlay (DPO).



Figure 3: Area of Option 2 rezoning and DPO.

All options proposed to have the Minister for Planning be the responsible authority for future planning approvals on the development site.

- The Committee process has been established to provide a consistent and transparent process for considering the appropriate form and content of a draft planning scheme amendment to facilitate redevelopment of the Precinct.
- The Committee must also provide advice on the most appropriate planning tool to address any soil contamination in the Precinct.

### Method

#### General

- The Minister for Planning will refer the proposed amendment options to the Committee for advice.
- The Committee may apply to the Minister for Planning to vary these Terms of Reference in any way it sees fit prior to submission of its report to the Minister for Planning.
- The Committee will generally undertake its work in three stages:
  - Stage 1: Exhibition
  - Stage 2: Public Hearings
  - Stage 3: Outcomes.

#### Stage 1: Exhibition

- Once the referral has been received, the Committee will pre-set the hearing dates.
- The Department of Environment, Land, Water and Planning (DELWP) will give notice of the proposed planning scheme amendment options for a minimum of four weeks. Notice will include:
  - A notice in a local newspaper generally circulating in the area.

- Direct notice to relevant government agencies and servicing authorities.
  - Direct notice to land owners and occupiers who may be materially affected by the proposal.
17. All submissions are to be collected at the office of Planning Panels Victoria (PPV) in accordance with the 'Guide to Privacy at PPV'. Hard copies will be made for council and DELWP, and electronic copies may also be provided to other submitters upon request.
18. Petitions and pro-forma letters will be treated as single submissions and only the first name to appear on the submission will receive correspondence in relation to the Committee matters.

### **Stage 2: Public Hearings**

19. The Committee is expected to carry out public hearings and provide all submitters with an opportunity to be heard.
20. The Committee may limit the time of parties who wish to appear before it at a public hearing and may prohibit or regulate cross-examination.
21. The Committee may meet and invite others to meet with it when there is a quorum of at least two of the Committee members.
22. The Committee may inform itself in any way it sees fit, but must consider:
- Any relevant provisions in the State Planning Policy Framework.
  - Any relevant provisions in the Ballarat Planning Scheme.
  - Any relevant Ministerial Direction.
  - Any relevant documentation prepared by or for Council, or otherwise provided to the Committee.
  - All submissions and evidence made in relation to the proposed planning scheme amendment.
  - Options other than the changes proposed in the draft amendment that may provide an improved planning and facilitative outcome.

### **Stage 3: Outcomes**

23. The Committee must produce a written report for the Minister for Planning providing:
- A recommendation on the appropriateness of the proposed planning scheme amendment in light of the relevant local provisions of the Ballarat Planning Scheme, the State Planning Policy Framework and Ministerial Direction No. 1, including whether the proposal should proceed and in what form.
  - A recommendation on the planning controls to best facilitate redevelopment of the Ballarat Railway Station Precinct including, but not limited to, whether the Minister for Planning should be the responsible authority for approving matters in relation to future planning approvals and, if relevant to the recommended approach, whether there should be exemptions from notice and review provisions.
  - A recommendation of a process to implement any new planning controls.
  - Any other relevant matters raised in the course of the Committee hearing/s.
  - A list of persons who made submissions.
  - A list of persons consulted and/or heard.
24. The report should be brief to reflect the key findings and recommendations of the Committee.

## Submissions are public documents

25. The Committee must retain a library of any written submissions or other supporting documentation provided to it directly until a decision has been made on its report or five years has passed from the time of its appointment.
26. Any written submissions or other supporting documentation provided to the Committee must be available for public inspection until the submission of its report, unless the Committee specifically directs that the material is to remain 'in camera'.

## Timing

27. Once the referral has been received, Ballarat Council should complete Stage 1 within 40 business days.
28. The Committee is required to begin its hearing process no later than 10 business days from the final date of submissions or as otherwise agreed.
29. The Committee is required to submit its report in writing as soon as practicable but no later than 30 business days from the completion of its hearings.

## Fee

30. The fee for the Committee will be set at the current rate for a panel appointed under Part 8 of the *Planning and Environment Act 1987*.
31. The costs of the Committee will be met by Regional Development Victoria.

  
Hon Richard Wynne MP  
Minister for Planning  
Date: 9/12/15

# Appendix D Revised draft Schedule 16 to the Special Use Zone proposed by Regional Development Victoria

XX/XX/XXXX  
C198

## SCHEDULE 16 TO THE SPECIAL USE ZONE

Shown on the planning scheme map as **SUZ16**.

### BALLARAT RAILWAY STATION PRECINCT

#### Purpose

To facilitate the revitalisation of the Ballarat Station Precinct in accordance with recommendations of the *Ballarat Station Precinct Master Plan, 2014* and in accordance with an approved development plan, particularly through:

- The refurbishment of the heritage Goods Shed and associated development opportunities, a rejuvenated and activated public realm and transport improvements.
- Promoting the adaptive re-use of the heritage Goods Shed for uses such as Function centre and Exhibition centre and other complimentary land uses within the Precinct such as Residential hotel.
- Improving accessibility and legibility of the Precinct including a new internal road linking Nolan Street and Lydiard Street and safe and convenient access for pedestrians and cyclists.
- Encouraging excellent urban design and architecture that is responsive to the heritage values of the Precinct and the characteristics of the Ballarat CBD and contributes positively to the public realm and streetscapes.
- Protecting and improving the Precinct's strategic transport functions.

To provide for the use and development of the land for transport purposes by or on behalf of the public land manager

## 1.0 Table of uses

### Section 1 - Permit not required

Use	Condition
Art and craft centre	Must be generally in accordance with the approved development plan.
Bus terminal	The use must be carried out by or on behalf of the public land manager.
Car Park	Must be generally in accordance with the approved development plan.
Child care centre	Must be generally in accordance with the approved development plan.
Cinema	Must be generally in accordance with the approved development plan.
Dwelling	Must be generally in accordance with the approved development plan.

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C198

<b>Use</b>	<b>Condition</b>
<b>Education centre (other than Primary school and Secondary school)</b>	Must be generally in accordance with the approved development plan.
<b>Exhibition centre</b>	Must be generally in accordance with the approved development plan.
<b>Food and drink premises</b>	Must be generally in accordance with the approved development plan.
<b>Function centre</b>	Must be generally in accordance with the approved development plan.
<b>Group accommodation</b>	Must be generally in accordance with the approved development plan.
<b>Indoor recreation facility</b>	Must be generally in accordance with the approved development plan.
<b>Informal outdoor recreation</b>	Must be generally in accordance with the approved development plan.
<b>Market (other than Trash and treasure market)</b>	Must be generally in accordance with the approved development plan.
<b>Minor utility installation</b>	
<b>Office</b>	Must be generally in accordance with the approved development plan.
<b>Postal agency</b>	Must be generally in accordance with the approved development plan.
<b>Railway</b>	The use must be carried out by or on behalf of the public land manager.
<b>Railway station</b>	The use must be carried out by or on behalf of the public land manager.
<b>Residential building</b>	Must be generally in accordance with the approved development plan.
<b>Residential hotel</b>	Must be generally in accordance with the approved development plan.
<b>Shop (other than Adult sex bookshop, Bottle shop, Department store and Restricted retail premises)</b>	Must be generally in accordance with the approved development plan.
<b>Tramway</b>	The use must be carried out by or on behalf of the public land manager.
<b>Any use listed in Clause 62.01</b>	Must meet requirements of Clause 62.01.
<b>Any other transport related use</b>	The use must be for transport purposes. The use must be carried out by or on behalf of the public land manager.

## Section 2 - Permit required

<b>Use</b>	<b>Condition</b>
<b>Any other use not in Section 1 or 3</b>	Must be generally in accordance with the approved development plan.

## Section 3 - Prohibited

### Use

Adult sex bookshop

Agriculture

Corrective institution

Gambling premises

Industry (other than Dry cleaner)

Leisure and recreation (other than Minor sports and recreation facility)

Trash and treasure market

## 2.0 Requirement for a development plan

XX/XX/XXXX  
C198

Prior to the commencement of any subdivision, use or development a development plan must be prepared, submitted and endorsed to the satisfaction of the responsible authority. This does not apply to use or development for transport purposes that is carried out by or on behalf of the public land manager.

Only one development plan may be approved for the land covered by this schedule.

The development plan may be amended to the satisfaction of the responsible authority.

The development plan may consist of plans, reports or other documents.

The development plan must be consistent with any approved Cultural Heritage Management Plan under the *Aboriginal Heritage Act 2006*.

The development plan must be generally in accordance with the Precinct Conceptual Plan in Section 11.0 of this schedule.

The development plan must include the following to the satisfaction of the responsible authority:

An **Urban Design, Heritage and Planning Report** 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 such as significant trees, open space, adjoining roads, bike paths, pedestrian access, public transport routes and dwellings located opposite the site in Lydiard Street North and Nolan Street.
- In relation to any liquor licence:
  - The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.
  - The impact of the hours of operation on the amenity of the surrounding area.
  - The impact of the number of patrons on the amenity of the surrounding area.
  - The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.
- The location and a description of all proposed land uses including but not restricted to transport uses, commercial uses, roads, parking and public open space.
- A development strategy, indicating the preferred staging of the development of the site including transport enabling works, public realm works and landscaping works.
- Environmentally Sustainable Design principles for buildings, landscaping, internal environments, and construction practices.
- A demonstrated response to the following urban design principles for the Precinct:
  - The interface and integration required for nearby land and roads identified by the above site analysis.

- The siting and position of the heritage Goods Shed should inform the wider site configuration including movement networks and building locations, and should reinforce the importance and prevalence of the Goods Shed.
- The site configuration should provide for improved visual permeability and wayfinding within the Precinct.
- The Goods Shed forecourt extending to the North Station building is the key public realm space within the Precinct, and should be designed to provide maximum interaction with the Goods Shed's uses and functions and maintain its visually open quality by avoiding where possible new buildings or permanent structures in this area.
- New development should not obstruct significant elevations of heritage buildings and should seek to maintain views into the site to existing heritage buildings from the public realm.
- New development should respond to identified viewlines and vistas within the Ballarat CBD including skyline views of spires and towers and the Yarrowee escarpment.
- New development should maintain the reasonable privacy of residential properties in Lydiard Street North and Nolan Street.
- Car parking directly abutting the walls of the Goods Shed should be minimised.

**Site layout plans and elevations** drawn to scale showing the proposed use and development of each part of the land including:

- The layout of proposed buildings and works including building setbacks from boundaries, finished floor levels, and an indicative internal layout for each building.
- Elevations, showing the dimensions, colours and materials of all buildings and works.
- Coloured perspectives of proposed buildings in the context of the streetscape and surrounding area.
- Driveways, vehicle parking areas, car parking spaces, and loading and unloading areas.
- Finished site levels and the location of any proposed cut and fill.
- Any proposed advertising signage.
- External storage and waste treatment areas.

A **Landscaping Plan** that includes a demonstrated response to:

- Existing landscape features of the site and immediate surrounding area such as significant trees and their possible retention.
- The streetscape of Lydiard Street North and Nolan Street.
- The heritage and cultural values of the precinct, and includes interpretation of those values within public open space areas.
- The following landscape design principles:
  - Create a public plaza / forecourt maintaining the visually open spatial quality of the area between the Goods Shed and North Station building.
  - Incorporate hard and soft landscaping with contemporary materials which draw on and complement the existing palette of materials of the station complex. Retention and re-use of historic materials of the site is strongly encouraged.
  - Seek to interpret the former uses of the Goods Shed in the design of the forecourt / plaza.
  - Use landscaping to soften the appearance of the car parking areas and break up expansive areas of tarmac.

A **Movement Network and Car Parking Plan** which provides the following details:

- The likely traffic impacts of the proposed development on the surrounding road network and any mitigation measures required.
  - Proposed site access and road layout, including a new internal access road that provides vehicular and pedestrian access to the Precinct from Nolan Street, and provides for the future relocation of the Bus Interchange.
  - Loading and unloading arrangements for commercial uses.
  - The conceptual design of footpaths, bicycle paths, and shared pathway networks.
  - Internal and external intersections, performance and treatments.
  - Traffic management measures including any required external works and the staging of the measures and external works.
  - Details of proposed car parking arrangements including provision to maintain current levels of formal and informal commuter car parking and adequate car parking for new uses.
- Improved connectivity between new land uses, transport functions and commuter car parking areas to ensure safe and efficient movement of vehicles, pedestrians and cyclists.

An **Environmental Site Assessment** prepared by an EPA appointed environmental auditor to determine the condition of the site and its suitability for proposed uses.

A **Stormwater Management Plan** including design detail to ensure flooding on and off site and downstream is managed and there is no deterioration in water quality in the area surrounding the site as a result of the development. The Stormwater Management Plan must take into account any relevant report prepared by the Corangamite Catchment Management Authority.

A **Construction Management Plan** including the measures proposed to ensure that construction activity does not have an unreasonable impact on the surrounding areas.

An **Operations Management Plan** including hours of operation, noise attenuation, maintenance of landscaping areas, waste storage and collection, car parking, loading and unloading, traffic management and any matters required in relation to a liquor licence.

### 3.0 Conditions and requirements for permits

XX/XX/XXXX  
C198

Any permit must contain conditions that give effect to the provisions and requirements of the approved development plan.

#### Environmental assessment

If an environmental site assessment recommends an environmental audit of all or part of the land, then:

- before the commencement of any use for a sensitive purpose; or
- before any buildings or works which are intended for use for a sensitive purpose; or
- before the certification of a plan of subdivision –

whichever comes first, the following must be provided to the responsible authority, either:

- A Certificate of Environmental Audit issued for the relevant land in accordance with Part 1XD of the *Environment Protection Act 1970*, or
- A Statement of Environmental Audit issued for the relevant land in accordance with Part 1XD of the *Environment Protection Act 1970* stating that the environmental conditions of the relevant land are suitable for a sensitive use (with or without conditions on the use of the site).

## 4.0 Use of land

### Application requirements

XX/XX/XXXX

C198

An application to use land must be accompanied by the following information as appropriate:

- The purpose of the use and the types of activities which will be carried out.
- The likely effects, if any, on adjoining land, including noise levels, traffic, the hours of delivery and despatch of goods and materials, hours of operation and light spill, solar access and glare.
- The means of maintaining land not required for immediate use.
- An application for a permit by a person other than the public land manager must be accompanied by the written consent of the public land manager, indicating that the public land manager consents generally or conditionally either:
  - To the application being made.
  - To the application for permit being made and to the proposed use or development.

## 5.0 Subdivision

XX/XX/XXXX

C198

A permit is required to subdivide land.

## 6.0 Buildings and works

XX/XX/XXXX

C198

A permit is not required to construct or carry out:

- Buildings or works generally in accordance with the approved development plan relating to the land.
- Buildings or works which internally rearrange buildings providing there is no increase in floor area.
- Buildings or works carried out by or on behalf of the public land manager for transport purposes.

### Application requirements

An application to construct a building or construct or carry out works must be accompanied by the following information, as appropriate:

- A plan drawn to scale which shows:
  - The boundaries and dimensions of the land.
  - Adjoining roads.
  - The location, height and purpose of buildings and works on adjoining land.
  - Relevant ground levels.
  - The layout of existing and proposed buildings and works.
  - All existing and proposed driveway, car parking and loading areas.
  - Proposed landscape areas.
  - All external storage and waste treatment areas.
  - Areas not required for immediate use.

Elevation drawings to scale showing the colour and materials of all buildings and works.

Construction details of all drainage works, driveways, vehicle parking and loading areas.

A landscape layout which includes the description of vegetation to be planted, the surfaces to be constructed, a site works specification and the method of preparing, draining and maintaining the landscape area.

## 7.0 Advertising signs

XX/XX/XXXX  
C198 A permit is not required to erect and display an advertising sign if shown in an approved development plan.

A permit is required for all other advertising signs. Advertising sign requirements are at Clause 52.05. This zone is in Category 1.

## 8.0 Exemption from notice and review

XX/XX/XXXX  
C198 An application under this provision that is generally in accordance with the approved development plan is exempt from the notice requirements of Section 52(1)(a), (b), and (d), the decision guidelines of Section 63(1), (2) and (3) and the review rights of Section 82(1) of the Act.

## 9.0 Development and Operating Conditions Schedule

Prior to commencement of use and/or development, except transport uses, a development and operating conditions schedule must be prepared to the satisfaction of the Responsible Authority.

The use and development of the Ballarat Railway Station Precinct must be in accordance with the conditions in the development and operating conditions schedule.

The conditions included in the schedule must be worded to achieve the following:

- require all development to be constructed in accordance with the approved Urban Design Heritage and Planning Report; Site layout plans and elevations including details of advertising signs and any area to which a liquor licence will apply; Landscaping Plan; Movement Network and Car Parking Plan; Stormwater Management Plan; and Construction Management Plan.
- require all development to be constructed in accordance with the findings of the Environmental Site Assessment.
- manage uses in accordance with the Operations Management Plan.

## 10.0 Decision Guidelines

XX/XX/XXXX  
C198 Before deciding on an application to use or subdivide land, construct a building or construct or carry out works or the approval of a plan in accordance with the requirements of Clause 2.0 of this schedule, in addition to the decision guidelines in Clause 52.05, Clause 52.27 and Clause 65, the responsible authority must consider as appropriate:

- The approved development for the land.
- The comments of the public land manager.
- The *Ballarat Station Precinct Master Plan, 2014*.
- The interface with adjoining land.
- The interim use of those parts of the land not required for the proposed use.
- The drainage of the land.
- The availability of and connection to services.
- The location and type of access to the site.
- The effect of traffic to be generated on roads.
- Provision for car parking.
- Provision for loading and unloading of vehicles and service areas.
- The storage of rubbish and materials for recycling.
- Provision for landscaping and lighting.

### 11.0 Precinct Conceptual Plan

XX/XX/XXXX  
C198



Source: Ballarat Station Precinct Master Plan, Stage 01 Schematic Design Report, Revision 01, December 2015