

Planning and Environment Act 1987

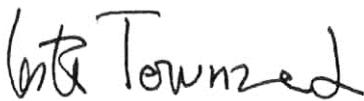
**Panel Report**

**Moorabool Planning Scheme Amendment C88**

**Ballan Strategic Directions**

**4 July 2019**

Planning and Environment Act 1987  
Panel Report pursuant to section 25 of the Act  
Moorabool Planning Scheme Amendment C88  
Ballan Strategic Directions  
4 July 2019



Lester Townsend, Chair



Shelley McGuinness, Member

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## Glossary and abbreviations

Act	<i>Planning and Environment Act 1987</i>
<i>Central Highlands Regional Growth Plan May 2014</i>	regional growth plan
Council	Moorabool Shire Council
DELWP	Department of Environment, Land, Water and Planning
Framework Plan	Ballan Framework Plan
GRZ	General Residential Zone
INZ	Industrial Zone
LDRZ	Low Density Residential Zone
MPS	Municipal Planning Strategy
NRZ	Neighbourhood Residential Zone
ODP	Outline Development Plan
Part A	Council's Part A submission
Part B	Council's Part B submission
Part C	Council's Part C submission
planning scheme	Moorabool Planning Scheme
PPF	Planning Policy Framework
RLZ	Rural Living Zone
SUZ3	Special Use Zone Schedule 3
VPP	Victoria Planning Provisions

## Minimum lot size references

Zone	Qualification	Minimum lot size	Alternative expression
Rural Residential Zone	default	20,000 square metres	~ 5 acres, 2 ha
	<i>for information</i>	10,000 square metres	~ 2.5 acres, 1 ha
	<i>for information</i>	4,000 square metres	~ 1 acre
Low Density Residential Zone	default unsewered	4,000 square metres	
	default sewered	2,000 square metres	~ ½ acre
Neighbourhood Residential Zone	NRZ6	1,400 square metres	~ ⅓ acre
	<i>for information</i>	1,000 square metres	~ ¼ acre
	NRZ7	800 square metres	~ ⅓ acre

## Overview

### Amendment summary

The Amendment	Moorabool Planning Scheme Amendment C88
Common name	<i>Ballan Strategic Directions</i>
Brief description	The Amendment proposes to implement the <i>Ballan Strategic Directions</i> a Council adopted strategy to guide land use and development in Ballan. The Amendment makes policy changes and rezones land.
Subject land	The Amendment applies to Ballan
Planning Authority	Moorabool Shire Council
Authorisation	20 July 2018
Exhibition	30 August to 11 October 2018
Submissions	Council received 42 submissions (including three late submissions), of which 35 submissions object or seek changes to the Amendment

### Panel process

The Panel	Lester Townsend (Chair) and Shelley McGuinness
Directions Hearing	Ballan, 4 April 2019
Panel Hearing	Ballan, 28, 29 and 30 May 2019
Site inspections	Unaccompanied 4 April and 28, 29 May 2019
Appearances	Moorabool Shire Council represented by Bronwyn Pettitt of Mesh Planning instructed by Rod Davison of Council Janine Mitchell Joanne Bell and Joe Cremona Morgan and Griffin represented by Stuart Morris SC and Jane Sharp of Counsel instructed by Morgan and Griffin, calling the following expert evidence: - Town planning from John Glossop of Glossop Town Planning - Civil Engineering from John Maxwell of SMEC - Flooding from Warwick Bishop of Water Technology Kingchip Pty Ltd represented by Sean O'Keeffe of Southern Cross Town Planning Pty Ltd MJN Group represented by Manuel Jimenez-Navarro Dmitry Popov represented by Elle Harrington of SJB Planning R and Y Erwin represented by Melinda Holloway of Urban Design and Management

Ned and Trudy Nancarrow represented by Robert Eskdale of EDQ  
Town Planning

Steven and Dawn Keith represented by Robert Eskdale of EDQ Town  
Planning

Albert Jarvis

John Kowarsky

Concetta McFall

Noel Hodge represented by Neil Haydon

Urick and Elizabeth Ivchenko

Simon Fraser represented by Chris Marshall of TGM Group

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Citation Moorabool PSA C88 [2019] PPV

Date of this Report 4 July 2019

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## Executive summary

As exhibited Moorabool Planning Scheme Amendment C88 (the Amendment) seeks to:

- change policy text and the Ballan Framework Plan at Clause 21.08 of the Moorabool Planning Scheme (planning scheme)
- change residential zones and zone schedules affecting all residentially zoned land in Ballan
- change the Ballan Industrial Estate from the Industrial 2 to the Industrial 1 Zone
- change the zoning of part of the Ballan Golf Course from the General Residential Zone to the Special Use Zone Schedule 3.

The Amendment implements the Council strategy, the *Ballan Strategic Directions*.

Key issues raised in submissions included:

- the Amendment was too complex
- the provisions depend on the *Ballan Strategic Directions* which has not been incorporated into the planning scheme
- the Amendment does not make adequate provision for land supply
- the extent of the township boundary and whether Precincts 7, 8 and 9 ought to be included
- the prioritisation of Precinct 5 ahead of Precinct 6 for urban growth
- density of development allowable, in particular where recent development does not meet the proposed lot size restrictions
- location of open space
- rezoning to industrial.

The Ballan Framework Plan implements a number of urban design concepts across a range of precincts. Issues raised in relation to these concepts included:

- protection of the Werribee River corridor
- lower density development north of the Werribee River
- the urban-rural interface
- gateways.

The Panel finds that the Amendment is generally well-founded.

Having considered the submissions and evidence, the Panel believes that there is need to act in the short term to augment land supply in Ballan to maintain a 15 year minimum supply. There may be merit in progressing development south of the rail line in the short term – ahead of the timing proposed in the *Ballan Strategic Directions*, but the Panel notes that there is nothing in the proposed Amendment that would prevent earlier development in these precincts. The Panel agrees that Precincts 8 and 9 should be included in the township boundary to recognise their development potential and to better manage land supply moving forward.

There is also a potential issue with industrial land supply, and a missed opportunity to support economic development in Ballan at present. The Panel supports rezoning additional land to Industrial 1 Zone.

In terms of planning the areas identified for expansion, the Panel believes that the appropriate boundary for residential development and open space should be determined during the rezoning process. However, undeveloped land in the river valley within the township boundary should be given over to open space or conservation purposes. The Panel does not

think that that farming is an appropriate land use within the town and, in the future, farming land should transition to open space and provide for the protection and enhancement of the Werribee River.

The Panel agrees that the use of the Neighbourhood Residential Zone is broadly appropriate as is the strategic approach of limiting the density of development north of the river in areas of existing development.

The Amendment specifies lot sizes for a transition from urban to rural development and for gateway treatment to Ballan. The Panel concludes:

- the lot size and other controls proposed for an effective urban–rural transition have not been established and should be determined as part of detailed plans for the growth precincts
- the lot size and other controls proposed for an effective gateway treatment have not been established and should be determined as part of detailed plans for the growth precincts.

The Panel agrees with submissions that some areas have experienced recent development such that the character identified in the *Ballan Strategic Directions* is no longer accurate. Some precinct boundaries (and associated proposed zones) should be adjusted accordingly.

In terms of Precinct 5, a significant growth area, the Panel concludes:

- the location of open space should be determined following more detailed planning for the area
- planning should be undertaken on a ‘whole of precinct’ basis that includes all landholders.

The Panel has concerns with the proposed reference to the *Ballan Strategic Directions* in policy in the planning scheme. It is not appropriate to rely on a background document to the extent proposed in the Amendment.

### **Recommendations**

**Based on the reasons set out in this Report, the Panel recommends that Moorabool Planning Scheme Amendment C88 be adopted as exhibited subject to the changes proposed by Moorabool Shire Council in its post-exhibition version (Document 39), and the following changes as presented in Appendix C:**

- 1. Remove all reference to the *Ballan Strategic Directions* June 2018 in policy. The *Ballan Strategic Directions* will simply be a background document.**
- 2. Update Clause 21.08-2 to read:**
  - **Implement and maintain a township boundary until land supply approaches 15 years.**
- 3. Update the Ballan Framework Plan at Clause 21.08 of the Moorabool Planning Scheme:**
  - a) as it applies to Precincts 1, 2, 3 and 4 to change the notation of developable land to ‘Greenfield growth’ and identify the escarpment as ‘Proposed open space’.**
  - b) as it applies to Precincts 4 and 5 to replace the area identified as ‘Rural Living – 10,000m<sup>2</sup> min’ with ‘Proposed Lower densities’.**

- c) as it applies to Precinct 5 to broaden the 'Investigation area' of the proposed active open space to include both the location preferred by Council and the location preferred by the land owner.
  - d) to include Precincts 8 and 9 in the township boundary.
  - e) to replace specific lot size notations along Old Melbourne Road (including number 462) with a more general notation that says 'Proposed larger residential allotments'.
4. Make the following changes to the proposed zones:
- a) Rezone 12 Flack Street, Ballan to Neighbourhood Residential Zone Schedule 7.
  - b) Rezone the area east of Crook Court, Ballan south of Old Melbourne Road and west of Old Geelong Road to General Residential Zone Schedule 4.
  - c) Rezone land abutting the south side of Densley Street, Ballan to Low Density Residential Zone but provide a 2,000 square metres minimum lot size for the land in the Schedule.
  - d) Rezone the land proposed to be rezoned to Special Use Zone Schedule 3 to Neighbourhood Residential Zone Schedule 6.
  - e) Rezone 164 Kerrins Lane, Ballan (Lot 2 on PS802215) to Industrial 1 Zone.

# 1 Introduction

## 1.1 The Amendment

As exhibited the Amendment proposes to:

- change policy text and the Ballan Framework Plan at Clause 21.08 of the planning scheme
- change residential zones and zone schedules affecting all residentially zoned land<sup>1</sup>
- change the Ballan Industrial Estate from Industrial 2 to Industrial 1 Zone
- change the zoning of part of the Ballan Golf Course from General Residential Zone (GRZ) to Special Use Zone Schedule 3 (SUZ3).

The Amendment implements the Moorabool Shire Council (Council) strategy, the *Ballan Strategic Directions*.

The proposed Ballan Framework Plan (Framework Plan) is shown in Figure 1.

A key element of the Framework Plan is the identification of ‘growth types’. Many of these types are called ‘Minimal growth’ which the Panel finds confusing especially when they are applied to undeveloped land.

The minimum lot size associated with each growth type is shown in Table 1.

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<sup>1</sup> The exhibited Amendment proposed to ‘introduce’ the LDRZ Schedule 1 to the planning scheme and ‘apply’ it to land in the LDRZ. However, the LDRZ Schedule 1 was introduced into the planning scheme in Amendment C79 gazetted on 15 November 2018.

Figure 1: Framework Plan (Council's final version)

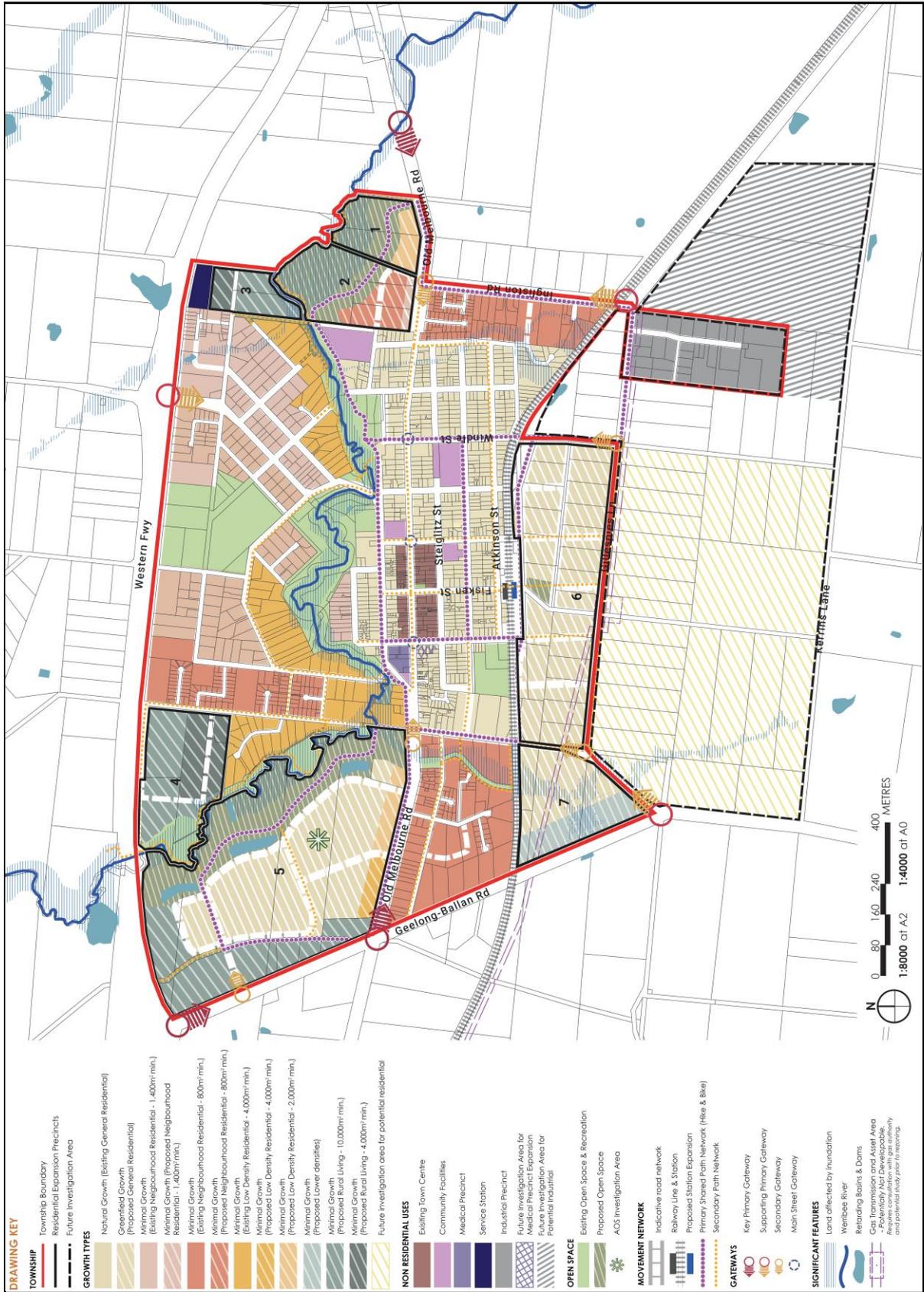


Table 1: Growth types and application of zones

Description and zone	Lot size in square metres	Zone colour	Precincts	Where it applies
<b>Natural and greenfield growth – General Residential Zone (GRZ)</b>				
GRZ4	–			Existing General Residential
				Greenfield Growth – proposed General Residential
<b>Minimal Growth – Neighbourhood Residential Zone (NRZ)</b>				
NRZ7	800		E and G	Existing GRZ areas with development potential
			2	Proposed in Precinct 2
NRZ6	1,400		C and D	Existing areas north of the Werribee River
			2	Proposed in Precinct 2 along parts of Old Melbourne Road
<b>Minimal Growth – Low Density Residential Zone (LDRZ)</b>				
LDRZ	2,000		1 and 5	Proposed along parts of Old Melbourne Road
	4,000			Existing Low Density Residential area abutting Werribee River
			5	Proposed along parts of Old Melbourne Road
<b>Minimal Growth – Rural Living Zone (RLSZ)</b>				
RLZ	'Proposed lower densities'		7	Rural transition
	4,000		3 and 4	Proposed in Precincts 3 and 4
	10,000		3 and 5	Proposed fronting the river in Precinct 3 and as rural transition in Precinct 5

## 1.2 Procedural issues

### Late submissions

Three late submissions were received:

- Submission 40 received on 14 April 2014
- Submission 41 received on 23 April 2019
- Submission 42 received on 13 May 2019.

These submissions were not considered by Council. Council did not object to the Panel considering the submissions. An officer response to the late submissions was provided.

### Authorisation

On 20 July 2018, a delegate of the Minister for Planning authorised Council to prepare the Amendment subject to two conditions:

- the Amendment documentation must conform with the Ministerial Direction – *Form and Content of Planning Schemes*
- prior to exhibition, Council must clarify how the objectives proposed in Schedule 4 to the General Residential Zone will be achieved through the provisions of the zone, particularly as they relate to fencing, and how the *Ballan Strategic Directions* support the changes to Schedule 4 to the General Residential Zone.

## 1.3 Summary of issues raised in submissions

### (i) General issues

A number of submissions raised general issues about the Amendment including:

- the Amendment was too complex
- the provisions depend on the *Ballan Strategic Directions* which has not been incorporated into the planning scheme.
- the Amendment does not make adequate provision for land supply
- the extent of the township boundary and whether Precincts 7, 8 and 9 ought to be included
- the prioritisation of Precinct 5 ahead of Precinct 6.

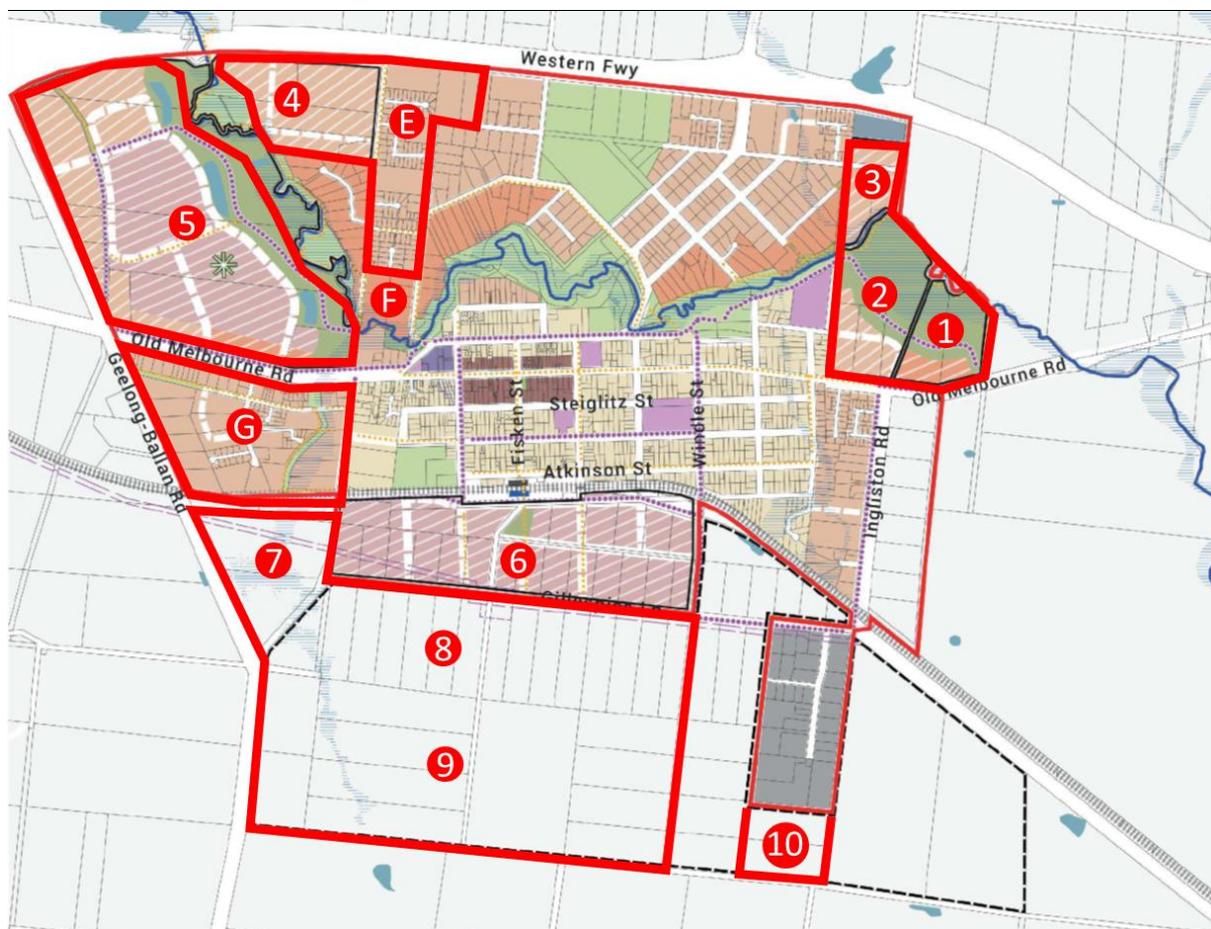
The Framework Plan implements a number of urban design concepts across a range of precincts. Issues raised in relation to these concepts included:

- protection of the Werribee River corridor
- lower density development north of the Werribee River
- the urban-rural interface
- gateways.

**(ii) Site specific issues**

A number of submissions addressed concerns on particular sites.

**Figure 2: Site specific issues (exhibited Framework Plan)**



Source: Prepared by the Panel

**Table 2: The issues raised in relation to the Amendment**

Area on Figure 2	Key issues raised in submissions
F	Justification for increasing minimum lot size to 4,000 square metres
E and G	Density of development allowable, in particular where recent development does not meet the lot size restrictions. Extent of Precinct E
1, 2, 4, 5 and 6	Density of development allowable on undeveloped land
5	Location of open space
6	Prioritisation for growth
7, 8 and 9	Inclusion into the town boundary
10	Rezoning to industrial

## 1.4 The Panel's approach

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

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits and submissions, evidence and other material presented to it during the Hearing. It has reviewed a large volume of material, and has had to be selective in referring to the more relevant or determinative material in the Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Complexity and operation
  - Complexity
  - Use of the Ballan Strategic Directions
- Catering for growth
  - Land supply
  - Precincts 7, 8 and 9
  - Precinct 6
  - Change to township boundary to the east
- Urban design concepts
  - Protection of the Werribee River corridor
  - Use of the NRZ and lower density development north of the river
  - Interfaces
  - Gateways
- Changes to existing residentially zoned area
  - NR6 – Precincts C and D – north of the Werribee River
  - NR7 – Precincts E and G – areas being developed
  - Low Density Residential Zone
- Structure planning of new development areas
  - Precincts 1, 2, 3 and 4
  - Precinct 5
  - Precinct 6
- Specific sites
  - Golf course land
  - 91 and 95 Inglis Street, Ballan
  - Industrial Zone.

## 1.5 Limitations

The Panel has not addressed detailed drafting issues beyond the issues raised in submissions. The Panel understands that the translation of the Moorabool Local Planning Policy Framework into the Planning Policy Framework (PPF) format will address drafting issues.

## 2 Background and policy context

### 2.1 Overview

Ballan is close to the Western Freeway and served by the Melbourne–Ballarat railway line. It has convenient access to higher order services and employment in Bacchus Marsh, Ballarat and Melbourne. Ballan’s strong historical and village character in a rural setting delivers an attractive housing choice.

The planning for Ballan has a relatively complex history including:

- the *Ballan Structure Plan* which was not progressed
- an unsuccessful application of the NRZ reviewed by the Residential Zone Standing Advisory Committee in June 2014
- the *Ballan Strategic Directions* that underpin this Amendment
- Moorabool 2041 program of strategic work.

Ballan is identified in *Plan Melbourne 2017–2050* and the *Central Highlands Regional Growth Plan* as a sub-regional township suitable for ongoing growth.

While not directly relevant to the Amendment, it is worth noting that Council has commenced a review of the planning scheme. The review will update the planning scheme based on recent strategic work. The review will also be used to identify planning gaps and assist in mapping out a future strategic work program for Council.

The review will also align with emerging Smart Planning directions to be more streamlined and user-friendly, offering greater certainty and assistance in decision-making.

### 2.2 Background

#### (i) The *Ballan Structure Plan*

In 2011–2012, Council undertook extensive consultation with the community to prepare the *Ballan Structure Plan*. This included workshops, face-to-face meetings and representation at community events.

Through this initial consultation with the Ballan community, a number of key themes emerged including:

- character
- gateways
- environment, sustainability, natural and cultural heritage
- complementary future development
- physical and social.

On 17 December 2015, Council resolved to adopt the *Ballan Structure Plan* and to seek authorisation from the Minister for Planning to prepare and exhibit Amendment C69.

Following adoption of the *Ballan Structure Plan*, regional policies guiding the development of Ballan changed. The authorisation conditions for Amendment C69 also identified a number of inconsistencies with the *Ballan Structure Plan* and required Council to provide further strategic justification for the Amendment.

Consequently, Council decided not to exhibit Amendment C69.

**(ii) Central Highlands Regional Growth Plan**

The *Central Highlands Regional Growth Plan* May 2014 (regional growth plan) identified Ballan as having a future settlement role of a 'Town' with medium growth potential.

The description of the future role of a 'Town' in the Central Highlands settlement network contemplates (Page 45):

- Have a diverse to moderately diverse population and housing base with retailing, moderate employment and good access to services, including some higher order services, such as medical and hospital services and some education facilities.
- Some towns have strong employment relationships with larger high order settlements nearby.
- All utility services are provided for, with some larger towns having access to reticulated gas.
- Provide an important sub-regional goods and service role, servicing smaller town and rural district needs including local government, policing and ambulance services to a surrounding rural hinterland.

In relation to the scale of population increase, the regional growth plan expects (Page 46):

- Consistent annual rate of development of planned housing areas in cities, centres and towns and some new areas of subdivision to supply moderate local or external demand.
- Existing infrastructure can generally be augmented to meet demand without constraining land supply. More major works may be needed for some new areas.
- Has a typical annual population growth rate of between 100 and 400 people.

The regional growth plan supports the growth of Ballan and provides specific future directions to:

- Support Ballan as a town providing services consistent with its role in the peri-urban region.
- Support residential growth that respects the surrounding rural character and environmental attributes.
- Encourage local employment opportunities.

The regional growth plan identifies Ballan's strategic location between Bacchus Marsh and Ballarat in the heart of the peri-urban part of the Central Highlands region, its location adjacent to the Western Freeway and on the Melbourne-Ballarat railway line, which mean it will most likely continue to attract steady growth.

Development pressure on the town is projected to increase in the long term when residential development opportunities become scarce in Bacchus Marsh. The regional growth plan states (Page 53):

Although there is sufficient residential land available to meet demand for the short- to medium-term, including infill opportunities, further residential land supply should be considered to the west or south of the town. Additional infrastructure will be required to service any future growth.

It recommends a structure plan process to help guide preferred locations for future development which should be focused within a designated urban boundary (Page 53).

The regional growth plan further specifies that provided proposals are consistent with the Municipal Strategic Statement, proposals will be "*favourably considered, providing usual development requirements are met*".

Land use policies, strategies and actions identified for Ballan (Page 54) are:

- Finalise and implement a structure plan to identify preferred locations for growth for Ballan.
- Focus residential development within the town boundary over the short- to medium-term.
- Provide appropriate policy support and provisions in the planning scheme to protect residential character and landscapes.
- Retain and enhance services and facilities appropriate to servicing the local community

**(iii) Residential Zones Standing Advisory Committee**

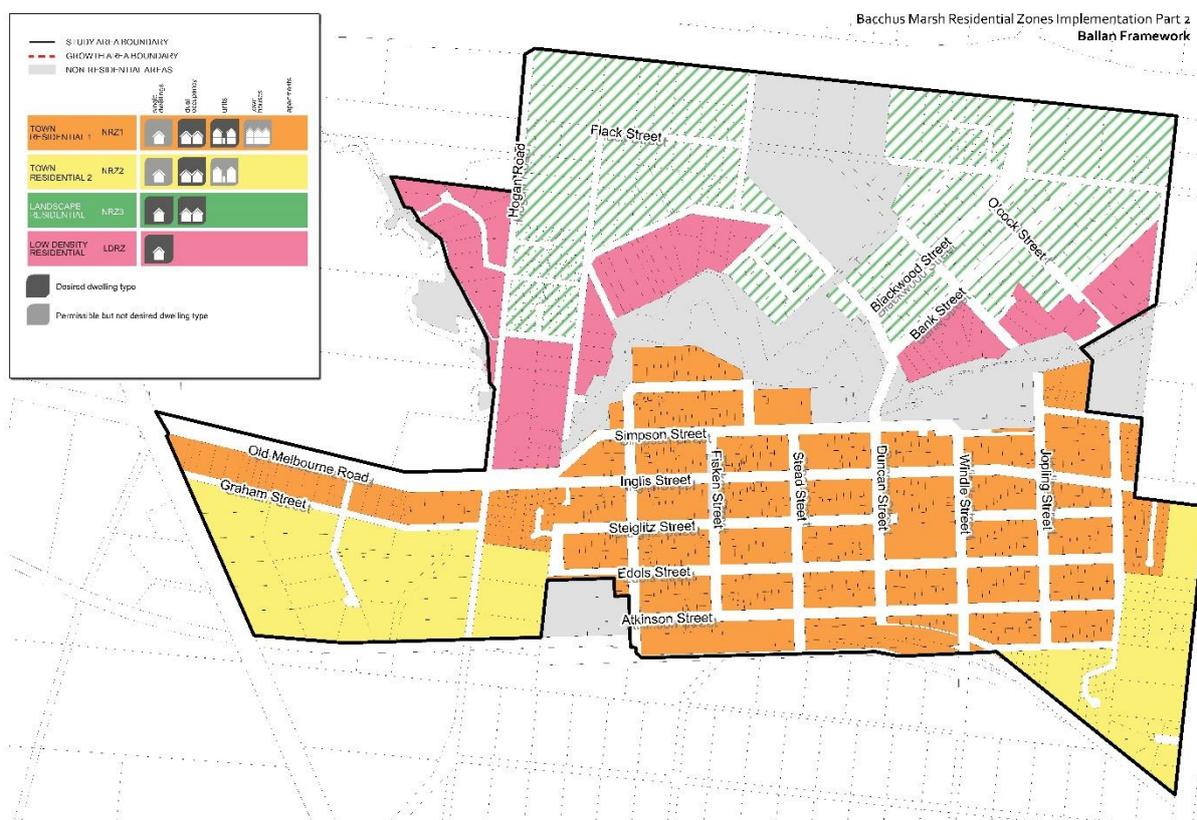
Council previously sought to introduce the new residential zones as part of Amendment C72, in 2014. Council proposed to introduce the NRZ to all areas of Ballan in the form of three schedules:

- NRZ1 was to be applied to areas which have relatively good access to transport and services but with existing neighbourhood or heritage character
- NRZ2 was to be applied to areas which are more distant from transport and services
- NRZ3 was to be applied to areas which are distant from transport and services, have a constrained urban form and an existing character which is low density residential in nature.

The three schedules were to reflect the differences between:

- residential areas to the south of the Werribee River comprising the main core of the township were to be NRZ1.
- the area at the eastern edge of the township was to be NRZ2.
- larger lot residential areas on the north side of the river were to be subject to the NRZ3.

The proposed application of the zones is shown at Figure 3.

**Figure 3: Proposed zonings in Ballan as part of Amendment C72**

The Residential Zone Standing Advisory Committee considered that Ballan has significant potential for ongoing development as a residential community in its own right and not just as a dormitory suburb servicing Ballarat and Melbourne.

Having inspected Ballan, the Committee believed that while some areas might warrant the NRZ, the central area of the town warrants the GRZ. The Committee noted that this central area (generally bounded by Simpson, Stead, Atkinson and Cowie Streets) is well located to a range of facilities and infrastructure such as the railway station, commercial area and community facilities such as the hospital. It also contains lots that are of a size and dimension that make them suitable candidates for medium density development. The recent medium density housing developments seem entirely appropriate in their context and the Committee was satisfied that this type of development should be encouraged.

As far as the areas on the north side of the river were concerned, the Committee agreed with Council that this area has an existing 'low density' residential character that is quite different to the more conventional residential development in the areas to the south of the river. On this basis, the Committee believed that these areas were potential candidates for the NRZ, but that the provisions in the proposed NRZ3 should be reviewed in light of implementation issues raised in submissions relating to Bacchus Marsh.

The Committee recommended:

Apply the General Residential Zone, with no requirements specified in the schedule, to Ballan.

The proposed rezoning to NRZ did not proceed.

**(iv) Plan Melbourne**

*Plan Melbourne* identifies Bacchus Marsh and Ballan as peri-urban towns with potential to attract housing and population growth out of Melbourne without impacting on the economic and environmental roles that surrounding non-urban areas serve.

**(v) Ballan Strategic Directions**

In August 2016, Council initiated the *Ballan Strategic Directions* through its consultant, Mesh Planning and Urban Design. The document was to be informed by a plan-based analysis of opportunities and constraints, Council plans and strategies, information and comments from technical experts, community consultation, engagement with Council officers and the now superseded *Ballan Structure Plan*. A staged approach was proposed:

- Phase 1 comprised a background and context review which involved a policy review, site visit and identification of gaps in any existing material. The purpose of this review was to gather information to commence a plan-based analysis of Ballan.
- Phase 2 prepared a plan that built on the information gathered within Phase 1 and included a detailed review of the landscape and character of Ballan.
- Phase 3 prepared the Ballan Framework Plan.
- Phase 4 prepared Draft *Ballan Strategic Directions*.

In preparing the *Ballan Strategic Directions*, Mesh considered a number of technical reports and strategies, including:

- Ballan Structure Plan Access and Movement Draft Report, June 2012
- Ballan Structure Plan Landscape Concepts, June 2012
- Ballan Structure Plan Consolidated Background Report, December 2012
- Ballan Structure Plan Community Consultation Document, 2012
- Ballan Structure Plan, 2015
- Ballan Urban Design Framework, August 2003.

The *Ballan Strategic Directions* progress from a high-level vision and key guiding principles, through to the identification of objectives and strategies to achieve the vision, including implementation strategies to introduce the *Ballan Strategic Directions* into the planning scheme, and decision-making processes.

The *Ballan Strategic Directions* identify a number of key themes for Ballan, which include 'sensitive growth' and 'country charm' as Council thought they best represented the unique character, composition and distinct identity of the town, and form the basis for a clear and long term vision for Ballan.

Council exhibited the *Ballan Strategic Directions* in June and July 2017 and received 21 submissions.

Council considered the submissions and adopted the *Ballan Strategic Directions* on 1 November 2017, replacing the existing *Ballan Structure Plan*.

**(vi) Moorabool 2041**

'Moorabool 2041' is a project commenced in 2012 to guide the growth and development of the Shire through to 2041. Moorabool 2041 aims to develop a vision and provide a guide for sustainable development in appropriate locations addressing land use, amenity and lifestyle opportunities and matching growth to the provision of physical and social infrastructure.

There is no single document titled ‘Moorabool 2041’ – rather, it is an umbrella term for Council’s key strategic documents:

- *Housing Bacchus Marsh to 2041*
- *Small Towns and Settlements Strategy*
- *Ballan Strategic Directions*
- *Bacchus Marsh Urban Growth Framework*.

Moorabool 2041 has underpinned four planning scheme amendments – three of which are completed.<sup>2</sup>

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2 *Housing Bacchus Marsh to 2041*– Amendment C79 (Gazetted 15 November 2018)  
*Bacchus Marsh Urban Growth Framework* – Amendment C81 (Gazetted 6 December 2018)  
*Small Towns and Settlements Strategy* – Amendment C78 (Gazetted on 31 May 2018).

## 3 Complexity and operation

### 3.1 The issues

Concerns were raised that:

- the Amendment was too complex
- the provisions are dependent on the *Ballan Strategic Directions* which has not been incorporated into the planning scheme.

### 3.2 Complexity

The Amendment proposes to implement the *Ballan Strategic Directions* by rezoning established areas, and by providing strategic guidance for future rezoning in growth precincts.

The objectives of the *Ballan Strategic Directions* as it relates to established areas will be included in the planning scheme by the introduction of new zone schedules.

The broader objectives and strategies of the *Ballan Strategic Directions* will be incorporated through changes to Clause 21.08.

The Panel does not think that the Amendment is particularly complex. There is a degree of detail in the provisions, but the overall structure and approach of the Amendment is typical of this type of Amendment. It has been drafted to comply with the Ministerial Direction – *Form and Content of Planning Schemes*.

The Panel makes a number of observations and recommendations in relation to specific aspects of the proposed controls and policy, but these do not indicate excessive complexity overall.

### 3.3 Use of the *Ballan Strategic Directions*

#### (i) The issue

Submissions 22, 23 and 28 raised concerns regarding proposed development pre-conditions and associated concept plans applicable to Precincts 1, 2 and 5 in Section 4.2.4 of the *Ballan Strategic Directions*.

#### (ii) What does the Amendment propose?

Section 4.2.4 of the *Ballan Strategic Directions* details for each proposed growth precinct:

- development considerations and opportunities
- a suite of development pre-conditions, to ensure that future rezoning or development appropriately responds to environmental values and constraints, site context and neighbourhood character, infrastructure provision and road networks
- a high level concept plan which demonstrates how the precinct should be developed in the future.

#### (iii) Evidence and submissions

Council submitted in its Part A submission (Part A) (para 235):

*Ballan Strategic Directions* is listed as a reference document to ensure that decision making, including the future rezoning of growth precincts, is utilised as a strategic

guidance tool. This is not an uncommon approach in the implementation of significant strategic work.

**(iv) Discussion**

The Panel agrees with submission made by Morgan and Griffin at the Hearing that the *Ballan Strategic Directions* is ‘having its season’ as part of the Amendment, and will have ‘had its season’ once the Amendment is approved. While it would be a useful background document it should have no statutory weight.

The Panel notes that clause 72.08 of the VPP ‘background documents’ states:

A background document does not form part of this planning scheme.

While the pre-conditions in the *Ballan Strategic Directions* may express Council’s current thinking, Council is not bound by those pre-conditions into the future. Whether the pre-conditions are appropriate or not would be the subject of a future amendment process.

Clause 21.08 makes a couple of references to the *Ballan Strategic Directions* in strategy text.

The *Practitioner’s Guide*<sup>3</sup> says in relation to decision guidelines:

References to local policies and unincorporated studies, statements of significance or strategies should generally be avoided as they may unintentionally broaden the scope of matters for consideration.

It also says:

A document must be incorporated if the document is:

- To be used to guide the exercise of discretion by the responsible authority (except for a development plan under the Development Plan Overlay, which does not need to be incorporated).

At the Hearing, Council confirmed that it did not seek the incorporation of the *Ballan Strategic Directions* and the Panel would not support incorporation. References to the *Ballan Strategic Directions* in strategies should be removed.

**(v) Recommendation**

The Panel recommends:

**Remove all reference to the *Ballan Strategic Directions* in policy. The *Ballan Strategic Directions* will simply be a background document.**

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<sup>3</sup> A Practitioner’s Guide to Victorian Planning Schemes (2018), DELWP.

## 4 Catering for growth

### 4.1 The issues

The issues are:

- whether the Amendment makes provision for adequate land supply
- the extent of the township boundary and whether Precincts 7, 8 and 9 ought to be included
- the prioritisation of Precinct 5 ahead of Precinct 6.

### 4.2 Land supply

#### (i) What does the Amendment propose?

Clause 21.08-2 'Character and sense of place' has the following objective and includes the following strategies (among other strategies):

To protect and enhance Ballan's character and sense of place as a country town, with historic built form and streetscapes, surrounded by scenic rural and natural areas.

#### Strategies

- Implement and maintain a township boundary until the planned level of growth is nearing completion and there is demonstrable demand for further growth.
- Confine residential development within the township boundary, in accordance with the Ballan Framework Plan, to enhance the town's sense of place.

Clause 21.08-6 'Residential development' has the following objective:

To guide residential development in accordance with Ballan's future character and demographic needs.

The clause includes strategies that reference low density housing types, but the key strategy around lot size is reflected on the Framework Plan and the proposed zone schedules.

#### (ii) Evidence and submissions

Council acknowledged that Clause 11.02-1S of the Planning Policy Framework requires a 15 year supply of residential land.

Two submissions (Submissions 25 and 29) raised concerns that the Amendment would not be able to adequately cater for the projected growth of Ballan, given that the Amendment will reduce growth potential in the proposed NRZ areas and additional planning scheme amendments will be required to rezone land in the future growth precincts.

Council advised in its Part A submission (Para 163) that in April 2017, as part of the preparation of the *Ballan Strategic Directions*, it engaged Essential Economics to provide an independent high-level assessment of residential land supply and demand.

As part of preparing for the Hearing, Council requested the consultant that undertook the initial land supply assessment – Mr Chris McNeill of Essential Economics (now Ethos Urban following merger in December 2018) – provide an updated report.

The assessment concluded:

- ... that Ballan increased its population by an average of 58 persons per annum between 2006 and 2016. Forecast growth anticipates a significant increase to 125

persons per annum in the future (2019 to 2041). Based on the township's location, transport infrastructure and an ongoing pipeline of developable residential land, the forecast population growth figures are plausible.

- that there is a supply of residential land which comprised of a potential supply yield of approximately 360 lots in established areas of the township, and approximately 1,100 lots in identified growth precincts
- that based on the future population growth, and the estimated yield of lots, the Amendment would cater for a potential land supply of approximately 27 years.

Morgan and Griffin submitted:

- The land supply estimates provided by Essential Economics (and Ethos Urban) do not place sufficient weight on the potential seven year time frame to bring residential land to the market.
- The land supply estimates do not give sufficient weight to the constraints affecting development, for example, fragmented land ownership, infrastructure challenges, cultural heritage, native vegetation and neighbourhood character issues.
- Although Clause 11.02-1S provides that planning should accommodate projected population growth over at least a 15 year period, this should not be applied as a 'cap' on land supply to only 15 years (noting the strategy states "*over at least 15 year period*").
- Nomination of the township boundary of Ballan should not be restricted to an inflexible application of an estimated 22 year population to 2041.
- If land is considered to be strategically appropriate to accommodate future population growth, planning provisions in the planning scheme can ensure that out-of-sequence re-zoning does not occur. As exhibited, Clause 21.08 already includes provisions in the Greenfield Growth Area including:
  - Supports the logical sequencing of development within the defined settlement boundary in a manner that can effectively access existing services, and bring forward key infrastructure and services where needed.
  - Avoids interim subdivision of land in identified 'greenfield' areas prior to rezoning in accordance with the *Ballan Strategic Directions* June 2018, to minimise further fragmentation and maintain growth potential.
- Finally, any application for re-zoning will be required to be supported by a land supply analysis together with assessment of infrastructure provision. This will ensure development is delivered in an orderly manner – noting, of course, that a planning scheme amendment will generally need Council support before it is authorised.

### **(iii) Discussion**

Council's submission that there is adequate land supply to 2041 ignores the need to maintain a rolling supply of at least 15 years.

The estimated 27 years of land supply can be broken down into 6.7 years supply for established precincts, and 20.3 years supply in growth precincts.

On the figures presented for greenfield development, a 20 year supply does not mean no action is required until 2041. It means that:

- in 2041 supply will be exhausted, implying
- in 2026 supply will reach the minimum 15 year threshold, implying
- in 2021 rezoning will need to begin to augment supply allowing for typical approval and design lead times.

Rather than taking comfort from the supply figures produced by Mr McNeill, Council should be taking action to augment supply now.

The Panel notes that Mr McNeill has given evidence on land supply in regional towns in the past. For Kyneton:<sup>4</sup>

Mr McNeill in response to a question from the Chair about how a planning authority ought to be feeling in certain municipal land supply scenarios stated:

- 5 years supply – alarmed
- 10 years supply – concerned
- 15 years supply – cautious
- 20 years supply – satisfied
- 25 years supply – comfortable
- 30 years supply – still comfortable
- 35 years supply – still comfortable.

#### **(iv) Conclusion**

The Panel concludes:

- there is need to act in the short term to augment supply in Ballan to maintain a 15 year minimum supply – this will require future rezoning of land.

### **4.3 Precinct 6**

#### **(i) The issue**

Submission 2 sought high density residential and multi storey apartments in Precinct 6.

A number of submissions (2, 14, 15, 16, 19, 24, 25, 26 and 40) felt Growth Precinct 6 should be prioritised ahead of Growth Precinct 5.

#### **(ii) What does the Amendment propose?**

The *Ballan Strategic Directions* support the delivery of Precinct 5 as a priority (short-medium term; 1-10 years) and identifies Precinct 6 with a medium-long term timing (10+ years) but notes that timeframes are indicative only subject to further review based on demand.

Clause 21.08-6 'Residential development' has the following objective and includes the following strategies (among other strategies):

To guide residential development in accordance with Ballan's future character and demographic needs.

#### **Strategies**

- Support both infill and greenfield residential development to provide diverse housing opportunities.
- Ensure new development in Greenfield Growth Areas of the Ballan Framework Plan:
  - Supports the logical sequencing of development within the defined settlement boundary in a manner that can efficiently access existing services, and bring forward key infrastructure and services where needed.

<sup>4</sup> Macedon Ranges Planning Scheme Amendments C99, C103 and C105 Panel Report 1 July 2016.

**(iii) Evidence and submissions**

A number of submissions suggested that Growth Precinct 6 should be prioritised ahead of Growth Precinct 5, because Precinct 6 was closer to the railway station and closer to town services.

Mr Kowarsky summarised what many saw as the advantages of Precinct 6 in a table.

**Table 3: Mr Kowarsky's summary of the advantages of prioritising Precinct 6**

Feature	Southern Option	Western Option
Preferred by the community	✓	✗
Making a central hub for the township — creating a cultural heart	✓	✗
Best pedestrian and cyclist access to Railway Station, Town centre and Sports facilities	✓	✗
Least traffic	✓	✗
Least parking problems	✓	✗
Least greenhouse gas generation	✓	✗
Best protection of Werribee River and floodplain ecological values	✓	✗
Best protection of rural and hillside landscape values seen from Ballan's main street	✓	✗
Best potential for future central and convenient siting of school and other facilities	✓	✗

Precinct 5 and Precinct 6 are both located about 400 metres from the Ballan Activity Centre, at their closest points, but Precinct 6 is much closer to the railway station.

Council submitted in Part A (para 178) that during the preparation of the *Ballan Strategic Directions*, Council had not received any indication of developer interest in land located south of the railway line, unlike Precinct 5 which had progressed to providing a number of technical reports relating to the landowners' intention to rezone the land for residential purposes. In preparation of this submission, Council met with the majority landowner of Precinct 5 and confirmed that it intended to proceed with a planning scheme amendment to rezone the land in accordance with the *Ballan Strategic Directions* soon after the approval of the Amendment.

Central Highlands Water (Submission 32) stated that any move to bring forward the development of Precinct 6 would not be supported and may require substantial investment in water and sewerage infrastructure by the future developers of the land.

In its Part B submission (Part B) Council advised (para 73) that Transport for Victoria reaffirmed its position on the need for upgrades to existing rail crossings or additional crossings. It advised that its position remains unchanged from their previous advice of 17 July 2017.

**(iv) Discussion**

The Panel notes that there is an active development proposal for Precinct 5, and that this precinct is likely to be developed ahead of Precinct 6 for this reason.

Precinct 6 has the advantage of being much closer to the railway station. Landowners in this precinct could potentially commence discussions with the relevant agencies, with a view to reaching agreement for the forward planning and ultimate servicing of this precinct. This is consistent with Council's resolution of 1 November 2017 (when Council initially adopted the *Ballan Strategic Directions*), which included the following commentary:

That Council may also consider supporting development in the Southern Growth Area ahead of schedule subject to:

- a) Cooperation amongst landowners in terms of developing a masterplan with agreement of the efficient roll out of roads and open space.
- b) Satisfying Transport for Victoria's concerns about infrastructure costs, an analysis to determine the extent, nature and cost of any required rail crossings and a plan developed for financing these crossings.
- c) Supply and demand analysis to indicate that the project is needed.

The Panel notes that there is nothing in the proposed Amendment that would directly prevent earlier development in Precinct 6.

**(v) Conclusions**

The Panel concludes:

- there may be merit in progressing development south of the rail line in the short term
- there is nothing in the proposed Amendment that would directly prevent earlier development in in Precinct 6.

**4.4 Precincts 7, 8 and 9****(i) What does the Amendment propose?**

Precincts 7, 8 and 9 are south of the railway which is more or less the current extent of urban development.

As exhibited:

- Precinct 7 was not included within the township boundary
- Precincts 8 and 9 were not included within the township boundary, but were nominated as 'Future Investigation Area'.

The revised Framework Plan, provided in Council's Part C submission (Part C), places:

- Precinct 7 within the township boundary and identifies it as a 'Residential Expansion Precinct'
- Precinct 8 and 9 in a 'Future Investigation area' and identifies them for 'Potential Residential'.

**(ii) Evidence and submissions**

A number of submissions addressed greenfield development south of the railway line:

- Submission 5 – supported greenfield development

- Submission 14, 15, 16, 26 – preferred greenfield development south of the railway line
- Submission 13 – supported infill development with greenfield to follow.

Morgan and Griffin owns land generally bounded by Geelong–Ballan Road, Old Cemetery Road–Gearys Lane, Drivers Lane, Denholms Road and the railway line. Its land is located south of Ballan and the railway line in Precincts 7, 8 and 9.

Morgan and Griffin generally supported the Amendment and submitted that it was appropriate to update the existing Clause 21.08 to reflect updated strategic directions for the township of Ballan.

Morgan and Griffin submitted that the changes were consistent with the objectives of the *Planning and Environment Act* s4(1)(a) to provide for the fair, orderly, economic and sustainable use, and development of land. In particular, the changes were regarded as strategic and logical since:

- They will ensure that the future township boundary of Ballan has long-term certainty in terms of its boundary to the south.
- They will provide for adequate land supply for future residential growth in appropriate locations close to the existing town train station and the retail core of Ballan.
- They will allow for land to be developed for future residential purposes in a timely manner without the need for further strategic assessment of the township boundary of Ballan.
- They will not prevent the sequential and orderly development of other precincts within the Ballan settlement as each amendment will be assessed on its merits.

Mr Glossop gave evidence for Morgan and Griffin that that there is strong strategic support for additional housing growth in Ballan including:

- Plan Melbourne 2017-2050: Metropolitan Planning Strategy, Chapter 7 which identifies Ballan as a “peri-urban town with potential to attract housing and population growth out of Melbourne”
- Central Highlands Regional Growth Plan, Maps 8 and 9 which identifies Ballan for “medium growth” where the plan will “support growth”
- Clause 11.03-3S which identifies Ballan has “*capacity for growth*”
- Clause 21.01 which identifies Ballan is a “*Key Growth Area*” of Moorabool
- Clause 21.03-2 which states “Bacchus Marsh and Ballan accommodate the most residential growth in the municipality”
- Clause 21.08 which states “Ballan has an important role in forming part of Moorabool’s growth areas”.

Morgan and Griffin sought changes to:

- include Precincts 7 in the township boundary
- delete the nomination covering Precincts 8 and 9 of ‘Future Investigation Area’ and include these precincts in the township boundary.

## Precinct 7

Morgan and Griffin own all the land in Precinct 7.

Council initially determined to exclude Precinct 7 from the township boundary for the following reasons (in summary):<sup>5</sup>

- it will impact the natural features of the town and the Geelong–Ballan Road gateway
- retaining Precinct 7 as farming land will assist in the retention of the ‘country town charm’ and ‘rural gateway’
- it has limited connectivity to the township
- its small size and site constraints such as the location of tributaries restrict its developability
- if developed, it would not resolve key infrastructure gaps
- it would add minimal additional value for development purposes
- the land supply provided by the remainder of the *Ballan Strategic Directions* will adequately cater for projected growth up to 2041.

In response, Morgan and Griffin submitted that the following attributes of Precinct 7 make it suitable for inclusion:

- its direct connectivity to the Ballan township and Ballan train station
- its lack of insurmountable environmental and site constraints
- the potential application of existing and future controls to achieve character and gateway objectives.

In its final preferred form of the Amendment, Council proposes to include Precinct 7 within the township boundary.

## Precinct 8 and 9

As is evident from the *Ballan Strategic Directions* and Council’s Part A submission, Council recognised that there is strategic support for these precincts to accommodate future population growth.

The *Ballan Strategic Directions* identifies that Precincts 8 and 9 are:

- appropriate for future urban development
- not located on Ballan gateway entrances
- close to the train station
- in walkable distance to the town centre
- generally in the same ownership.

Morgan and Griffin submitted that upgrades of roads and infrastructure could be provided as part of a development proposal in accordance with the *Ballan Strategic Directions* ‘vision’ and will have minimal impact on the natural landscape.

Mr Glossop agreed with this assessment and added that there are no environmental constraints to development including appropriate setbacks from industrial uses to the east.

Mr Maxwell identified that there are no infrastructure constraints to development of these precincts.

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<sup>5</sup> See *Ballan Strategic Directions*, page 101; Minutes – Moorabool Shire Ordinary Meeting of Council, Wednesday 6 March 2019, pages 23 and 24; Part A Submission, Annexure 3, page 17

Council submitted in Part C (para 12) that:

Given there has been a significant change for Precinct 7 and parts of Precinct 8 and 9 in regards to landownership, with these areas now being in consolidated landownership and owned by a developer (Morgan and Griffin) with interest to develop these areas for residential purposes in the future, Council has considered the implications of this change.

In Part C (para 20) Council maintained its position that Precincts 8 and 9, should remain identified as a Future Investigation Area:

... This is due to the sufficient land supply already proposed within the township boundary as per *Ballan Strategic Directions*, and also due to Precincts 8 and 9 being located to the south of Precinct 6 (being a growth Precinct) and Precinct 7 (as recommended above to be included as a growth precinct). This will ensure the sequential future development of Precincts 8 and 9 will not occur prior to Precincts 6 and 7.

### **(iii) Discussion**

#### **Precinct 7**

The Panel agrees with submissions that Precinct 7 is:

- extremely well located with regard to the Ballan Railway Station and Ballan Township
- has very good road access, noting it abuts the Geelong–Ballan Road and has easy access to Gillespie Lane and Old Geelong Road
- a logical extension to the settlement of Ballan given its:
  - abuttal to Precinct 6
  - proximity to Precinct G
  - location on Geelong–Ballan Road and its connectivity with the township
  - role in “*filling in the gap*” to the west of township
- generally flat and without significant vegetation or natural features preventing its redevelopment
- without environmental constraints such as bushfire risk and water quality preventing its reasonable development
- in single ownership facilitating timely and efficient redevelopment as well as coordination in terms of infrastructure provision (particularly if land in Precinct 8 and 9 also owned by Morgan and Griffin is also included).

The Panel notes that the purported site constraints of the tributary rivers and stormwater management were assessed by Mr Bishop who concluded that these issues can be managed through the construction of waterway channels leaving an estimated 80 per cent or at least 17 hectares of land available for development.

Development of Precinct 7 will have little impact on the rural town character of Ballan as a whole (particularly the town centre). In terms of the gateway focus, if required, the provisions of Clause 21.08 and future rezoning provisions – guided by the policy proposed in this Amendment – can effectively guide the character of Precinct 7 through lot sizes, vegetation objectives, setbacks, building height and materials.

#### **Precincts 8 and 9**

Council’s objection to including of Precincts 8 and 9 in the township boundary appears to be mainly one of timing and land supply.

The Panel has concluded that there is a need to act in the short term to augment supply in Ballan to maintain a 15 year minimum supply. If Precincts 8 and 9 are not suited for urban expansion, then the whole strategic planning of Ballan (and elements of the regional growth plan and *Plan Melbourne*) would need to be rethought. This sort of doubt over the future strategic direction of Ballan serves no one.

From a strategic planning perspective, the Panel agrees with the Morgan and Griffin's position that Precincts 8 and 9 should be within the township boundary since:

- there are no statutory constraints or policy imperatives restricting the township boundary to a 15-year time frame (or 22 years until 2041)
- there is no dispute that these Precincts have strategic support to accommodate future population
- Precincts 8 and 9 are very well located to accommodate the future expansion of Ballan
- there are no insurmountable environmental constraints preventing future development as demonstrated through the evidence of Mr Glossop
- there are no insurmountable infrastructure constraints preventing future development as demonstrated through the evidence of Mr Maxwell
- in accordance with Mr Maxwell's assessment, there are advantages to including Precincts 7, 8 and 9 into the township boundary having regard to the efficient provision of infrastructure for the benefit of the whole of Ballan
- there are no character constraints that cannot be addressed through provisions in the planning scheme or future re-zoning approvals
- given the Council's position that Precincts 8 and 9 are strategically supported, there are clear administrative benefits to include the Precincts in the township boundary now, rather than requiring further studies and expense in the future
- in terms of orderly sequencing of development, the planning scheme amendment process in the *Planning and Environment Act 1987* provides the planning authority with the ultimate power to prevent ahead-of-sequence rezoning of land on an application-by-application basis

#### (iv) Recommendation

The Panel recommends:

**Update the Ballan Framework Plan to include Precincts 8 and 9 in the township boundary**

**Update Clause 21.08-2 to read:**

- **Implement and maintain a township boundary until ~~the planned level of growth is nearing completion and there is demonstrable demand for further growth~~ [land supply approaches 15 years](#).**

#### 4.5 Change to township boundary to the east

At the Hearing it became apparent that land to the east of Ingliston Road was within the township boundary but did not have any notation about how it should be developed.

The current Framework Plan at Clause 21.08 does not present a township boundary.

The exhibited material including drafts of the *Ballan Strategic Directions* presented the township boundary to the east of Ingliston Road. No submissions were received about the township boundary in this location. The revised Framework Plan proposes to exclude this land from the township boundary.

The Panel accepts that exhibited location of the township boundary had the potential to cause confusion and that the revised location removes this potential confusion.

## 5 Urban design concepts

### 5.1 The issues

The Framework Plan implements a number of urban design concepts across a range of precincts providing for:

- protection of the Werribee River corridor
- lower density development north of the Werribee River
- the urban-rural interface
- gateways.

The Panel considers the general applicability of these concepts below.

### 5.2 Protection of the Werribee River corridor

#### (i) The issue

The issue concerns future ownership and use of land adjoining the Werribee River.

#### (ii) What does the Amendment propose?

Clause 21.08-2 'Character and sense of place' has the following objective and includes the following strategy (among other strategies):

To protect and enhance Ballan's character and sense of place as a country town, with historic built form and streetscapes, surrounded by scenic rural and natural areas.

#### Strategies

- Ensure new development responds to environmental assets, landscape features, and views, including the Werribee River and its tributaries.

Clause 21.08-4 'Environment' has the following objective and includes the following strategies (among other strategies):

To protect and enhance Ballan's environmental features as part of future development.

#### Strategies

- Encourage the retention of all tributaries in growth precincts, and provide appropriate buffers in accordance with Melbourne Water requirements.
- Require, as appropriate, the dedication of public land reserves associated with the Werribee River for new developments, and seek improvements to the river's ecology and amenity through re-vegetation and landscaping.
- Ensure stormwater runoff is appropriately managed to minimise impacts on the Werribee River and its tributaries.

#### (iii) Submissions

The landform of the Werribee River comprising floodplains and escarpments is a significant feature of Ballan. The Werribee River, at times, floods its banks and is an important habitat for a range of native flora and fauna species. The Werribee River runs through Ballan with public open space along the River and private land fronting the river used for gardens and livestock grazing. The location of the Werribee River divides Ballan with residential development to the north and south of the river.

The Ballan Framework Plan proposes open space for the Werribee River floodplain in Precincts 1, 2 and 5.

Submitters 22 own all the land in Precinct 2. They submitted that 65 per cent (12.4 hectares) of Precinct 2 is identified in the Framework Plan for open space with the remaining 35 per cent (6.6 hectares) as developable land. While acknowledging that a 'fair proportion' of the land for open space is encumbered as it is subject to inundation, they submitted that it is well in excess of any required statutory contribution to public open space, and requested that land identified for open space and not subject to inundation be retained as farming land.

Submitter 42 also submitted that the area of open space indicated in the Ballan Framework Plan for her property at 400 Old Melbourne Road in Precinct 5 was excessive. The submitter sought the application of residential zoning to the fullest extent possible, with minimal setbacks to waterways.

Submitter 41 owns land in Precinct 3 including 29 Myrtle Grove which has frontage to the Werribee River. The submitter acknowledged that land fronting the river at 29 Myrtle Grove is constrained by steep slopes, is difficult to manage and not suitable for development. The Framework Plan identifies Precinct 3 as a Minimal Growth area and proposes Rural Living Zone with a 10,000 square metre minimum lot size, yielding four lots, each with river frontage. At the Hearing, the submitter presented an alternative zone and lot layout<sup>6</sup> for 29 Myrtle Grove which would result in four 0.4 hectare lots and one 3.8 hectare lot retaining all river frontage. The submitter indicated he would continue to farm the larger lot.

#### **(iv) Discussion**

The Panel notes the assessment of the Werribee River in Ballan provided by Melbourne Water:<sup>7</sup>

The channel and floodplain of the Werribee River in Ballan is in good geomorphic condition, with native fauna and flora present in the channel and floodplain. Baillon's Crake and Latham's Snipe, *Environment Protection and Biodiversity Conservation Act 1999* listed species, platypus and Southern Pygmy Perch have been observed in the reach.

The Panel generally supports the concept plans for Precincts 1, 2 and 5 which provide for a mix of residential and open space. The Panel agrees with the position of Council that the Framework Plan is a high level plan and determining the appropriate boundary for residential development and open space within Precincts 1, 2 and 5 will occur during the rezoning process. Preparation of detailed concept plans during any future rezoning will need to address any impacts on the Werribee River, the tributary, associated 1 per cent AEP flood extent and environmental values associated with floodplain and channel.

The Panel does not support retention of the Farming Zone or providing for farming within the township boundary. The Panel considers that due to the constraints of land fronting the Werribee River in Precinct 3, it is appropriate that this land be included as proposed open space. This will continue the open space network along the Werribee River to Old Melbourne Road and further contribute to the protection and enhancement of the Werribee River and environmental values.

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<sup>6</sup> Document 30

<sup>7</sup> Document 24

**(v) Conclusions**

The Panel concludes:

- that the appropriate boundary for residential development and open space within Precincts 1, 2 and 5 should be determined during the rezoning process
- undeveloped land in the river valley within the township boundary should be given over to open space or conservation purposes
- farming is not an appropriate land use within the township boundary, and in the future, farming land should transition to open space and protection and enhancement of the Werribee River.

**5.3 Use of the NRZ and lower density development north of the river****(i) The issue**

A number of submissions raised concerns over proposed minimum lot sizes as well as the strategic justification for applying the NRZ.

**(ii) What does the Amendment propose?**

*The Ballan Strategic Directions* identify two distinct established characters in Ballan:

- The original Ballan settlement south of the Werribee River. This area presents as a typical regional township with a grid network, historic streetscapes, wide tree-lined streets, heritage buildings, diverse housing and centralised community facilities.
- The northern area is dominated by an open and spacious setting, with large lots occupied by single dwellings with substantial setbacks to side and rear boundaries, often a curvilinear subdivision pattern and undulating topography.

While these characteristics are dominant, some contemporary residential development and subdivision has taken place in the outer areas, including Precinct E north of the Werribee River.

The Amendment applies the NRZ to existing low density and greenfield areas that are currently zoned GRZ. Figure 5 on Page 35 of this Report shows the proposed zones.

**(iii) Evidence and submissions**

Council submitted (Part A: para 147) that the rationale for applying NRZ was sound, noting that the proposed NRZ precincts have:

- a location at the periphery of the town, at the interface with rural land uses
- poorly connected road networks, particularly Precincts D, E and G
- rural standard roads, with gravel shoulders, open swale drains and lack of footpaths (for example in Precinct D)
- some wider road reserves (for example Precinct D)
- a diversity of lot sizes
- an original pattern of development that is generally lower density, with an open and spacious character and wide lot frontages
- single storey dwellings with generous front and side setbacks
- an established tree canopy in some areas.

The *Ballan Strategic Directions* recommended the application of NRZ as it considers that the existing neighbourhood character attributes should be preserved and enhanced and, in some instances, infrastructure constraints are not conducive to conventional residential densities. The *Ballan Strategic Directions* (on page 46) notes:

... there is a need to balance and manage development within Ballan's established areas to ensure new development positively enhances the heritage places and other character features. For this reason, ... character is a critical consideration in ensuring new development is in keeping with the place.

Council submitted that:

The proposed NRZ areas to the north of the river are poorly connected to community facilities and services in the town centre, which is located to the south of the river. If these areas were to remain GRZ, this would undoubtedly place pressure on existing infrastructure and some road and drainage infrastructure would likely require upgrading to facilitate infill development. Further, the proposed NRZ areas provide an important interface with rural areas to the north, west and east of Ballan. [Part B: para 19]

Council also said (Part B: para 20) that the amount of residential land required to accommodate the projected population growth and where this growth should be located also need to be considered. The Framework Plan has identified appropriate locations within Ballan, such as south of the river and within the identified growth precincts 1-6 as the most appropriate location to accommodate growth.

Council also submitted (Part B: para 28) that the areas north of the river that were outside the walkable catchment to services and facilities (including public transport), are not considered the ideal location for further intensification.

#### **(iv) Discussion**

There is a range of reasons why lower density might be appropriate in parts of Ballan, including:

- as a transition between suburban and rural development
- to maintain the existing character of parts of Ballan
- to maintain the character of Ballan as a whole
- to limit density in less accessible parts of Ballan.

The Panel notes the findings of the Residential Zone Standing Advisory Committee. It considered the application of the NRZ for areas north of the Werribee River and recognised that these areas might be suitable for the application of the NRZ in the future as this area of Ballan has an existing 'low density' residential character that is different from more conventional residential development south of the river.

The zone's purpose makes it clear that the NRZ is a legitimate tool to protect and manage neighbourhood character. It is therefore an appropriate tool for this purpose provided protection of neighbourhood character is consistent with other policies, and a character analysis justifies the use of the NRZ.

The Panel also notes that the character within some precincts is reasonably diverse. The Panel acknowledges the general proposition that lower density development vegetation and established gardens are key factors in defining residential character in many areas and that the NRZ schedules are intended to maintain these elements.

**(v) Conclusions**

The Panel concludes:

- the use of the NRZ is broadly appropriate
- the strategic approach of limiting the density of development north of the river is broadly justified in areas of existing development.

**5.4 Interfaces****(i) The issue**

A number of submissions raised concerns about the treatment of the urban-rural interface.

**(ii) What does the Amendment propose?**

Clause 21.08-2 'Character and sense of place' has the following objective and includes the following strategy (among other strategies):

To protect and enhance Ballan's character and sense of place as a country town, with historic built form and streetscapes, surrounded by scenic rural and natural areas.

**Strategies**

- Ensure a clear separation between urban development and farming activities is retained.

The revised Framework Plan identifies:

- Rural Living Development with lot sizes of 10,000 square metres adjacent to the freeway and the Geelong–Ballan Road in Precincts 4 and 5
- 'Lower densities' adjacent to the Geelong–Ballan Road in Precinct 7.

**(iii) Evidence and submissions**

A number of submissions questioned the lot size requirements for the urban-rural transition and whether it was needed against the freeway.

Submission 28 raised the concern that the proposed minimum lot sizes in areas designated as 'Minimal Growth' were excessive, particularly in areas identified with a minimum lot size of 10,000 square metres.

The concern is that development potential will be restricted by the requirement for a minimum lot size of 10,000 square metres – this applies along the northern and western fringes of Precinct 4 and 5.

Submitter 23, the majority land owner of Precinct 5 sought a change to the application of the 10,000 square metres along the northern and north western boundary of the precinct to create an urban-rural transition:

We understand that the use of this zone is to provide a soft integrated edge from residential to farming and also provide a rural landscape entrance to the town. This zone is also recommended to assist in maintaining the open rural landscape partly viewed from the Western Highway. [42]

However, we submit the low-density residential zone (LDRZ) land would also achieve this aim. [43]

It was submitted that the LDRZ was more appropriate because:

- it provides a more appropriate transition to the GRZ than the RLZ

- it is still able to provide an open, treed landscape buffer
- it is a more appropriate zone for land that can be serviced, which is the case here
- it provides an improved yield and will make better use of land within the town boundary
- it can be developed, subject to design principles, to establish a low-density subdivision.

Council submitted (Part A: paras 220–223) that:

- The proposed application of RLZ with a required minimum lot size of 10,000 square metres is considered appropriate in Precinct 5, as these controls will assist in providing a transition from rural to residential land uses, in what is an important gateway to the township.
- The northern portion of Precinct 5:
  - is visually sensitive
  - is elevated above the Western Freeway and is visible from the freeway when approaching from the east
  - is only partially visible from Geelong–Ballan Road, due to screening from established trees.
- The north-south boundary between RLZ land (10,000 square metres minimum) and future GRZ land is appropriately defined by an existing open water supply channel reserve which forms a physical barrier.

#### **(iv) Discussion**

The Panel does not dispute that some sort of transition will be appropriate along some interfaces and can help maintain the character of Ballan. The critical issue is what form this should take and how large a lot is needed to create an effective and attractive interface:

- against the freeway?
- against open space such as the Werribee River?
- at the urban-rural boundary?

There is no analysis in the *Ballan Strategic Directions* to justify the transition lot sizes proposed. There is some discussion about the type of views available into some areas but this has not been tied back to an assessment of how large lots need to be, or how much landscaping is required to achieve an appropriate interface between ‘suburban’ and rural development.

The Panel (expanding on issues raised at the Hearing) observes that larger lots in the broader area tend to be developed in a number of ways – three typical ways being:

- larger houses with manicured garden tennis courts and the like
- bush lots where the subdivision is in relatively uncleared land – this is not relevant in Ballan
- ‘home depots’ or similar where the larger space is used for sheds and machinery storage.

*Planning Practice Note 37: Rural Residential Development*, seem to acknowledge these development patterns when it says:

Rural residential land is typically also used for non-agricultural home occupations or for large gardens.

How people choose to use their land – ‘garden’ or ‘home depot’ – is largely for them to decide within the relevant planning controls. The Panel simply observes that mandating larger lots without considering landscape setbacks (on public or private land) and other controls, will not guarantee a landscaped setting. The ultimate development may have different charms to the ‘country charm’ sought by *Ballan Strategic Directions*.

The issue for the Panel is that there is no analysis that justifies the specific lots sizes specified for each interface. In these circumstances, it would be preferable for these issues to be addressed as part of rezoning the Precinct for development.

It is also unknown whether the current views over land from the freeway will be maintained. Residential land adjoining a highway may be affected by traffic noise and a noise wall may be required. This could restrict views to the land and call into question the logic of providing larger lots.

The interface with the arterial road network could be treated a number of ways to create a non-urban edge condition at this location. The Panel considers that the best approach is to investigate interface land to determine its treatment as part of the rezoning for the subject land.

The Panel also has concerns about the applicability of the RLZ to land within the Township Boundary.

Council needs to be mindful of applying zone controls that are not ‘fit for purpose’. The following two purposes under the RLZ provisions could be considered inappropriate in an urban setting:

- To provide for residential use in a rural environment.
- To provide for agricultural land uses which do not adversely affect the amenity of surrounding land uses.

## **(v) Conclusion and recommendation**

The Panel concludes:

- the lot size and other controls proposed for an effective urban–rural transition have not been established and should be determined as part of detailed plans for the growth precincts.

The Panel recommends:

**Update the Ballan Framework Plan as it applies to Precincts 4 and 5 to replace the area identified as ‘Rural Living – 10,000m<sup>2</sup> min’ with ‘Proposed Lower densities’.**

## **5.5 Gateways**

### **(i) The issue**

Submitters were concerned about the controls proposed to create ‘gateways’ to Ballan.

### **(ii) What does the Amendment propose?**

Clause 21.08-2 ‘Character and sense of place’ has the following objective and includes the following strategies (among other strategies):

To protect and enhance Ballan’s character and sense of place as a country town, with historic built form and streetscapes, surrounded by scenic rural and natural areas.

### Strategies

- Emphasise the country feel of the town by creating 'gateways' that:
  - Feature larger residential allotments along the key approaches into town, as illustrated in the Ballan Framework Plan.
  - Enable the siting of dwellings with generous front and side setbacks, and provide predominantly low, open-style fencing to contribute towards the experience of the town's regional setting.
  - Retain and enhance existing vegetation.

The post-Hearing version of the Framework Plan identifies:

- Key Primary Gateway
- Supporting Primary Gateway
- Secondary Gateway
- Main Street Gateway.

### (iii) Evidence and submissions

Submitters 30 own the land on the northeast corner of Old Melbourne Road and Geelong–Balan Road. The land is identified for Rural Living with a lot size of 10,000 square metres (1 hectare). They were concerned:

- The property is 2 hectares, not 6 hectares as identified in some documentation.
- The large Cedar trees are not on their property but belong to Geelong Water and act as a buffer and a gateway.
- A gateway is identified for the left side and right side of the street. The southern side corner of Old Melbourne Rd and Geelong Ballan Rd does not present nice visual amenity being a truck Terminus.
- Land on the on the south side of the old Melbourne Road has been subdivided into smaller lots.

They submitted:

We think all of the Precinct 5 frontage on the Old Melbourne Road area should be 2,000 square metres to have a continuity of properties, that will stay attractive.

Council submitted (Part A: para 229) that in order to address this issue and to ensure consistency in the application of zone controls, the Framework Plan could be amended to require that all land fronting Old Melbourne Road (except the submitters' land) be zoned LDRZ, with a minimum lot size of 4,000 square metres applying to the western portion (that is west of the 'key local road') and a minimum lot size of 2,000 square metres (that is the default minimum for LDRZ where reticulated sewerage is connected) applying to the eastern portion (east of the 'key local road').

Submitters 22 raised concerns that development potential would be restricted by the requirement for 30 metre wide lot frontages along Old Melbourne Road in Precinct 2.

Council submitted (Part A: para 191) that the wide frontages will assist in providing a transition from rural to residential land uses. This will also provide consistency with existing GRZ lots to the south of Old Melbourne Road, which have frontages of 30 metres or more.

Council submitted (Part A: para 194) that the requirement for lots along Old Melbourne Road to have a minimum lot size of 1,400 square metres in Precinct 2 was appropriate, as this will assist in providing a transition from rural to residential land uses and protecting the existing rural gateway to the township.

**(iv) Discussion**

The identification of the gateway sites and the controls proposed in the exhibited Amendment are a significant impost on specific landowners without a detailed analysis of what will be required (if anything) to create the gateway.

The notion of a gateway in this context essentially involves how the transition from rural to urban will be marked. This could be achieved in a number of ways. Within the township boundary it is not clear precisely what controls are required to create an appropriate character along Old Melbourne Road especially as significant sections of the road will be zoned GRZ or NRZ7. Having said this, the Panel believes there may be some merit in paying particular attention to the nature of development along Old Melbourne Road given that it is a significant road in Ballan.

However, the Panel is troubled that it is somehow thought appropriate to put a 10,000 square metre lot size limit on Submitters 30's land when land across the road will have an 800 square metre limit. This is along a road with a wide road verge that itself could be landscaped to create a gateway effect.

If the gateways are meant to function as gateways then a person should be able to say "*you know when you get to Ballan because you will pass ...*" The Panel is not convinced that simply mandating larger lots on some intersections is going to achieve a result that in any way functions as a distinctive or memorable entrance to the town.

If the gateway is at an intersection and a roundabout treatment is warranted then the roundabout itself is likely to act as the gateway. The Panel notes that some cities routinely treat the centre of their roundabouts in a memorable way with planting or sculpture to achieve a gateway effect.

**(v) Conclusion and recommendation**

The Panel concludes:

- the lot size and other controls proposed for an effective gateway treatment have not been established and should be determined as part of detailed plans for the growth precincts.

The Panel recommends:

**Update the Ballan Framework Plan to replace specific lot size notations along Old Melbourne Road (including number 462) with a more general notation that says 'Proposed larger residential allotments'.**

## 6 Changes to existing residentially zoned areas

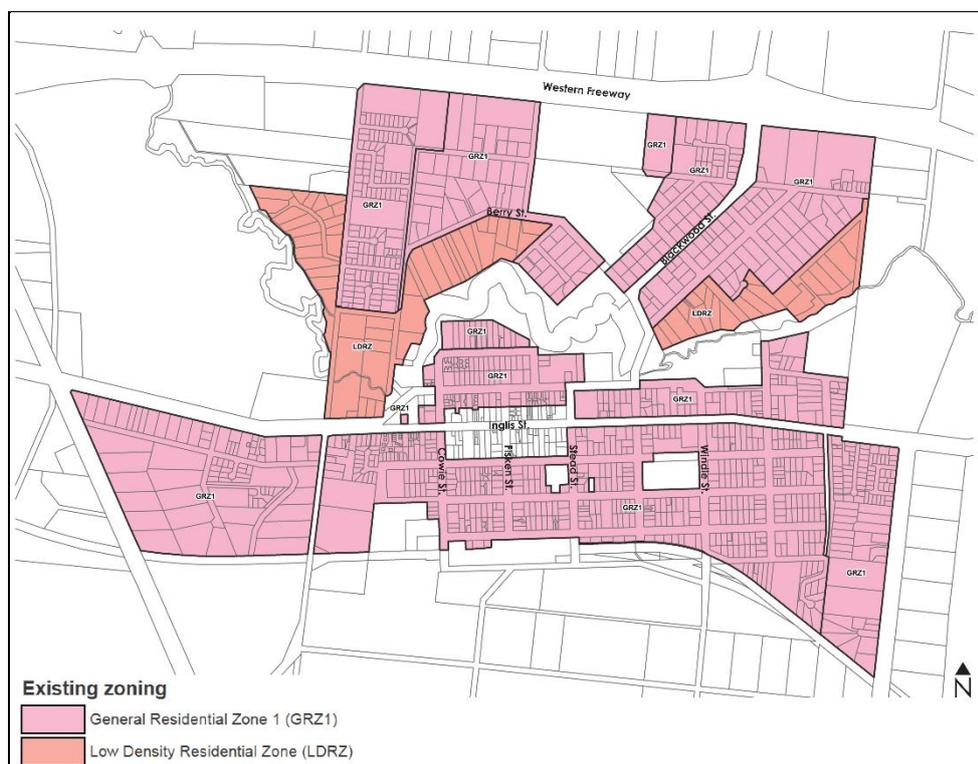
### 6.1 The issues

Concerns were raised about a number of changes to existing residentially zoned land.

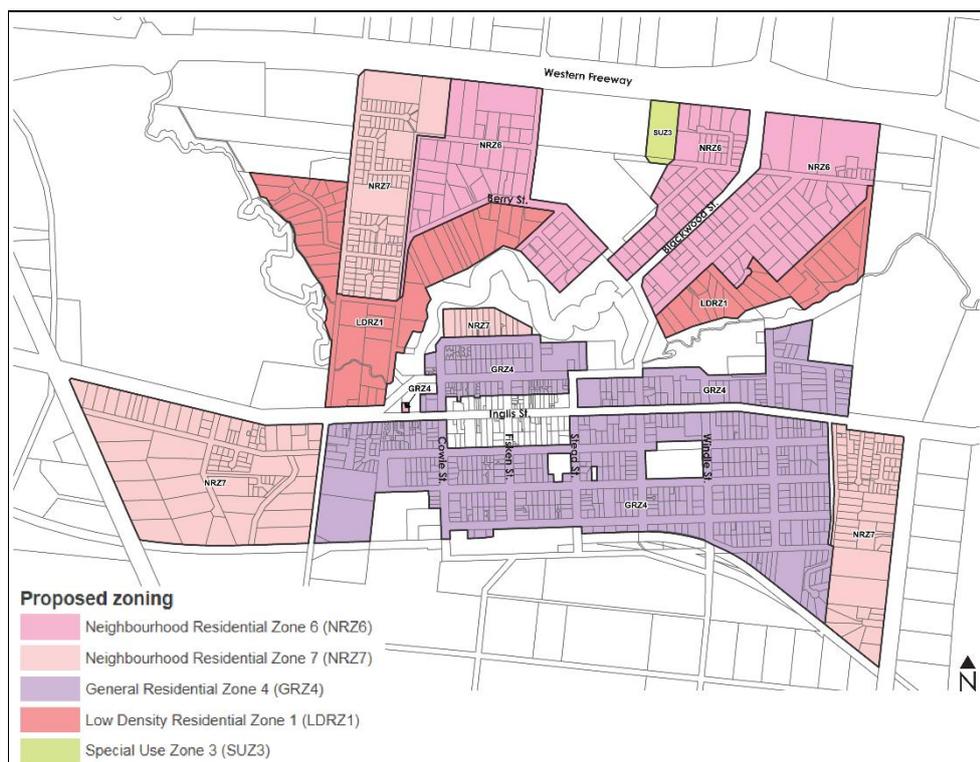
### 6.2 The zones

Figure 4 shows the exiting residential zones and Figure 5 shows what the Amendment proposes. Table 4 shows the changes to the residential zone schedules.

**Figure 4: Existing zones**



**Figure 5: Proposed exhibited zones**



**Table 4: Proposed Zone Schedules**

Zone	Schedule
<b>GRZ4</b>	
<b>Changes to clause 54 and 55</b>	None
<b>Minimum lot size for subdivision</b>	Not applicable
<b>Proposed other requirements</b>	Landscape Plan – when a planning permit application is required
<b>LDRZ1</b>	
<b>Changes to clause 54 and 55</b>	None
<b>Minimum lot size for subdivision</b>	4,000 square metres – compared to current minimum area of 2,000 square metres if sewered and 4,000 square metres if un-sewered
<b>Other requirements</b>	None
<b>NRZ7</b>	
<b>Changes to clause 54 and 55</b>	
<b>Front Fences:</b>	1.2 metre maximum front fence height

Zone	Schedule
Walls on Boundaries:	0 metres on one side boundary [not permitted on one side boundary] 0 metres on the other side boundary unless the building is a carport or garage sited behind the main front wall of the dwelling or residential building by at least 5 metres and the carport or garage does not abut an existing building on the neighbouring property.
<b>Minimum lot size for subdivision</b>	800 square metres – compared to no current minimum area
<b>Other requirements</b>	Landscape Plan – when a planning permit application is required

## NRZ6

### Changes to clause 54 and 55

Front Fences	1.2 metre maximum front fence height
Side and Rear Setbacks	A new building not on or within 200 mm of a boundary should be setback 2 metres plus 0.3 metres for every metre of building height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of building height over 6.9 metres
Walls on Boundaries	0 metres [not permitted]
<b>Minimum lot size for subdivision</b>	1,400 square metres – compared to no current minimum area
<b>Other requirements</b>	Landscape Plan (when a planning permit application is required)

## 6.3 NRZ6 – Precincts C and D – north of the Werribee River

### (i) The issue

The NRZ6 has been proposed for the outer residential fringe, which includes Precinct D and part of Precinct C (north of Werribee River).

Concerns were raised (Submissions 4, 9, 10, 11 and 17) that the minimum lot size should be reduced.

### (ii) What does the Amendment propose?

NRZ6 proposes a minimum lot size of 1,400 square metres.

The proposed objectives of NRZ6 are:

To maintain an open and spacious character through the retention and creation of large lots that are predominantly occupied by single dwellings, with wide frontages and substantial setbacks around the dwellings.

To protect the character and identity of the town by establishing a transition from rural to residential areas.

To encourage low, open front fencing, combined with generous landscaping to emphasise the country 'feel' of the township

**(iii) Evidence and submissions****1,400 square metres minimum lot size**

Submission 22 raised the concern that the development potential will be restricted by the requirement of a 1,400 square metres minimum lot size within Precinct 2.

Council officers undertook a lot size analysis of areas covered by the proposed NRZ6. The current median lot size in the NRZ6 precinct is 1,800 square metres.

Council advised that while some of the proposed NRZ6 land in Precincts C and D has been developed or approved for development with lots smaller than 1,400 square metres, the majority of lots in these precincts are larger than 1,400 square metres.

Council submitted that :

Most of Ballan's services, including the activity centre (Main Street), train station and community facilities, are located south of the river. Precincts C (part proposed as NRZ6) and D are located well outside of a 400 metre walkable catchment to necessary services and facilities, as identified in Figure 18 of *Ballan Strategic Directions*. [Part A: para 129]

Submission 33 (D Popov) is dealt with in the next section.

**(iv) Discussion**

The Panel has already concluded that the strategic approach of limiting the density of development north of the river is broadly justified in an area of existing development.

The Panel does not think that Precinct D will play any meaningful role in providing a transition and interface between the Western Freeway and rural land to the north of the freeway. The freeway provides a significant hard edge to the settlement and it is not clear that it requires a transition within the settlement boundary, though there may be a basis for reducing density adjacent to the freeway for other reasons in different locations.

The Panel agrees that the proposed minimum lot size of 1,400 square metres is an appropriate response to the existing neighbourhood character and primarily supports its application because of the existing character, noting that other areas of Ballan are identified for growth.

The Panel also notes:

- the limited road network to the north of Werribee River, which relies on only two river crossings to access the town centre
- the walking distance to services and facilities from the precincts.

**(v) Conclusion**

The Panel concludes:

- the NRZ6 minimum lot size of 1,400 square metres is supported for areas with existing development.

**6.4 NRZ7 – Precincts E and G – areas being developed****(i) The issue**

A number of submissions raised concern over the minimum lot size for the NRZ7. Submitters variously suggested that the minimum lot sizes should be changed to 600, 650, 700 or 900+ square metres.

Some submitters were concerned to maintain the character of the precincts and larger lot sizes. Other were concerned that the control was too restrictive.

**(ii) What does the Amendment propose?**

The NRZ7 is proposed to apply to precincts that contain existing contemporary residential subdivisions. A number of these areas have significant infill potential.

The Amendment would rezone these areas to NRZ7 (800 square metres minimum lot size).

The NRZ7 has been proposed for the outer residential fringe of the Ballan township, which includes Precinct E, G, A (part) and C (part). The proposed objectives of NRZ7 are:

To protect the character and identity of the town by maintaining the open and spacious character, and transition from rural to residential areas, along Old Melbourne Road.

To maintain a streetscape rhythm of detached dwellings with conventional front and side setbacks.

To ensure garages and carports do not visually dominate dwellings or streetscapes.

To encourage low, open front fencing, combined with landscaped front gardens to emphasise the country 'feel' of the township.

**(iii) Evidence and submissions**

The *Ballan Strategic Directions* identify these areas as 'Minimal Growth', but it acknowledges for Precinct E that:

The Precinct is characterised by recent contemporary development with some lots still to be developed ... (page 35)

For Precinct G it says:

This Precinct is made up of residential development at a range of densities including larger residential lots and multi dwelling developments. ...

The character of the Precinct is inconsistent. ...

Council officers analysed lot sizes in the proposed NRZ7: the current median lot size in all NRZ7 precincts combined is 800 square metres.

Council acknowledged that:

While some of the proposed NRZ7 land in Precincts A, C and G has either been developed or approved for development with lots smaller than 800 square metres, lots are generally larger than 800 square metres within these precincts. [Part A: para 139]

In regards to Precinct E, the majority of the proposed NRZ7 land within this precinct has either been developed or approved for development with lots smaller than 800 square metres, most ranging between 600–800 square metres. [Part A: para 140]

Council submitted (Part A: para 141) that based on the median lot size there is some merit reducing the minimum lot size for Precinct E. However, it did not support such a reduction, for reasons similar to why it did not support a reduction of the 1,400 square metres lots in NRZ6 – being located north of the river with limited connectivity to the Main Street activity centre and community facilities, reliance on two river crossings and being well outside a 400 metre walkable catchment.

Council submitted:

... that the proposed minimum lot size of 800 square metres be retained for all NRZ7 precincts. This is considered an appropriate response to the existing neighbourhood

character and the various constraints including connectivity across the Werribee River and the precincts being outside walkable catchments. [Part A: para 142]

### **Precinct E and adjoining land in Precinct D**

Kingchip submitted that in the context of this precinct, the ‘horse has already bolted’ and that placing a more restrictive zoning on virtually the last stage of the precinct to decrease lot yield will unnecessarily penalise the submitter, with no real impact on overall neighbourhood character.

It was submitted that:

... that the *Ballan Strategic Directions* study has not raised a strong strategic argument to support such a zone change. There has not been a sufficient analysis of the existing character attributes within Precinct E to justify why minimum lot sizes need to be imposed. ‘Neighbourhood character values’ referred to in the report are not clearly defined. If such a detailed analysis of Precinct E was undertaken, I would expect that the existing character would be identified as a contemporary suburban style development typical of newer housing estates.

Submission 19 raised concerns that the Amendment could impact on existing residential areas within the established Precinct E by virtue of 3 metre high walls adjacent to side and rear boundaries. Precinct E is currently zoned GRZ which allows for up to 11 metres in built form height (up to 3 storeys), however should comply with the ResCode provisions relating to amenity impacts on adjoining residences. No minimum lot size can be specified in the Schedule to the GRZ.

The Amendment proposes a minimum lot size of 800 square metres and a maximum building height of 9 metres (up to 2 storeys). Council considered that the Amendment will result in alleviating these concerns.

Council acknowledged (Part B: para 35) that in regard to Precinct E, the majority of the proposed NRZ7 land within this precinct has either been developed or approved for development with lots smaller than 800 square metres, most ranging between 600-800 square metres.

Submitter 33 owns land at 12 Flack Street, Ballan. The land is in Precinct D. The submitter broadly supported the planning objectives guiding the Amendment, but objected to the proposed rezoning of the land to the NRZ6, in particular due to the minimum lot size proposed under the schedule:

... there is no strategic justification for the imposition of unreasonable minimum lot size controls within an area that is unconstrained and well-suited for further subdivision. Furthermore, the evolving medium density character north of the river is playing a key role in delivering the infill housing growth objectives sought for Ballan within the Planning Policy Framework.

14 Flack Street adjoins the western side of the submitter’s land – it is approximately 2 hectares and benefits from a planning permit which authorises a staged subdivision of 25 lots between approximately 500 square metres and 900 square metres. That land is in Precinct E (NRZ6)

Further west of the submitter’s land, residential subdivision has occurred around Hogan Road, Fitch Court, McMahan Drive, Moorabool Drive, Blake Court and Valentine Court, with more than 120 lots created. These vary in size from 350 square metres to 2,300 square metres, but most commonly range between 650 square metres to 750 square metres.

The submitter sought:

- the application of NRZ7 to the land in lieu of NRZ6
- reduction of the minimum lot size in NRZ7 from 800 square metres to 650 square metres.

### **Precinct G**

Submitter 27 own land at 401 Old Melbourne Road Ballan which is to the west of the Ballan town centre. They requested that their property be included in an extended General Residential Zone 4 (GRZ4).

The submitter presented a plan of surrounding land that has already been subdivided or has a current planning permit to allow more intense residential lots with approximate areas between 380 square metres and 800 square metres.

It was submitted that extensive areas of land surrounding the submitter's property have already been subdivided or have current planning permits to allow for more intense residential lots. Hence limiting future minimum subdivision lot sizes to 800 square metres for the few large remaining lots like the submitter's property would promote a very inconsistent and confusing future neighbourhood character:

It is now too late to force the few larger property owners in the locality of the [submitter's] property into an incompatible NRZ7 Zone.

The submitter pointed out that land up to 1 km east of the Ballan town centre is included in the future GRZ4 zone all the way to Lay Street. However current plans show the GRZ4 Zone extending to the Old Geelong Road – only a distance of 0.5 km from the town centre to the west:

It would be more logical and balanced to extend the proposed GRZ4 zone westwards to Crook Court, which like Lay Street is also 1 km from the Town Centre.

### **(iv) Discussion**

#### **Precinct E**

The Panel has already concluded that the strategic approach of limiting the density of development north of the river is broadly justified in areas of existing development. Given the overall nature and character of this, the Panel thinks that an 800 square metres lot size represents a reasonable approach of balancing the character and strategic attributes of this area with reasonable opportunities for new development.

With respect to 12 Flack Street, the Panel agrees that:

- the site:
  - is over one hectare
  - has generally flat topography
  - is well removed from any rural zones or valuable landscape features and
  - is surrounded by residentially zoned land of varying densities and the Western Freeway
  - is approximately 1.25 km from the Ballan town centre, which compares favourably to the 1.6 km to 1.8 km distance between the town centre and land nominated as being within the Eastern and Western Growth Precincts, where greater dwelling densities are encouraged

- is located a minimum of 400 metres from the Werribee River reserve and so will not compromise views to or from the river or its natural features due to the significant buffer provided.
- the approved staged subdivision of 14 Flack Street into 25 lots will further alter the character of the immediate area to more closely reflect that of the smaller dwelling lots further to the west

In light of the above, the Panel agrees that the site should be included in Precinct E (NRZ7, minimum 800 square metres lot size).

### **Precinct G**

Inspection of Precinct G reveals significant development under the GRZ. This coupled with the recent approval presented to the Panel make it clear that parts of Precinct G will not now achieve the character envisaged by NRZ7. It is simply too late to apply the NRZ7 to this area and doing so would serve no strategic outcome.

The Panel agrees that it would be more logical to extend the proposed GRZ4 zone westwards to Crook Court.

### **(v) Recommendations**

The Panel recommends:

**Rezone 12 Flack Street, Ballan to the Neighbourhood Residential Zone Schedule 7.**

**Rezone the area east of Crook Court, Ballan south of Old Melbourne Road and west of Old Geelong Road to the General Residential Zone Schedule 4.**

## **6.5 Low Density Residential Zone**

### **(i) The issue**

Submissions 7, 9, 10, 11, 29 and 41 expressed concerns that the use of the Schedule 1 to the existing Low Density Residential Zone is too restrictive and does not warrant introducing a minimum lot size of 4,000 square metres.

Several submissions objected to the proposed settlement type, precinct boundary, zone type or provision for a specific property. These submissions related to land at:

- Lot 1 on PS 525692P Spencer Road, Ballan
- 31 Berry Street, Ballan.

### **(ii) What does the Amendment propose?**

The LDRZ already applies to the areas within Precincts C and F, but does not specify a minimum lot size. Because the land is sewered a minimum lot size of 2,000 square metres applies under the default provisions of the zone.

In the LDRZ the default zone for unsewered land is 4,000 square metres and this would have been the lot size that applied when the zone was first applied to the land.

The Amendment does not rezone any additional land to LDRZ, nor does it rezone any existing LDRZ land to another zone – rather it seeks to apply a new Schedule (Schedule 1) to specifies a minimum lot size of 4,000 square metres.

**(iii) Evidence and submissions**

Council undertook an analysis of lot size: the current median lot size in the LDRZ1 precincts is 4,000 square metres.

Council submitted:

Section 4.1.3 of *Ballan Strategic Directions* notes that this precinct has significant landscape values due to its interface with the Werribee River and its environs. The precinct is generally typified by a sloping topography that falls away down to the river. Existing lots are long and narrow, with dwellings sited at the top of the lot fronting the street. Further subdivision of these lots will result in poor design outcomes, with battle axe lots and dwellings located closer to the Werribee River. [Part A: para 157]

Council considered that the proposed increase in minimum lot size was an appropriate response to the existing neighbourhood character, its interface with the Werribee River and the relatively steep topography.

LDRZ1 is proposed to apply to land which is mostly north of the Werribee River, together with a small number of large parcels of land located south of the river within Precinct F. The lots to the south of the river are established and contain dwellings, with dominant landscaping and vegetation. Due to the sloping nature of the land down towards the river within Precinct F, rooflines of the dwellings are not readily visible from the street. For lots north of the river within Precincts C and F, the predominant character is open and large lots, some of which respond to the high landscape values of the Werribee River corridor.

Council submitted (Part B: para 43) that if further subdivision of these lots occurred this would result in poor design outcomes, and likely be in the form of battle axe lots and dwellings located closer to the Werribee River which is not considered a desirable outcome.

**Precinct F: Lot 1 on PS 525692P Spencer Road, Ballan – land to the south of Densley Street**

Submitter 39 objected to change to LDRZ minimum lot size from 2,000 square meters to 4,000 square metres for land in Spencer Road. This lot is part of Precinct F immediately south of Precinct E.

It was submitted that:

While the subject sites location within Precinct F is defined for minimal growth under the Ballan Settlement Framework Plan the site benefits from been in close proximity to the commercial centre (Approximately 1 kilometre), local infrastructure and reticulated services. Having these benefits would suggest that any further subdivision of land will have little impact on the role and function of the precinct.

It was submitted that the site:

- has access to reticulated services
- is close to the town centre
- abuts established higher density housing to the north of Densley Street
- has no significant fall
- is not too close to the Werribee River
- has no dense vegetation other than along its eastern and northern boundary which can be largely retained forming a green edge to the site.

**Precinct C 31 Berry Street, Ballan**

Submission 35 objected to change in LDRZ minimum lot size from 2,000 square metres to 4,000 square metres. The land is in Precinct C and abuts the Werribee River.

**(iv) Discussion**

The Panel agrees that, in the main, the LDRZ1 will protect the environs of the Werribee River corridor and open character of these existing residential areas from further intensification.

The Panel notes that not all areas in the LDRZ display the characteristics Council submitted justify the application of the zone such as:

- a low density existing neighbourhood character
- interface with the Werribee River
- relatively steep topography.

While it is important not to over complicate planning schemes the critical test is how development plays out on the ground. The Panel can see no harm in 2,000 square metres lots on the land with frontage to Densley Street. Council has promoted the concept of transitions for the urban-rural interface and the Panel has supported this albeit without supporting the lot sizes nominated by Council as part of this Amendment. The Panel thinks there is no harm in a fine grained transition from the large lots abutting the Werribee River to the denser development already approved in precinct E.

The Panel supports 4,000 square metres lots abutting the Werribee River. Allowing these LDRZ lots abutting the river to be subdivided may have significant adverse impacts on the river.

**(v) Recommendation**

The Panel recommends:

**Rezone land abutting the south side of Densley Street, Ballan to Low Density Residential Zone but schedule a 2,000 square metres minimum lot size for the land.**

## 7 Structure planning of new development areas

### 7.1 Precincts 1, 2, 3 and 4

#### (i) The issue

Precincts 1, 2, 3 and 4 have been identified for growth but not identified for application of the GRZ. The issues relate primarily to the proposed zones that are identified on the Framework Plan. Some issue deal with the preconditions identified in the *Ballan Strategic Directions*.

Submitter 22 raised concerns in relation to lot sizes in Precinct 2 and including clarification that land not subject to inundation will be considered as the statutory Public Open Space contribution

Submitter 41 objected to the application of RLZ (10,000 square metres) in Precinct 3.

Ms Bell and Mr Cremona in Precinct 4, objected to RLZ (10,000 square metres and 4,000 square metres) and sought the same outcome as for Precinct F or E.

#### (ii) What does the Amendment propose?

For Precinct 1 the revised Framework Plan identifies:

- land along the Werribee River as proposed open space
- residential development with lot sizes of 2,000 square metres.

For Precinct 2 the revised Framework Plan identifies:

- land along the Werribee River as Proposed open space
- residential development with lot sizes of 800 square metres, and lower destiny along Old Melbourne Road.

For Precinct 3 the revised Framework Plan identifies:

- rural living development with lot sizes of 10,000 square metres adjacent to the Werribee River and 4,000 square metres north of Myrtle Grove

For Precinct 4 the revised Framework Plan identifies:

- rural living development with lot sizes of 10,000 square metres adjacent to the freeway and 4,000 square metres to the south which also abuts the Werribee River.

#### (iii) Evidence and submissions

The Panel has dealt with lots sizes along Old Melbourne Road and the treatment of land along Werribee River in Chapters 5.5 and 5.2 respectively.

#### Precinct 2

Submission 22 raised the concern that the development potential will be restricted by the requirement of a 1,400 square metre minimum lot size within Precinct 2.

Council submitted that (Part A: para 197) the requirement for a minimum lot size of 1,400 square metres along the eastern and northeastern fringes of Precinct 2 was intended to provide a lower density interface with the Werribee River corridor and open space network.

Council submitted (Part A: para 194) that the requirement for lots along Old Melbourne Road to have a minimum lot size of 1,400 square metres is appropriate, as this will assist in providing

a transition from rural to residential land use and protecting the existing rural gateway to the township.

On further review, Council agreed that this requirement for Precinct 2 was unnecessary because the lots located on gently sloping land above an escarpment will be elevated more than 10 metres above the publicly accessible areas of future public open space, and were unlikely to be highly visible from the future public open space. Council submitted:

... the concept plan for Precinct 2 and relevant pre-conditions for Precincts 1 and 2 in section 4.2.4 of *Ballan Strategic Directions* ... [should be] amended, by changing the minimum lot size requirement along the eastern and north-eastern fringes of Precinct 2, from 1,400 square metres to 800 square metres. The minimum lot size for land fronting Old Melbourne Road should remain 1,400 square metres. [Part A: para 199]

### **Precinct 3**

Precinct 3 has an interface with the Farming Zone and also to the existing service station which is accessed directly from a service road off the Western Freeway. Council submitted (Part A: para 208) that the proposed controls in Precinct 3 were appropriate because of the steep escarpment between Myrtle Grove Road and the Werribee River.

Council submitted (Part A: para 286) that there are several constraints within Precinct 3 including:

- a drainage line
- remnant native vegetation
- steep topography within the south of the precinct.

Council said that these constraints make it appropriate to apply a larger lot size.

Submitter 41 did not support minimum lot sizes for proposed Precinct 3. Instead, he submitted that the physical and environmental characteristics of the subject land, the requirements and decision guidelines for subdivision in the proposed zone, the decision guidelines of Clause 65.02 and the applicable overlay controls should influence and determine a final subdivision layout plan. He considered this would achieve a more refined planning outcome for the Precinct.

Submitter 41 considered that a combined amendment and permit process may be appropriate under section 96A of the *Planning and Environment Act 1987* to deal with both the re-zoning and subdivision of the land since there are only two landowners in Precinct 3.

### **Precinct 4**

The submitters in Precinct 4 sought a similar development outcome as was permitted immediately to the east (800 square metre minimum) or to the south (4,000 square metre minimum). This was based on the land having similar characteristics to these adjoining parcels.

#### **(iv) Discussion**

The Panel has already concluded that:

- the lot size and other controls required for an effective transition or gateway treatment has not been justified as part of this Amendment and should be considered as part of detailed plans for the Growth Precincts

- the appropriate boundary for residential development and open space within Precincts 1 and 2 should be determined during the rezoning process
- undeveloped land in the river valley within the township boundary should be given over to open space or conservation purposes
- farming is not an appropriate land use within the township. In future, farmland should transition to open space and provide for the protection and enhancement of the Werribee River.

As a general principle, the Panel thinks decisions about appropriate lot sizes should be made as part of the structure planning of the precincts, which should take place at the rezoning stage.

The development constraints in these parcels are reasonable complex and the Panel is not convinced that sufficient analysis to date underpins the proposed lots sizes.

Some of Precinct 3 appears to be developable, but some of it is not. The Panel envisages development for the developable part of the precinct at a density no greater than that immediately to the west, and possibly at a lower density to transition to the rural area to the east.

The particular characteristics of the Precinct 3 land require a more nuanced approach than simply specifying a large lot size. Part of any future development of this site would need to consider how the escarpment to the river can be properly managed.

Part of Precinct 4 may be suitable for development at the same density as adjoining Precinct E, and there appears to be no clear reason why this should not be supported. A more nuanced approach to the development of part of Precinct 4 could see open space and lower density development adjacent to the Werribee River transitioning to the Precinct E level of intensity.

#### **(v) Conclusion and recommendation**

The Panel concludes:

- the future zoning of Precincts 1, 2, 3 and 4 should be determined following more detailed planning for the area, however it is appropriate to consider use of the NRZ

The Panel recommends:

**Update the Ballan Framework Plan as it applies to Precincts 1, 2, f3 and 4 to change the notation of developable land to 'Greenfield growth' and identify the escarpment as 'Proposed open space'.**

## **7.2 Precinct 5**

### **(i) The issue**

A number of submissions raised concerns about the proposed development of Precinct 5.

Submission 23 raised concern with the development pre-condition for 'Minimal Growth' areas in Precinct 5 which requires:

Minimum lot frontages required for lots that abut the Western Freeway and Geelong-Ballan Road to ensure these lots provide a transition from farming to residential land and assist in protecting the gateway. The frontages should be a minimum of 70 metres and retain the Rural Living Zoning, however apply a minimum lot size of 10,000 square metres.

**(ii) What does the Amendment propose?**

For Precinct 5 the revised Framework Plan identifies:

- land along the Werribee River as Proposed open space
- residential development without a minimum lot size for the core of the precinct
- rural living development with lot sizes of 10,000 square metres adjacent to the freeway and the Geelong–Ballan Road
- an active open space investigation area.

As part of considering these submissions, Council has further reviewed the Framework Plan as it applies to Precinct 5 proposing that the land proposed as RLZ (4,000 square metre minimum) in the northern portion of the precinct be changed to GRZ.

**(iii) Evidence and submissions**

The issue of prioritising development south of the railway line is dealt with in Chapter 4.3.

The main land owner of Precinct 5, Simon Fraser (Submission 23) sought a number of changes to the Precinct 5 concept plan to guide the future rezoning and subdivision of the land.

Mr Fraser has engaged TGM and commenced a master planning process to draft an Overall Development Plan (ODP) to be used as an agreed template for the planning and investigation work in support of a rezoning application.

Mr Fraser submitted that:

The Framework Plan and design recommendations developed by Council and Mesh provide a useful high-level guide to assist this work. [22]

The ODP has been drafted to provide and design urban growth land to meet the future growth needs of the town and also to positively contribute to the rural character of Ballan. [23]

Key attributes of the ODP include:

- Passive and active open space areas of approximately 28 hectares in area.
- A 25-metre-wide primary connector road that provides access into the estate from Old Melbourne Road and the Geelong–Ballan Road to provide a treed open road landscape entrance into the estate.
- The use of 18-metre-wide local roads chosen to establish a low density/rural road character.
- Generous lot sizes (when compared to contemporary urban growth areas) that can vary from 500 square metres to 700 square metres to accord with the estimated lot yield prescribed for the land and to establish a low-density urban character. [24]
- Also, in accordance with the Framework Plan the ODP includes 2 hectare serviced low density residential lots proposed to be established along the Old Melbourne Road frontage to assist in maintaining the low-density landscape to Ballan.

**Pre-conditions**

Mr Fraser raised concern with the development pre-condition of Precinct 5 which requires “*wider road reserves (25-30 metres) in lieu of unencumbered open space. ...*”. The submitter suggested that this pre-condition is excessive and will reduce the potential lot yield in this precinct.

Council submitted (Part A:para 212) that in preparing the *Ballan Strategic Directions* it was thought that Precinct 5 would have an extensive amount of encumbered open space within a

walkable catchment of most lots within Precinct 5 along the Werribee River reducing the need to provide passive open space elsewhere.

### **Open space**

Mr Fraser submitted that the Werribee River is a unique and important conservation, recreation and heritage feature of the town and is identified for passive and linear green open space, and that future development of the subject land provides an opportunity to preserve and enhance this significant natural feature for public use and enjoyment.

A key feature as indicated in the Framework Plan is a shared path network which will provide a pleasant walking or riding experience along the Werribee River and link to walking and riding paths proposed on the subject land and to path connection to the town centre.

The *Ballan Recreation Reserve Masterplan 2018* identifies the subject land as providing the new site to meet the active recreational needs of Ballan in the future. The masterplan concludes that the current Ballan Recreation Reserve is not large enough to meet the community's demands. The existing football oval does not meet the recommended minimum playing field size for senior AFL football and the facilities require upgrading to cater for female participants in football, tennis and netball.

The submitter's initial development proposal presented to Council was to direct this use to the northern part of the subject land to provide an open grassed landscape. After consultation with Council, the submitter has located this space in the southwestern corner of the subject land.

The submitters considered this to be more desirable as:

- it is located a short walk to town
- it is located on flat ground which will substantially reduce development costs
- this location can provide an attractive entrance into the town and contribute to the low-density treed landscape along the Old Melbourne Road interface
- this location can form a separate lot that can be easily subdivided from the surrounding urban growth land.

It was submitted:

Further master planning is required, however we seek the support of the Panel for this location as the current indicative location (as indicated in the Framework Plan) is less desirable.

### **One development plan**

The issue of the desirability of having one development plan for the whole precinct was raised at the Hearing

#### **(iv) Discussion**

There is merit in the location for open space presented by the submitter but the Panel is not in a position to reach a definitive position on where exactly this open space should be located. The best approach at this stage would be to broaden the 'Investigation Area' of the proposed active open space to include both the location preferred by Council and the location preferred by the submitter.

The Panel supports Council's preference (Part C: para 30) for only one Development Plan to be prepared per Precinct to ensure that a holistic planning approach to each precinct is

achieved. The Panel encourages all landholders to contribute to the preparation of the concept plan for Precinct 5.

#### **(v) Conclusions**

The Panel concludes:

- the location of open space in Precinct 5 should be determined following more detailed planning for the area
- it is appropriate that planning be undertaken on a 'whole of precinct' basis that includes all landholders.

#### **(vi) Recommendation**

The Panel recommends:

**Update the Ballan Framework Plan as it applies to Precinct 5 to broaden the 'Investigation Area' of the proposed active open space to include both the location preferred by Council and the location preferred by the land owner.**

### **7.3 Precinct 6**

Submission 2 relates to 14 Denholms Road, Ballan. The land is in Precinct 6 and is identified as future GRZ.

The submission suggested that the subject land be rezoned for high density residential purposes.

Council considered (Part A: para 264) that the rezoning of the affected land to a residential zone which permits building heights above the maximum heights specified by the GRZ (11 metres) was inappropriate.

Council submitted (Part A: para 265) that increased height at this location or within Ballan does not have any strategic justification and has the potential to impact the neighbourhood character experienced by existing residential areas of Ballan, especially within proximity to the subject land.

Consistent with the approach taken by the Panel for other growth precincts, the Panel concludes:

- the future zoning of the Precincts 6 should be determined following more detailed planning for the area – this might include an area of higher density development given the close proximity to the station and the town centre
- it is appropriate that planning be undertaken on a 'whole of precinct' basis that includes all landholders.

## 8 Specific sites

### 8.1 Golf course land

The golf course submitted that rezoning a lot of golf course land to SUZ3 was inappropriate and that the lot should be maintained as GRZ.

The Amendment proposes the rezoning of the northeastern portion of the golf course land from GRZ1 to SUZ3. SUZ3 applies to other parts of the golf course. Its purpose is:

To provide for golf courses and uses compatible with enhancing golf courses as an entertainment and recreation venue.

The portion of the golf course located to the north of Flack Street and Musgrave Street (including the lot proposed to be rezoned) is freehold land, whereas the balance of the golf course (to the south of these streets) is Crown land.

Council acknowledged the submitter's request to retain the residential zoning, which would retain the potential for the freehold land to be sold for residential development.

Council submitted (Part A: para 242) that it was appropriate to retain the residential zoning of this portion of land and that NRZ6 was appropriate in the context of the Amendment.

The Panel recommends:

**Rezone the land proposed to be rezoned to Special Use Zone Schedule 3 to Neighbourhood Residential Zone Schedule 6.**

### 8.2 91 and 95 Inglis Street, Ballan

Submitter 21 owns two lots: one lot is residential the other commercial. They would like their site identified for a motel.

The Panel considers that this is a matter that could be pursued through a permit process and that the zoning would not preclude such a proposal.

### 8.3 Industrial Zone

#### (i) The issue

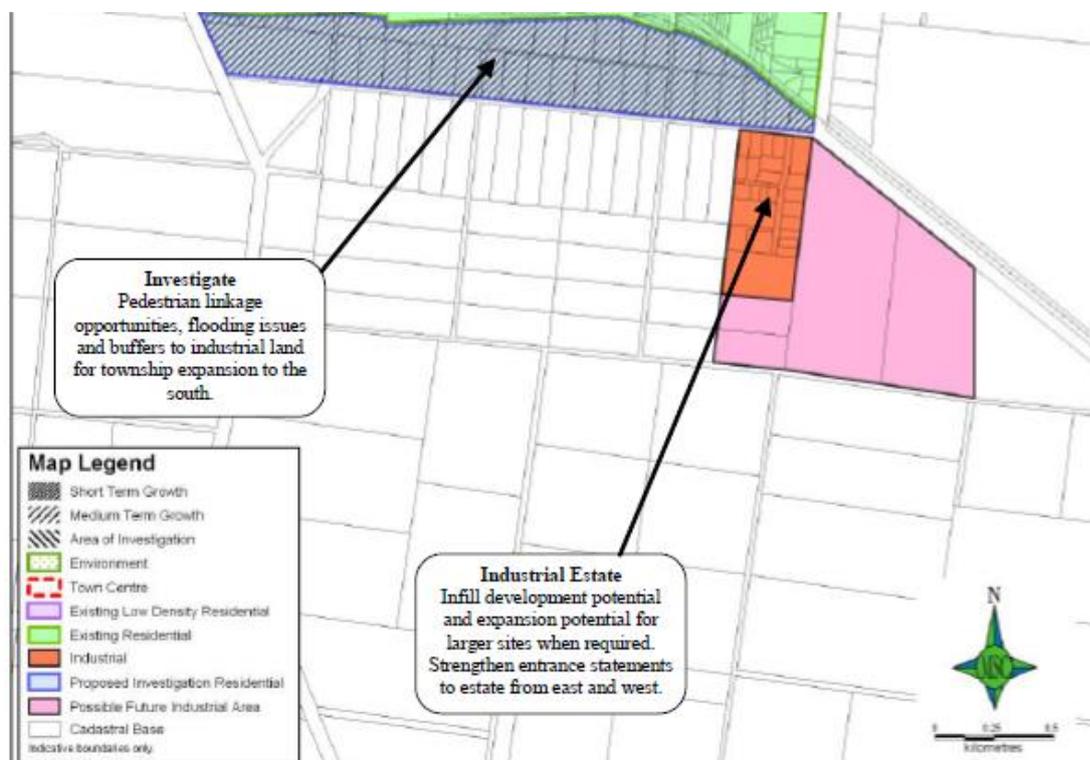
Submitter 26 supported the proposed change from INZ2 to INZ1. Submitter 38 sought the rezoning of land south of the existing industrial area to INZ1.

#### (ii) What does the Amendment propose?

The subject land is identified as 'Possible Future Industrial' in the current Framework Plan in the planning scheme.

The revised Framework Plan identifies this same area as 'Future Investigation Area for Potential Industrial'.

**Figure 12:** Current Ballan Framework Plan under Clause 21.08 of the planning scheme, showing 'possible Future Industrial Area' shaded pink.



### (iii) Evidence and submissions

Submitter 38 requested that the industrial precinct be extended southwards to Kerrins Lane, to include land described as Lot 2 on PS802215. This would enable Haddon Drive to be extended through to Kerrins Lane, which has access to Geelong–Ballan Road.

Council submitted (Part A: para 251) that rezoning the land:

... is considered to have some merit, given that *Ballan Strategic Directions* supports expansion of the industrial precinct if land supply is low and there is demand for expansion.

But cautioned (Part A: para 252) that:

Any future request to rezone land to facilitate expansion of the industrial precinct would need to be supported by a land supply and demand analysis.

### (iv) Discussion

As Ballan grows, so too will its demand for industrial land. It is not clear why there needs to be a land supply analysis. The Panel regards the proposed rezoning as a logical extension of the existing area that is currently identified for future industrial use and development. The submitter explained that if rezoned, the approach would be to respond to individual requests for industrial space with a bespoke subdivision and development tailored to the needs of the proposed business. This would be impractical if the land still needed to be rezoned. The rezoning process would take too long and the jobs would just go elsewhere.

Rezoning the land as part of this Amendment constitutes a timely implementation of the current framework.

**(v) Recommendation**

The Panel recommends:

**Rezone 164 Kerrins Lane, Ballan (Lot 2 on PS802215) to Industrial 1 Zone.**

## Appendix A Submitters to the Amendment

No.	Submitter	No.	Submitter
1	Ballan Golf Club	22	R and Y Erwin
2	Anthony Lowen Clarke	23	Simon Fraser
3	Ballan Golf Club	24	Elizabeth Mac Giolla
4	Donald Martin	25	Morgan and Griffin Pty Ltd
5	Barry Riley	26	Denise Dudley
6	William Pace	27	N and T Nancarrow
7	Rachel Conroy	28	Forte Land Pty Ltd
8	Rebecca Conroy	29	Liam Skilton, Michelle Wheeler, Greg and Nikki Bartlett
9	Les Conroy	30	Urlick & Elizabeth Ivchenko
10	Beverley Conroy	31	Stephanie Day
11	Melissa Pitcher	32	Central Highlands Water
12	Lori Conroy	33	D Popov Pty Ltd
13	Pat and Dennis Hunter	34	EPA Victoria
14	Ian and Judith Johnson	35	Grace Slocombe
15	Concetta McFall	36	DELWP - Environment
16	John Kowarsky	37	Sean O'Keeffe
17	Eddy Pitcher	38	Cheeky Donut Pty Ltd
18	Don and Dianne Smith	39	Dawn Keith
19	Justin Cooper	Late 40	Albert Jarvis
20	Stephen Kelly	Late 41	Noel Hodge
21	Merv Bartleman	Late 42	Janine Mitchell

## Appendix B Document list

No.	Date	Description	Provided by
1	4/4/2019	Location map of 29 Myrtle Grove	Mr Haydon
2	26/3/2019	Letter from Les Martin about the Golf Course land	Mr Martin on behalf of the Golf course
3	1/4/2019	Letter from S Kelly expanding on his submission	Mr Kelly (sub 20)
4	28/5/2019	Council Part A submission	Ms Pettit
5	28/5/2019	Annexure A of Council Part A submission, Updated version 7/5/2019	Ms Pettit
6	28/5/2019	Council Part B Submission	Ms Pettit
7	28/5/2019	Ballan Structure Plan, updated version post Council Part A submission	Ms Pettit
8	28/5/2019	Walkable catchment map	Ms Pettit
9	28/5/2019	Precinct 6 land ownership map	Ms Pettit
10	28/5/2019	Submission on behalf of J Mitchell	Ms Mitchell
11	28/5/2019	Expert evidence, Water Technology Pty Ltd	Mr Bishop
12	28/5/2019	Expert Evidence, Glossop Town Planning Pty Ltd	Mr Glossop
13	28/5/2019	Precinct 7 photographs, Glossop Town Planning Pty Ltd	Mr Glossop
14	28/5/2019	Precinct 7 key to photographs, Glossop Town Planning Pty Ltd	Mr Glossop
15	29/5/2019	Submission on behalf of Kingchip Pty Ltd	Mr O'Keefe
16	29/5/2019	Expert Evidence, SMEC Australia	Mr Maxwell
17	29/5/2019	Outline of submissions on behalf of Morgan and Griffin Pty Ltd	Ms Sharp
18	29/5/2019	Alternative Ballan Framework Plan proposed on behalf of Morgan and Griffin Pty Ltd	Ms Sharp
19	30/5/2019	Submission on behalf of D Popov	Ms Harrington
20	30/5/2019	Aerial photo 166 Old Melbourne Road	Ms Holloway
21	30/5/2019	Submission on behalf of R and Y Erwin	Ms Holloway
22	30/5/2019	Submission on behalf of N and T Nancarrow	Mr Eskdale
23	30/5/2019	Submission on behalf of S and D Keith	Mr Eskdale
24	30/5/2019	J Kowarsky submission	Mr Kowarsky
25	30/5/2019	A Jarvis submission	Mr Jarvis

No.	Date	Description	Provided by
26	30/5/2019	C McFall submission	Ms McFall
27	30/5/2019	Submission on behalf of D Fraser	Mr Marshall
28	30/5/2019	Submission on behalf of N Hodge	Mr Haydon
29	30/5/2019	Land title on behalf of N Hodge	Mr Haydon
30	30/5/2019	Potential plan of subdivision on behalf of N Hodge	Mr Haydon
31	30/5/2019	Land title on behalf of N Hodge	Mr Haydon
32	30/5/2019	Central Highlands Water and sewerage services map on behalf of N Hodge	Mr Haydon
33	30/5/2019	<i>Planning Practice Note No 42: Applying the Rural Zones</i>	Mr Haydon
34	30/5/2019	<i>Planning Practice Note No 37: Rural Residential Development</i>	Mr Haydon
35	30/5/2019	U and E Ivchenko submission	Mr Ivchenko
36	30/5/2019	Council closing submission (Part C)	Ms Pettit
37	14/6/2019	An updated version of the Ballan Framework Plan, which reflects Council's closing submission	Mr Davison
38	14/6/2019	An updated version of Clause 21.08 (with tracked changes), which reflects Council's closing submission	Mr Davison
39	14/6/2019	An updated version of Clause 21.08 (without tracked changes), which reflects Council's closing submission	Mr Davison

## Appendix C Panel preferred version of Clause 21.08

[Tracked Added](#)

~~Tracked Deleted~~

### 21.08 BALLAN

DD/MM/YYYY  
Proposed C88

#### 21.08-1 Key issues and influences

DD/MM/YYYY  
Proposed C88

Ballan is the second largest town within the Shire and has the role of a rural service centre and a commuter town, with many residents travelling to Ballarat, Bacchus Marsh, or Melbourne for work. An industrial estate, local businesses and retail and wholesale trade provide local employment.

The Werribee River is the main environmental feature and physically divides the town into two distinct areas. There is a strong heritage streetscape appearance in the commercial centre and a range of health and community facilities including a hospital, maternal and child health centre, kindergarten, State and Catholic primary schools and recreational areas including the golf course and swimming pool to support the residents.

Ballan has an important role in forming part of Moorabool's growth areas, secondary to the main growth fronts in Bacchus Marsh. As growth occurs, the town's point of difference in housing, lifestyle choices, and rural amenity needs to be maintained in the long term, such that Ballan does not adopt a typical suburban role in the future. Its strong historical character and rural setting need to be recognised to ensure future development is planned and undertaken sympathetically.

In parallel with its settlement role, Ballan's socio-economic role is significant. The town provides the only substantial retail centre within Moorabool Shire, other than Bacchus Marsh, and is an important location for meeting local needs. In more recent years, Ballan has also performed a niche tourism role through a number of regular markets, annual festivals, shops and gourmet cafes. This role is anticipated to grow and become an integral component of Ballan in the future. Accordingly, Ballan's function in catering for both local residents and visitors needs to be protected and enhanced into the future. An important measure in achieving this will be to encourage commercial uses oriented towards generating high activity, in combination with community facilities within or proximal to the core.

The town centre will retain its existing compact form and core, and new commercial use and development will be encouraged to locate within the town centre. New commercial use and development should be compatible with existing amenity and streetscape. Development of increased local level convenience retail facilities will be supported in the town centre. Use of existing shops in the town centre will be encouraged prior to construction of new buildings on the fringe of the town centre. ~~Further expansion outside the identified township boundary is to be avoided in order to support the town's functionality and appeal.~~ Additionally, the built form of the town centre is highly important, and it is necessary to ensure that future development responds meaningfully to the strong historic elements.

The Ballan Industrial Precinct provides for a mix of business activities including manufacturing, transport and service companies. The Precinct is located in close proximity to the residential population, and is most suited to light industrial uses.

#### 21.08-2 Objective—character and sense of place

DD/MM/YYYY  
Proposed C88

To protect and enhance Ballan's character and sense of place as a country town, with historic built form and streetscapes, surrounded by scenic rural and natural areas.

#### 21.08-3 Strategies

DD/MM/YYYY  
Proposed C88

- Implement and maintain a township boundary until ~~the planned level of growth is nearing completion and there is demonstrable demand for further growth~~ [land supply approaches 15 years](#).
- Confine residential development within the township boundary, in accordance with the Ballan Framework Plan, to enhance the town's sense of place.

- Ensure a clear separation between urban development and farming activities is retained.
- Ensure new development responds to environmental assets, landscape features, and views, including the Werribee River and its tributaries.
- Emphasise the country feel of the town by creating ‘gateways’ ~~that including:~~
  - ~~Feature larger~~ Larger residential allotments along the key approaches into town, as illustrated in the Ballan Framework Plan.
  - ~~Enable the siting of dwellings with G~~ generous front and side setbacks for dwellings; ~~and~~
  - ~~provide p~~ Predominantly low, open-style fencing to contribute towards the experience of the town’s regional setting; ~~and.~~
  - Retained d and enhanced d ~~existing~~ vegetation.
- Create a path network that facilitates walking and cycling to the train station, the town core, open space and other key destinations within the town.

#### 21.08-4 Objective—environment

DD/MM/YYYY  
Proposed C88

To protect and enhance Ballan’s environmental features as part of future development.

#### 21.08-5 Strategies

DD/MM/YYYY  
Proposed C88

- Encourage the retention of all ~~tributaries~~ watercourses in growth precincts, and provide appropriate buffers in accordance with Melbourne Water requirements.
- ~~Require, as appropriate, the dedication of~~ Create public land reserves ~~associated with~~ along the Werribee River for new developments, and seek improvements to the river’s ecology and amenity through re-vegetation and landscaping.
- Ensure stormwater runoff is appropriately managed to minimise impacts on the Werribee River and its tributaries.

#### 21.08-6 Objective—residential development

DD/MM/YYYY  
Proposed C88

To guide residential development in accordance with Ballan’s future character and demographic needs.

#### 21.08-7 Strategies

DD/MM/YYYY  
Proposed C88

- Implement the Ballan Framework Plan.
- Support both infill and greenfield residential development to provide diverse housing opportunities.
- Ensure residential rezoning proposals, master/development plans, and subdivision have regard for Ballan’s character and sense of place by:
  - Reinforcing the predominant character of the town through use of ~~widened~~ tree lined streets within new subdivisions, as appropriate.
  - Strengthening connectivity of new development to the town centre core and key destinations, by enhancing pedestrian and cycling links.
  - Encouraging appropriate zoning controls to be applied to manage interfaces with rural land, waterways and the Western Freeway.
  - Ensuring new road alignments respond to natural topography, capture key views, and where possible, seek to retain existing mature vegetation through deviations, deflections or localised road widening as appropriate.
  - Providing open spaces and places in Ballan’s growth precincts by incorporating and responding to natural features such as existing vegetation, topographical features and other character elements that contribute to Ballan’s character and natural landscape.
  - Ensuring growth precincts provide a diverse range of lot sizes which protect the country lifestyle character of Ballan.

- Retaining the landscape character of the Werribee River by protecting a corridor along the river and its tributaries. The width of corridors should take into account the recommendations of Melbourne Water where relevant.
- Providing diverse streetscapes, strong connectivity to public spaces and retaining the valued characteristics of Ballan.
- Ensure new development provides path networks which:
  - Integrate with existing or planned open space networks, and include pathways within the open space where it is part of the property undergoing development.
  - Connect to existing and planned external networks ~~including those identified in the Ballan Strategic Directions June 2018.~~
- Ensure new development in Minimal Growth Areas of the Ballan Framework Plan:
  - Encourages low density housing types, generally in the form of detached housing, with dual occupancies only ~~considered~~ supported on sites that do not compromise the preferred neighbourhood character.
  - Conserves and enhances attributes that contribute to the environmental significance, heritage values and the preferred neighbourhood character of the precinct.
  - Encourages new dwellings to be setback from all boundaries to accommodate landscaping and to maintain the sense of openness.
  - Encourages new dwellings to be designed in accordance with the predominant building height of the street.
- Ensure new development in Natural Growth Areas of the Ballan Framework Plan:
  - Encourages low scale medium density housing and alternative housing typologies (such as co-housing, retirement villages, aged care, etcetera) on lots that are accessible to public transport, the town centre core and open space.
  - Discourages boundary to boundary development.
  - Encourages new dwellings which are consistent with the predominant building height of the street, and which complement the preferred character of the area.
- Ensure new development in Greenfield Growth Areas of the Ballan Framework Plan:
  - Is in accordance with the Ballan Framework Plan.
  - Supports the logical sequencing of development within the defined ~~settlement township~~ boundary in a manner that can efficiently access existing services, and bring forward key infrastructure and services where needed.
  - Considers flood risk and drainage, buffers to the industrial land, transport connectivity, the interface with the railway corridor, the high pressure gas pipeline, and availability and capacity of water supply and sewerage infrastructure.
  - Avoids interim subdivision of land in identified 'greenfield' areas prior to rezoning in ~~accordance with the Ballan Strategic Directions June 2018~~, to minimise further fragmentation and maintain growth potential.
  - Responds to topography, landscape, vegetation, and natural features.
  - Provides passive open space within 400 metres walkable catchments as part of future subdivision to meet passive recreation needs for future residents.
  - Encourages a diversity of lot sizes and housing choices.

#### 21.08-8 Objective—town centre

DD/MM/YYYY  
Proposed C88

To retain the town centre core as the main commercial and retail precinct with supporting non-residential uses.

#### 21.08-9 Strategies

DD/MM/YYYY  
Proposed C88

- Support the growth of existing and the establishment of new higher order education and health related uses.

- Encourage the expansion of existing health facilities to occur in proximity to existing services and facilities.
- Encourage commercial development to be consolidated within the existing town centre through infill development, and discourage rezoning for commercial purposes outside the town centre.
- Encourage the redevelopment of underutilised sites and where possible, the retrofitting of existing buildings to provide for commercial or office uses.
- Ensure new development complements the character of the town core, having regard to its heritage places, zero to small setbacks from the street, materials, roof forms, etcetera.
- Encourage tourism focused uses such as accommodation, food, beverage, arts and craft, and other such uses to enhance the visitor experience.

#### **21.08-10 Objective—industrial precinct**

DD/MM/YYYY  
Proposed C88

To ensure the industrial precinct is retained as a significant employer within the town while also providing a range of service based industrial uses to Ballan and the region.

#### **21.08-11 Strategies**

DD/MM/YYYY  
Proposed C88

- Maintain the extent of existing industrial zoning to the south-east of the town, and only rezone land for expansion in response to low vacancy and demonstrable demand.
- Encourage industrial uses to locate with the industrial precinct.
- Support the establishment of a range of industrial uses, scaled in accordance with the subsidiary role of Ballan within the broader region.
- Ensure residential development does not encroach on the industrial precinct and associated buffer areas, as applicable.

#### **21.08-12 Further strategic work**

DD/MM/YYYY  
Proposed C88

- Prepare a development contributions scheme to support the provision of appropriate physical infrastructure for growth precincts and their linkages to the town centre.
- Prepare Urban Design Guidelines for residential subdivision and the town centre, addressing the public realm, built form, subdivision design, gateway treatments and interface with arterial roads, waterways, natural environment and landscape, front fencing and sustainability.
- Prepare an implementation strategy for the delivery of future path networks.
- Prepare a landscape masterplan for the Werribee River open space network to ensure the delivery of an open space network that is functional, complementary to Ballan's character and the natural environment.
- Prepare Street Tree Planting Guidelines for subdivision and town centre landscaping.

[Updated Framework Plan to be included]