

**Mount Alexander Planning Scheme Amendment C94malx  
Plan Harcourt**

**Panel Report**

*Planning and Environment Act 1987*

**16 November 2022**

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### How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether or not to adopt the Amendment.

[section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the PE Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the PE Act]

### *Planning and Environment Act 1987*

Panel Report pursuant to section 25 of the PE Act

Mount Alexander Planning Scheme Amendment C94malx

Plan Harcourt

**16 November 2022**



Lisa Kendal, Chair



Brodie Blades, Member

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## Glossary and abbreviations

A Practitioner's Guide	<i>Practitioner's Guide to Victorian Planning Schemes</i>
C1Z	Commercial 1 Zone
CASBE	Council Alliance for a Sustainable Built Environment
Council	Mount Alexander Shire Council
DDO	Design and Development Overlay
DDO16	Design and Development Overlay Schedule 16
Del Norte	Del Norte Pty Ltd
DELWP	Department of Environment, Land, Water and Planning
DPO	Development Plan Overlay
DPO12	Development Plan Overlay Schedule 12
EPA	Environment Protection Authority Victoria
ESD	Environmentally Sustainable Development
ESO5	Environmental Significance Overlay Schedule 5 (Watercourse protection)
ESO	Environmental Significance Overlay
FZ	Farming Zone
GRZ	General Residential Zone
Harcourt Framework Plan Review	<i>Harcourt Framework Plan Review</i> (Final Draft Report), MacroPlan Dimasi, 2017
Harcourt LUPF	Harcourt Land Use Framework Plan
MD1	Ministerial Direction 1 - Potentially Contaminated Land
Native Vegetation Guidelines	<i>Guidelines for the removal, destruction or lopping of native vegetation</i> (DELWP, 2017)
NRZ	Neighbourhood Residential Zone
NRZ1	Neighbourhood Residential Zone – Schedule 1
PE Act	<i>Planning and Environment Act 1987</i>
Plan Harcourt	<i>Plan Harcourt</i> , Mount Alexander Shire Council, 2020
Planning for Biodiversity	<i>Planning for Biodiversity: Guidance</i> (DELWP 2017)
Planning Scheme	Mount Alexander Planning Scheme
PPN59	Planning Practice Note 59: The role of mandatory provisions in planning schemes
PPN91	Planning Practice Note 91: Using the residential zones
Regional Growth Plan	<i>Loddon Mallee South Regional Growth Plan 2014</i>

TRZ	Transport Zone
TZ	Township Zone

## Overview

### Amendment summary

The Amendment	Mount Alexander Planning Scheme Amendment C94malx
Common name	Plan Harcourt
Brief description	Implements the key land use planning directions of <i>Plan Harcourt</i> , Mount Alexander Shire Council, 2020
Subject land	See Figure 1
Planning Authority	Mount Alexander Shire Council
Authorisation	11 November 2021 with conditions
Exhibition	11 January-6 March 2022 (public notice) 22 June-20 July 2022 (notice to prescribed ministers and authorities)
Submissions	Number of Submissions: 26

### Panel process

The Panel	Lisa Kendal (Chair) and Brodie Blades
Directions Hearing	Video conference - 19 August 2022
Panel Hearing	Video conference - 16, 19 and 20 September 2022
Site inspections	Unaccompanied - 15 September 2022
Parties to the Hearing	<p>Mount Alexander Shire Council, represented by Lauren Watt, Coordinator Strategic Planning and Nathan Lord, Strategic Planner</p> <p>Harcourt Valley Properties (VIC) Pty Ltd, represented by Terry Montebello, Maddocks</p> <p>Del Norte Pty Ltd, represented by Jane Sharp of Counsel instructed by George Schifter of George Schifter Johansson &amp; Co, called the following experts:</p> <ul style="list-style-type: none"> <li>- Dr Andrew Hewitt on agriculture and spray drift</li> <li>- John Glossop from Glossop Town Planning Pty Ltd on planning</li> </ul> <p>Harcourt Valley Landcare, represented by Robyn Miller, called the following expert:</p> <ul style="list-style-type: none"> <li>- Paul Foreman from Blue Devil Consulting on ecology</li> </ul> <p>Harcourt Progress Association, represented by David Foley</p> <p>Bron and Terry Willis</p> <p>Christine Mitchell</p> <p>Vera Hemkes</p> <p>John Baldock</p> <p>Mary Edquist</p>
Citation	Mount Alexander PSA C94malx [2022] PPV
Date of this report	16 November 2022

## Executive summary

Harcourt is identified as a small town in Central Victoria that can accommodate planned growth. It is located on Barkers Creek and in the foothills of Mt Alexander (known to the Traditional Owners as ‘Lianyuk’ and referred to by the community as Leanganook), approximately 33 kilometres south of Bendigo and 123 kilometres north west of Melbourne.

The *Loddon Mallee South Regional Growth Plan 2014* states that Harcourt has the infrastructure and opportunity to grow, offers an alternative country town lifestyle and is readily accessible to a regional city. The town has experienced significant change since the Calder Bypass project was completed in 2009.

*Plan Harcourt* (2020) comprises the Harcourt Framework Plan and Shine Harcourt Leanganook. It seeks to ensure growth and development of Harcourt is carefully managed to promote local character, recognise and protect productive agricultural land and operations, ensure adequate land supply and infrastructure and protect natural and cultural features of the town.

Mount Alexander Planning Scheme Amendment C94malx (the Amendment) seeks to implement the key land use planning recommendations of Plan Harcourt into the Mount Alexander Planning Scheme.

Specifically the Amendment proposes to:

- insert a new local policy Clause 11.01-1L-04 (Harcourt) including an updated Harcourt Land Use Framework Plan
- rezone the majority of land in the Township Zone and General Residential Zone to the Neighbourhood Residential Zone Schedule 1
- rezone land in the designated town centre from Township Zone to Commercial 1 Zone and apply design requirements through the Design and Development Overlay Schedule 12
- rezone land in Growth Areas A and B from Farming Zone to Neighbourhood Residential Zone Schedule and apply design requirements through the Development Plan Overlay Schedule 12
- include Plan Harcourt as a Background Document
- make other minor and consequential changes to the Mount Alexander Planning Scheme.

Key issues raised in submissions included:

- protection of significant biodiversity and trees
- response to climate change and provision for environmentally sustainable development
- interface and buffers between residential and agricultural land
- township boundary alignment
- issues relating to residential areas, including appropriate land use zone, lots size and housing diversity, built form, growth area planning and design and development contributions
- town centre location, extent and amenity
- site specific issues and requests.

Population growth forecasts and settlement planning for Mount Alexander Shire support and reinforce the need to update the existing township plan for Harcourt. The Panel commends Council’s commitment to strategic planning for Harcourt which takes into consideration changes



to the context of the town, such as construction of the Calder Freeway Bypass. The Panel acknowledges the extent of community and stakeholder engagement and consultation undertaken by Council in preparing Plan Harcourt.

Plan Harcourt, which underpins the Amendment, represents an evolution of strategic planning for Harcourt. It expands on and refines earlier strategic planning work with regard to existing policy guidelines and requirements, and includes further research and assessment relating to character, population forecasts, land supply and demand, town centre and economic planning, urban design and bushfire.

Biodiversity is a key feature and environmental asset of Harcourt. The Amendment did not take into account the full range of elements required to assess, understand and protect biodiversity values. The Panel considers the Amendment should not proceed until further strategic assessment work is undertaken in relation to biodiversity values. This further work is likely to result in changes to the proposed local policy and planning controls. As an area with significant biodiversity values, it is critical that work is undertaken to strategically plan for the protection and conservation of areas of biodiversity.

In the absence of further work relating to protection of biodiversity, the Panel considers the Amendment does not satisfy the requirement for integrated decision making or the objectives of the *Planning and Environment Act 1987*. It is premature to proceed with the Amendment until this work has been completed.

The Panel also recommends further work relating to the extent of land proposed for commercial zoning in the town centre, and the north eastern aspects of the proposed township boundary.

### **Overarching conclusion**

While the Panel is broadly supportive of the Amendment and considers it important to establish contemporary growth and development directions for Harcourt, the Panel recommends abandoning the current Amendment process until this further work is completed. It is important this further work be completed in consultation with the community and relevant stakeholders, and for Plan Harcourt and the Amendment to be updated to reflect the further work.

### **Environmental values and ESD**

Regarding biodiversity, the Panel concludes that habitat and wildlife corridors have not been adequately identified and are not adequately protected. It is premature to proceed with the Amendment in the absence of a strategic level biodiversity assessment.

A strategic level biodiversity assessment is required across the whole study area before the Amendment proceeds. It should identify significant biodiversity values, including trees, and recommend appropriate planning provisions which adequately protect biodiversity values.

Significant native trees are likely to be adequately protected in Growth Areas A and B, but may not be protected in the existing township. The Panel is satisfied the Amendment adequately provides for provision of trees in new development.

The Panel is satisfied the Amendment adequately considers and addresses climate change adaptation and mitigation through relevant State planning policy and proposed planning provisions. Further work would be required to strategically justify and specify the requirements for a local climate change or ESD policy, or other planning provisions. This may be appropriate as

part of a separate process. The Panel supports Council's post-exhibition changes to include additional environmentally sustainable development requirements.

### **Environmental risk**

The Panel concludes that adequate buffers to agricultural land should be planned and established within the township boundary. Adequate buffers should be determined for each development site with consideration of surrounding agricultural land use and all of the potential amenity impacts.

The proposed objective in local policy 11.01-1L-04 (Harcourt) should be reworded to clearly state what it intends to achieve relating to buffers. The Panel has made suggestions.

The DPO12 provisions as they relate to buffers are appropriate. The requirement for a Contamination Report should be removed from DPO12.

### **Township boundary**

The principles used to inform the township boundary alignment are appropriate, apart from using Eagles Channel as a hard edge. The use of property boundaries is preferred to Eagles Channel for the township boundary in the north-eastern part of town.

Further work should be undertaken to confirm the appropriate north-eastern boundary in the vicinity of Eagles Channel, or if not confirmed the location should be shown as indicative with notations outlining the requirements of further investigation.

The township boundary alignment adequately takes into consideration protection of agricultural land.

### **Residential areas**

The proposed residential land rezoning of the existing town and Growth Areas A and B to Neighbourhood Residential Zone is appropriate.

The Neighbourhood Residential Zone Schedule 1 character objectives and ResCode variations are appropriate, including Council's proposed post-exhibition change to Standard B13.

The Development Plan Overlay Schedule 12 will achieve appropriate planning and urban design outcomes for Growth Areas A and B, including Council's proposed post-exhibition changes, subject to refining the proposed 'Image and Character Report' requirement as suggested by the Panel.

The proposed post-exhibition changes:

- relating to delivery of development plans for Growth Area A is appropriate
- relating to requirements for development contributions are adequately clear and appropriate.

### **Town Centre**

The general location of Harcourt's town centre is appropriate, however the extent of the proposed C1Z is not strategically justified. Further work is required to inform any future commercial land rezoning in Harcourt. Protection of residential amenity should be considered as part of further strategic work to confirm the extent of Harcourt's commercial areas.

The proposed mandatory maximum building height is not supported.

The proposed parking provisions are appropriate.

## Specific sites

The Panel concludes:

- It is appropriate to apply the Development Plan Overlay Schedule 12 to all land bound by Craigie Street, Eagles Road, Leafy Land and Shady Lane.
- That the whole of the property at 27 Craigie Street should be included in the township boundary on the Harcourt Land Use Framework Plan, and the land should be included as a potential future residential growth area..
- The property at 1 Poplar Drive has attributes that support potential future residential development, and it is appropriate to include the land in the township boundary as a potential future residential growth area.
- It is not appropriate to include the land at 36 Harmony Way, 50 Harmony Way and 66 Mills Road within the NRZ1, DPO12 and Harcourt town boundary at this time.
- The Amendment appropriately addresses amenity and interface issues with Barkers Creek.

## Recommendations

Based on the reasons set out in this Report, the Panel recommends that:

- 1. Mount Alexander Planning Scheme Amendment C94malx be abandoned.**

## Further recommendations

The Panel makes the following further recommendations. Council to:

- Prepare a strategic level biodiversity assessment and revise the Amendment to ensure proposed planning provisions adequately consider biodiversity protection.
- Prepare a commercial land demand assessment to inform the area proposed for rezoning to Commercial 1 Zone in the town centre.
- Update Plan Harcourt to ensure it is consistent with the further work and updated Amendment.

# 1 Introduction

## 1.1 The Amendment and subject land

Mount Alexander Planning Scheme Amendment C94malx (the Amendment) seeks to implement the key land use planning recommendations of *Plan Harcourt*, 2020 (Plan Harcourt) into the Mount Alexander Planning Scheme (Planning Scheme).

In summary, the Amendment proposes to:

- rezone land from Farming Zone (FZ), Township Zone (TZ) and General Residential Zone (GRZ) to the Neighbourhood Residential Zone Schedule 1 (NRZ1)
- rezone land from TZ to Commercial 1 Zone (C1Z) or Rural Living Zone
- rezone land from Road Zone Category 1 to Road Zone Category 2<sup>1</sup>, NRZ1 or Public Park and Recreation Zone
- apply the new Design and Development Overlay Schedule 16 (DDO16) to C1Z land
- apply the new Development Plan Overlay Schedule 12 (DPO12) to the township Growth Areas A and B
- amend the Municipal Planning Strategy including deleting the existing Harcourt Framework Plan
- insert a new local policy Clause 11.01-1L-04 (Harcourt) including an updated Harcourt Land Use Framework Plan (Harcourt LUFP)
- amend the Schedule to Clause 72.08 (Background documents) to include Plan Harcourt
- make other consequential changes to the Planning Scheme.

Mount Alexander Shire Council (Council) is the Planning Authority for the Amendment.

The Amendment applies to all land within the Harcourt township and its immediate surrounds (see the Harcourt LUFP at Figure 1). Council provided details of the land affected by the Amendment and changes to the Planning Scheme in the Explanatory Report (see Appendix C).

The Harcourt LUFP includes a refined township boundary and designates Growth Areas A and B for rezoning as part of the Amendment, and future Growth Areas C and D.

### (i) Plan Harcourt

Council prepared and adopted Plan Harcourt to guide future planning and development of the town. It seeks to respond to the anticipated population growth in Harcourt and ensure that future development is appropriately managed. It integrates land use planning and local economic development objectives and proposes new local planning policy, and zone and overlay controls and recommends future town centre activation projects to improve the structure and function of the town.

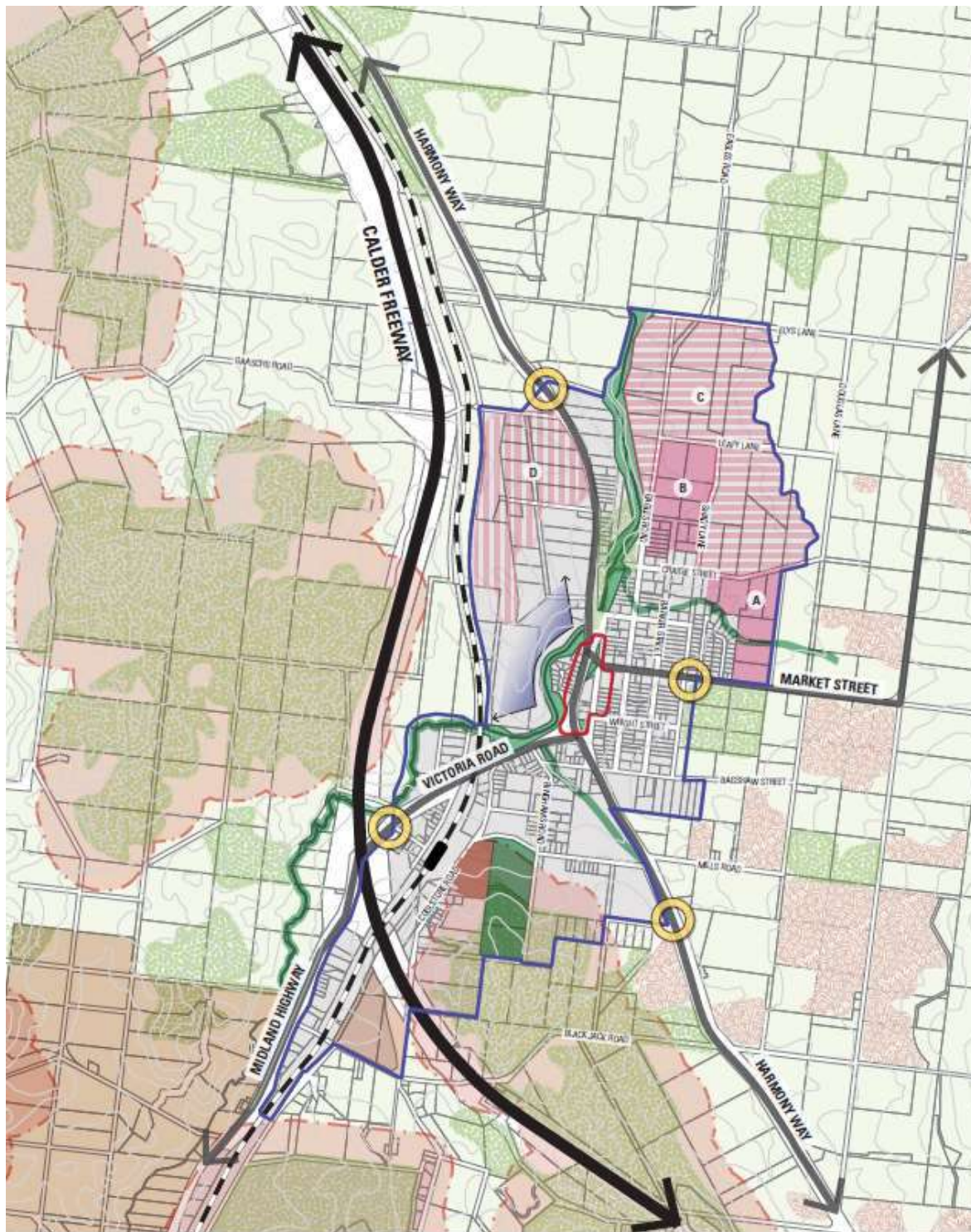
Key elements of Plan Harcourt focus on open space and movement connections, community health and wellbeing, urban design, neighbourhood character and land use. It provides direction for the existing areas of Harcourt by encouraging well-designed:

- residential infill development close to services
- commercial development within the proposed town centre.

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<sup>1</sup> Amendment VC205 introduced the Transport Zone and replaced Road Zone 1 to Transport Zone 2 (TRZ2) and Road Zone 2 with Transport Zone 3 (TRZ3)

Figure 1 Land affected by the Amendment / Harcourt LUPF



Legend

- |                   |  |                                     |
|-------------------|--|-------------------------------------|
| Township Boundary | Township Entrance  | Future Town Expansion Areas A and B |
| Town Centre       | Retain hillslope and landscape background to Town Centre | Future Town Expansion Area C        |
| Freeway           | Rural Living Zone (RLZ)                                  | Future Town Expansion Area D        |
| Main Roads        | Industrial Land  | Existing Canopy Vegetation          |
| Train Station     | Public Open Space  | Existing Horticultural Land         |
| Rail Corridor     | Bushfire Management Overlay                              |                                     |



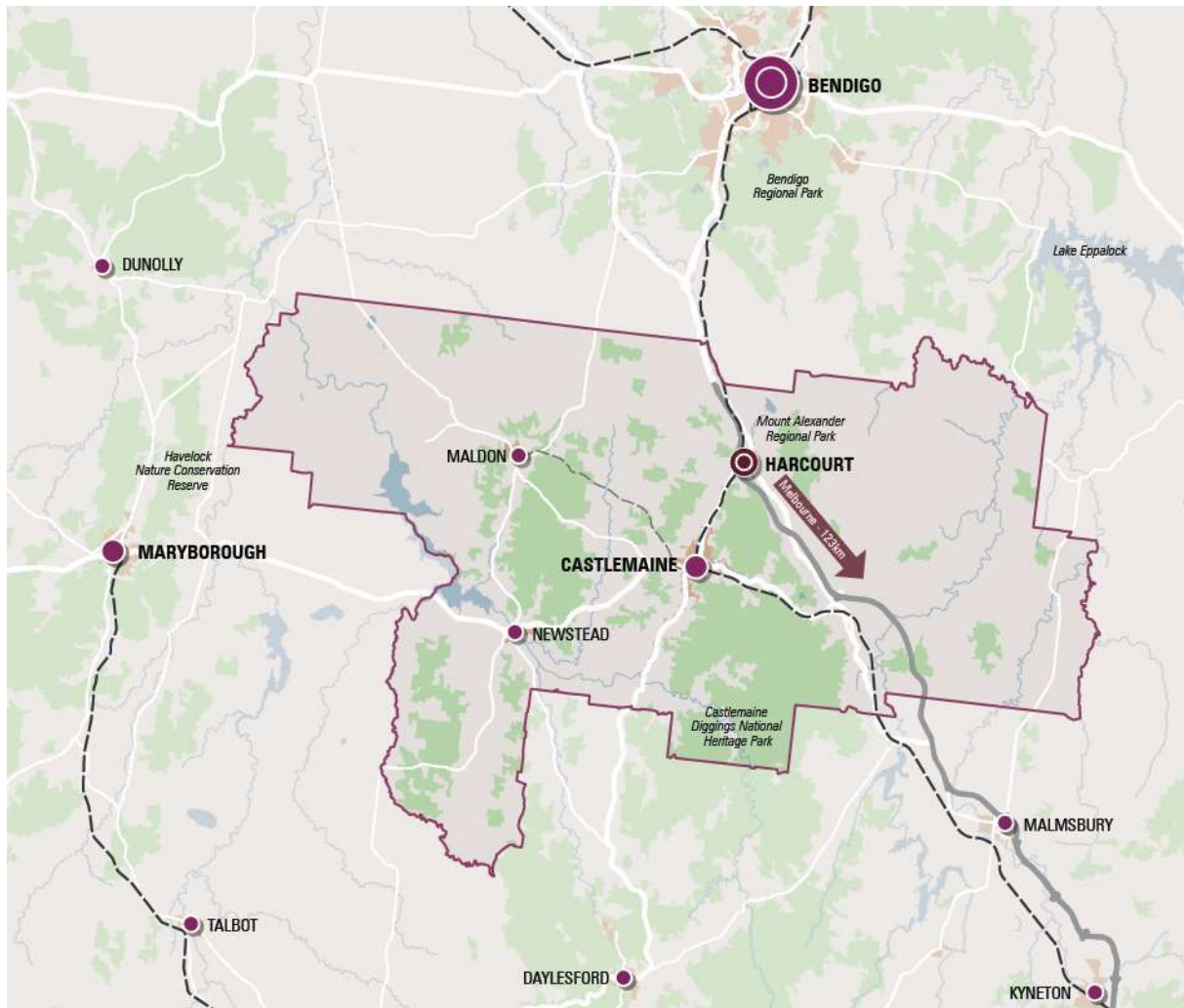
## 1.2 Background and context

### (i) Location

Harcourt is located approximately 123 kilometres north west of Melbourne, and approximately 33 kilometres south of Bendigo (see Figure 2).

The town is located on Barkers Creek and in the foothills of Mt Alexander (known to the Traditional Owners as 'Lianyük' and referred to by the community as Leanganook).

**Figure 2** Harcourt - Regional Context Map



Source: Plan Harcourt

### (ii) Loddon Mallee South Regional Growth Plan 2014

The *Loddon Mallee South Regional Growth Plan 2014* (Regional Growth Plan) is the strategic land use plan for the region guiding growth and change for the next 30 years.

The Regional Growth Plan identifies Harcourt as a small town to accommodate population growth. It identifies that Harcourt has the infrastructure and opportunity to grow, offers an alternative country town lifestyle accessible to a regional city and managed growth is encouraged to accommodate demand from Castlemaine. It notes further strategic work is underway and states:

There is potential for growth of Harcourt beyond the existing town boundaries. Rezoning of land for urban development needs to occur in appropriate locations with regard to the surrounding horticultural land and bushfire hazard.

### (iii) Background reports

Council advised the following background reports informed Plan Harcourt and/or the Amendment:

- *Harcourt; After the bypass*, 2009
- *Harcourt Town Centre Master Plan*, 2011
- *Harcourt Community Plan*, 2013
- *Harcourt Landscape Master Plan*, 2015
- *Harcourt Framework Plan Review* (Final Draft Report), MacroPlan Dimasi, 2017 (Harcourt Framework Plan Review)
- *Bushfire Development Report for the Harcourt Framework Plan*, Terramatrix, 2019
- *Plan Harcourt: Housing Demand Policy Implementation report*, REMPLAN, August 2020
- *Harcourt Infrastructure Plan*, Mount Alexander Shire Council, 2022.

### (iv) Chronology of events

Council provided a detailed overview of the chronology of events leading to the Amendment, including details of community consultation. A summary is included in Table 1.

**Table 1** Summary - chronology of events

Year	Event
2004	Urban Living Strategy completed
2009	Harcourt: After the Bypass completed
2010	Mount Alexander Residential Land Demand and Supply Analysis completed
2011	Harcourt Town Centre Master Plan completed
2012	Urban Development Program Regional Residential Report Shire of Mount Alexander, Department of Environment, Land, Water and Planning (DELWP) (2012) released
2013	Harcourt Community Plan completed
2014	Loddon Mallee South Regional Growth Plan completed
2015	Harcourt Landscape Master Plan completed
2017/2018	Harcourt Framework Plan and Residential Lot Yield Analysis Review prepared by MacroPlan Dimasi
November 2018 to February 2019	Public consultation on Plan Harcourt 'Discussion Paper'
2019	Mount Alexander Planning Scheme Review, Ethos Urban, 2019 completed
2019	Shine Harcourt Leanganook, 2019 prepared

Year	Event
2019	Harcourt Bushfire Development Report prepared by Terramatrix
April 2019	Plan Harcourt 'What We Heard' Paper released
Nov 2019 – Jan 2020	Public consultation on Draft Plan Harcourt
May 2020	Project bulletin: Update on Plan Harcourt publicly released
21 July 2020	Council adopted Plan Harcourt and resolved to seek authorisation from the Minister for Planning to prepare a planning scheme amendment to implement its planning system reform recommendations
August 2020	Plan Harcourt: Housing Demand Policy Implementation report prepared by REMPLAN
November 2021	Amendment C94malx authorised by DELWP with conditions
January – March 2022	Amendment C94malx placed on public exhibition for a period of 8 weeks
March – April 2022	Public consultation on Harcourt Infrastructure Plan Summary Report
21 June 2022	Council considered submissions to Amendment C94malx and resolved to refer submissions to an independent planning Panel
June - July 2022	Further exhibition of Amendment C94malx to notify prescribed ministers and authorities
July 2022	Mount Alexander Shire Land Supply and Demand Assessment completed by REMPLAN
16 August 2022	Council resolved to refer further submissions to the Panel
16 September 2022	Planning Panel Hearing commenced

#### **(v) Exhibition of the Amendment and referral of submissions to a Panel**

The Amendment was exhibited from 11 January to 6 March 2022. Council resolved at its meeting on 21 June 2022 to refer the 24 submissions received to a Panel, including one late submission.

Following this:

Council discovered a procedural error had occurred prior to public exhibition of the Amendment, which saw notification of the Amendment to the prescribed ministers and authorities not administered. Council sought and was granted an exemption by DELWP to rectify this and notified ministers and authorities prior to the Panel Hearing. Letters to ministers and authorities (including DELWP, Heritage Victoria, National Trust, and the Dja Wurrung Clans Aboriginal Corporation) were sent in July 2022 and two further submissions were received in response, from the EPA and DoT.

Council resolved at its meeting of 16 August 2022 to refer the Department of Transport and EPA submissions to the Panel. The total number of submissions is 26.

On 12 September 2022 Council emailed the Panel advising it had accepted and was referring to the Panel a further submission from Submitter 19, dated 16 August 2022 (Document 27).



### 1.3 Procedural issues

The following parties to the Hearing did not appear as timetabled:

- Submitter 2 and 3 (John Baldock), who provided a written submission only (Document 29)
- Submitter 7 (Christine Mitchell).

The Panel noticed the Harcourt Valley Landcare submission provided by Council appeared to be missing a page. This was confirmed and a complete submission was circulated by Council to all parties during the Harcourt Valley Landcare's verbal submissions at the Hearing (Document 45).

Mr Foreman who gave evidence for Harcourt Valley Landcare, included content in his evidence-in-chief that was not circuited prior to presenting at the Hearing, specifically comment relating to the Harcourt Valley Properties Pty Ltd (HVP) submission. The Panel sought the views of HVP on this material, and it advised that while it was not comfortable the material had been included, it would proceed on the basis that it had happened and address any concerns in its submission.

### 1.4 Summary of issues raised in submissions

#### (i) Individual submitters or groups of submitters

The key issues raised by submitters include:

- protection of biodiversity
- protection of significant trees
- response to climate change
- provision for environmentally sustainable development (ESD)
- interface and buffers between residential and agricultural land
- contaminated land
- township boundary
- appropriate land use zones
- lots size and housing diversity
- urban design and building design
- clarity around development contributions
- town centre location, extent and amenity
- site specific issues and requests.

The Panel has not addressed the issue relating to construction of a new skatepark.

#### (ii) Relevant agencies

The key issue for the Environment Protection Authority Victoria (EPA) was whether the proposed planning provisions for Growth Area B was consistent with the requirements of the *Environment Protection Act 2017*, Planning Practice Note 30 – Potentially Contaminated Land (PPN30) and Ministerial Direction 1 Potentially Contaminated Land (MD1).

The Department of Transport made a submission supporting the Amendment.

## 1.5 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 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:

- Planning context and strategic justification
- Environmental values and ESD
- Environmental risk
- Township boundary
- Residential areas
- Town centre
- Specific sites
- Corrections and clarifications.

## 2 Planning context and strategic justification

### 2.1 Planning context

This chapter identifies planning context relevant to the Amendment. Appendix A provides further details regarding relevant provisions and policies.

**Table 2** Planning context

	Relevant references
<b>Victorian planning objectives</b>	- section 4 of the <i>Planning and Environment Act 1987</i>
<b>Municipal Planning Strategy</b>	- Clauses 02.03 (Strategic directions), 02.03-7 (Tourism), 02.03-4 (Agriculture) - Clause 02.04 (Framework plans)
<b>State and regional planning policies</b>	- Clauses 11.01-1S (Settlement), 11.01-1R (Settlement – Loddon Mallee South) - Clauses 11.02-1S (Supply of urban land), 11.02-2S (Structure Planning), 11.02-3S (Sequencing of development) - Clauses 11.03-1S (Activity Centres), 11.03-6S (Regional and local places) - Clauses 12.01-1S (Protection of biodiversity), 12.01-1L (Protection of biodiversity) - Clause 12.03-1S (River corridors, waterways, lakes and wetlands) - Clause 13.01-1S (Natural hazards and climate change) - Clause 13.02-1S (Bushfire planning) - Clause 14.01-1S (Protection of agricultural land) - Clause 15 (Built environment and heritage) - Clauses 16 (Housing), 16.01-3L (Rural residential development) - Clause 17 (Economic development) - Clause 18 (Transport) - Clause 19 (Infrastructure)
<b>Other planning strategies and policies</b>	- Loddon Mallee South Regional Growth Plan
<b>Planning scheme provisions</b>	- Clause 32.05 (Township zone) - Clause 32.09 (Neighbourhood residential zone) - Clause 34.01 (Commercial 1 zone) - Clause 43.02 (Design and development overlay) - Clause 43.04 (Development plan overlay) - Clause 71.02-3 (Integrated decision making)

<b>Planning scheme amendments</b>	<ul style="list-style-type: none"> <li>- Amendment VC210, gazetted on 4 May 2022. Updated Clause 13.04-1S (Contaminated and potentially contaminated land) to align with MD1</li> <li>- Amendment VC216, gazetted on 10 June 2022. Changes the Planning Policy Framework to support ESD</li> <li>- Amendment VC221, gazetted on 4 August 2022. Supports implementation of Victoria's Climate Change Strategy 2021 and Gas Substitution Roadmap 2022</li> </ul>
<b>Ministerial directions</b>	<ul style="list-style-type: none"> <li>- Ministerial Direction on the Form and Content of Planning Schemes under section 7(5) of the PE Act</li> <li>- MD1</li> <li>- Ministerial Direction 11 (Strategic Assessment of Amendments)</li> <li>- Ministerial Direction 15 (The Planning Scheme Amendment Process)</li> <li>- Ministerial Direction 19 (Ministerial Direction on the preparation and content of amendments that may significantly impact the environment, amenity and human health)</li> </ul>
<b>Planning practice notes</b>	<ul style="list-style-type: none"> <li>- Planning Practice Note 23: Applying the Incorporated Plan and Development Plan Overlays</li> <li>- PPN30</li> <li>- Planning Practice Note 46: Strategic Assessment Guidelines, August 2018</li> <li>- Planning Practice Note 59: The role of mandatory provisions in planning schemes (PPN59)</li> <li>- Planning Practice Note 90: Planning for housing</li> <li>- Planning Practice Note 91: Using the residential zones (PPN91)</li> </ul>

## 2.2 Strategic justification

### (i) Evidence and submissions

Council submitted the Amendment was required to implement the key land use planning recommendations of Plan Harcourt, specifically to ensure:

- future development is carefully planned and managed
- growth and development responds to and enhances established and existing local character and identity
- plans for growth appropriately consider protection of agricultural land, environmental assets and risks and provision of infrastructure.

Council submitted it had limited resources and had undertaken what it saw as essential background work to inform the Amendment, such as land and supply assessment, municipal-wide settlement planning, bushfire and infrastructure planning. Ideally it would have undertaken further work relating to commercial land and biodiversity.

Council submitted two recent Shire-wide strategic documents reinforced the strategic direction of Plan Harcourt. The draft *Mount Alexander Shire Settlement Planning Assessment* (Council, 2022) assessed the residential growth framework for the municipality to inform future strategic planning work, including town based settlement plans and housing strategies. It found Council's existing strategic directions relating to settlement and growth are still valid and Harcourt's role in accommodating residential growth should be encouraged.

The *Mount Alexander Shire Land Supply and Demand Assessment* (REMPPLAN, 2022) reviewed and assessed the development potential of all residential land in the municipality using updated forecasts. It found the municipality has sufficient residential land to meet the projected population growth over 15 years, and Harcourt is the most constrained with 20 years of residential land supply to meet forecast demand. Council submitted this confirmed the key land use planning directions of Plan Harcourt, and that the Amendment is appropriate with regard to Council's statutory obligation to plan for at least 15 years of population growth.

The Harcourt Progress Association submitted it understood the purpose of Amendment was motivated by the *"regional and local strategic requirement for rezoning of new residential land"*. It accepted the proposed Amendment in general terms is likely to benefit Harcourt, however it must *"proceed on a socially, economically and environmentally responsible and sustainable pathway"*. It raised a number of specific issues relating to sustainability, biodiversity and significant environmental assets and protection of agricultural land.

HVP expressed general support for the Amendment. It provided a detailed history and argued there was a long history of relatively consistent strategic planning for Harcourt. It noted the proposal to revitalise Harcourt is consistent with the Council Plan 2017-2021, and emphasised the strong transport links along the Calder transport corridor and proposed future reinstatement of passenger rail services will potentially allow for more commuter living.

Several submitters raised concerns the Amendment had not adequately considered environmental values and was not informed by a strategic biodiversity assessment.

Mr Foreman gave the opinion that protection of biodiversity and the natural environment had not been adequately considered in the strategic planning process and preparation of the proposal. He advised the study area is likely to include a range of biodiversity values that were not adequately recognised and addressed.

## **(ii) Panel discussion**

The Planning Policy Framework requires planning authorities to plan for at least 15 years population growth and to provide clear direction on where this should occur. Planning for growth should:

- support sustainable urban development
- ensure sufficient land is available to meet forecast demand
- consider opportunities for consolidation, redevelopment and intensification of urban areas
- consider neighbourhood character and landscape
- land capability, natural hazards and environmental quality
- service limitations and provision of infrastructure
- restrict rural residential development that would compromise future development at higher densities.

The Planning Policy Framework also requires planning authorities to consider any relevant regional plan. The Regional Growth Plan identifies Harcourt for future sustainable growth and expansion, to capitalise on its proximity to Bendigo.

Population growth forecasts and settlement planning for Mount Alexander Shire support and reinforce the need to update the township plan for Harcourt. The Panel commends Council's commitment to strategic planning for Harcourt which takes into consideration changes to the context of the town, such as construction of the Calder Freeway Bypass. The Panel acknowledges the extent of community and stakeholder engagement and consultation undertaken by Council in preparing Plan Harcourt.

Plan Harcourt, which underpins the Amendment, represents an evolution of strategic planning for Harcourt. It expands on and refines earlier strategic planning work with regard to existing policy guidelines and requirements, further research and assessment relating to character, population forecasts, land supply and demand, town centre and economic planning, urban design and bushfire.

Issues raised in relation to biodiversity planning are addressed in Chapter 3. Biodiversity is a key feature and environmental asset of Harcourt. The Panel considers the Amendment should not proceed until further work strategic assessment is undertaken in relation to biodiversity values. This further work is likely to result in changes to the proposed local policy and planning controls. As an area known to have significant biodiversity values, it is critical that work is undertaken to strategically plan for the protection and conservation of areas of biodiversity.

Further work is also recommended relating to the extent of land proposed for commercial zoning in the town centre, and the north eastern aspects of the proposed township boundary (see Chapters 5 and 7).

With regard to Clause 71.02-3 (Integrated decision making):

- planning aims to meet the needs and expectations of Victorians including protection of the environment
- planning authorities are required to deliver integrated decision making which the range of planning policies in favour of net community benefit and sustainable development for the present and future generations.

In the absence of further work relating to protection of biodiversity, the Panel considers the Amendment does not satisfy the requirement for integrated decision making or the objectives of the PE Act. It is premature to proceed with the Amendment until this work has been completed.

While the Panel is broadly supportive of the Amendment and considers it important to establish contemporary growth and development directions for Harcourt, the Panel recommends abandoning the current Amendment process until this further work is completed. It is important this further work be completed in consultation with the community and relevant stakeholders, and for Plan Harcourt and the Amendment be updated to reflect the further work.

### **(iii) Conclusions**

For the reasons set out in the following chapters, the Panel concludes:

- Critical further work is required to strategically plan for the protection and conservation of areas of biodiversity.
- Plan Harcourt and the Amendment should be updated following completion of this further work.
- The Amendment should be abandoned.

## 3 Environmental values and ESD

### 3.1 Context and what is proposed?

#### Plan Harcourt

The place based methodology used to prepare Plan Harcourt identifies the need to consider biodiversity and climate change. The ‘Strategic context’ states:

Mount Alexander Shire is vulnerable to weather events that will be magnified by climate change. This includes prolonged droughts and fire seasons, heatwaves and widespread floods. The Shire’s average temperatures will continue to increase in all seasons, with warmer days and fewer frosts projected. Less rainfall is also projected during the cool season (Climate Change Action Plan 2016-2020). These changes will have widespread implications on Harcourt and highlights the need to plan to respond to flooding, bushfire and extreme heat. There are also ways to reduce urban heat island temperatures through increasing the level of tree canopy cover in urban areas.

‘Open views and native trees’ is a key theme identified through community consultation and underpinning Plan Harcourt. The plan identifies that Harcourt’s town layout and character has been influenced by the presence of surrounding native bushland and trees, stating *“The open spaces, native trees and landscape views to rural land, including farmland and bushland contribute to Harcourt’s sense of place”*. The neighbourhood character analysis within it identifies canopy trees as common and that building setbacks are important in providing space for canopy trees.

‘Key principles for managing change’ include:

- encouraging water and biodiversity sensitive urban design
- encouraging tree planting and retention, stating:
  - new residential development should be designed to protect large old native trees
  - subdivisions should be designed in a way that significant trees are retained in future public reserves
  - tree canopy cover extent will reduce urban heat island effect and assist with responding to the hazards associated with climate change
- supporting increased tree canopy cover to reduce the urban heat island effect and assist with climate change adaptation
- encouraging future development to incorporate ESD measures that help to minimise the town’s ecological footprint.

Plan Harcourt recommends:

- introducing planning policy to support *“developing open space and biodiversity corridors to reinforce the eastern town boundary as a buffer between agricultural and residential land”*
- amending the town boundary to protect biodiversity values
- further work on how ESD can be incorporated into future development
- other non-planning actions relating to consideration of biodiversity in landscape and urban design.

It recommends planning actions to:

Apply a Development Plan Overlay to land within future residential areas A and B to ensure it is coordinated and planned with regards to bushfire and flood risk, protects environmental assets, provides for open space, access and movement corridors and an agricultural buffer, and considers critical local infrastructure requirements.

...

Amend the mapping of the Schedule 5 to the Environmental Significance Overlay so that it covers land located 200 metres both sides of Barkers Creek and other waterways that are currently covered by this overlay to protect native vegetation.

### **The Amendment**

Proposed local policy Clause 11.01-1L-04 (Harcourt) includes:

- objectives to:
  - promote growth that is sustainable and in accordance with the Harcourt LUFP
  - recognise the importance of trees and native vegetation as part of Harcourt's character
  - enhance open space corridors and movement networks across the township of Harcourt.
- a strategy to:
  - protect environmental assets, including the retention of significant, large old native trees in the development of sites.

The Harcourt LUFP includes:

- a relocated township boundary to protect biodiversity assets (where relevant), for example at the eastern end of Wright Street
- a layer showing 'Existing canopy vegetation'.

NRZ1 neighbourhood character objectives include:

- encouraging planting of native and/or indigenous shrubs and trees in front setbacks to strengthen town character
- maximising pervious surfaces
- encouraging provision of canopy trees in setbacks, and retention of trees where possible.

DDO16 includes the following:

- building design requirement - buildings should incorporate ecological sustainable development design elements including water and energy efficiency, natural ventilation, and passive solar design
- decision guideline - whether the proposal achieves design outcomes that implements sustainable development principles.

Relevant provisions in DPO12 include:

- an objective - to ensure that development of the land responds appropriately to key environmental factors and risks within the area
- development plan requirements including:
  - a planning assessment and site analysis considering context, landscape, character and setting and that demonstrates how environmentally sustainable design measures have been incorporated into the overall development plan, including subdivision layout and infrastructure
  - an indicative subdivision layout showing trees proposed for retention and removal, and where trees are identified for protection, larger lots may be required to facilitate their retention
  - a landscape and open space concept plan identifying:
    - how significant view corridors and vegetation have been considered, significant vegetation is protected and retained in the public and/or private realm, public



- open space including roads and waterways will be planned to create integrated and connected landscape corridors and open space areas
- how Growth Area A provides open space along the waterway and retains vegetation where possible
- areas of new planting and planting themes, including a list of preferred plant species based on existing vegetation themes and locally indigenous plants, appropriate to site characteristics and climatic conditions
- a stormwater and drainage plan which addresses water sensitive urban design, and protecting natural systems and water quality
- an arborist report, identifying and providing a statement of health for existing trees, the location of trees for removal/destruction, pruning or to be retained and recommendations for the development plan
- a biodiversity assessment, identifying significant vegetation or of high habitat value that must be protected and retained in the public realm and where possible in the private realm, and a flora and fauna report and net gain assessment.

## 3.2 Biodiversity

### (i) The issues

The issues are whether:

- habitat and wildlife corridors have been adequately identified and protected
- a strategic level biodiversity assessment is required
- the proposed planning provisions adequately consider biodiversity protection.

### (ii) Relevant planning policy and guidance

#### Planning policy

Clause 12 (Environmental and landscape values) of the Planning Scheme states:

Planning should help to protect the health of ecological systems and the biodiversity they support (including ecosystems, habitats, species and genetic diversity) and conserve areas with identified environmental and landscape values.

...

Planning should protect, restore and enhance sites and features of nature conservation, biodiversity, geological or landscape value.

Clause 12.01-1S (Protection of Biodiversity) includes the objective to protect and enhance Victoria's biodiversity and strategies to:

- Use biodiversity information to identify important areas of biodiversity, including key habitat for rare or threatened species and communities, and strategically valuable biodiversity sites.
- Strategically plan for the protection and conservation of Victoria's important areas of biodiversity.
- Ensure that decision making takes into account the impacts of land use and development on Victoria's biodiversity, including consideration of:
  - Cumulative impacts.
  - Fragmentation of habitat.
  - The spread of pest plants, animals and pathogens into natural ecosystems.
- Avoid impacts of land use and development on important areas of biodiversity.

- Consider impacts of any change in land use or development that may affect the biodiversity value of national parks and conservation reserves or nationally and internationally significant sites...
- Assist in the identification, protection and management of important areas of biodiversity.
- Assist in the establishment, protection and re-establishment of links between important areas of biodiversity, including through a network of green spaces and large-scale native vegetation corridor projects.
- Support land use and development that contributes to protecting and enhancing habitat for indigenous plants and animals in urban areas.

Clause 12.01-1L (Protection of biodiversity) includes strategies to:

- Protect and retain dead trees for their habitat value.
- Discourage land use activities and development that impacts habitat conservation.

Clause 12.01-2S (Native vegetation management) includes an objective to ensure there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation.

Other relevant State planning policy includes:

- Clause 12.05-1S (Environmentally sensitive areas)
- Clause 12.05-2S (Landscape)
- Clause 13.01-1S (Natural hazards and climate change)
- Clause 14.02-1S (Catchment planning and management).

Relevant policy documents include:

- *Biodiversity 2037*
- *Victorian Waterway Management Strategy* (Department of Environment and Primary Industries, 2013)
- *Guidelines for the removal, destruction or lopping of native vegetation* (DELWP, 2017) (Native Vegetation Guidelines)
- Any applicable biodiversity strategies, including the relevant Regional Catchment Strategy (prepared under Part 4 of the *Catchment and Land Protection Act 1994*)
- *Assessor's handbook – applications to remove, destroy or lop native vegetation* (DELWP, 2017).

## Particular provisions

Clause 52.17 (Native vegetation) applies:

### Purpose

To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. This is achieved by applying the following three step approach in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation* (Department of Environment, Land, Water and Planning, 2017) (the *Guidelines*):

1. Avoid the removal, destruction or lopping of native vegetation.
2. Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.
3. Provide an offset to compensate for the biodiversity impact if a permit is granted to remove, destroy or lop native vegetation.

To manage the removal, destruction or lopping of native vegetation to minimise land and water degradation.

## Protecting Victoria's Environment – Biodiversity 2037, DELWP, 2017

*Biodiversity 2037* is Victoria's long term plan to stop the decline of biodiversity and achieve overall biodiversity improvement over the next 20 years. It states that a healthy natural environment is critical for life sustaining services for humans and underpins many activities that generate value for Victorians.

It includes priorities and targets, and intends to “*instigate biodiversity response planning at scales appropriate to how species operate, and to cost-effectively benefit the maximum number of species*”. It emphasises the links between relevant legislation including the PE Act, *Flora and Fauna Guarantee Act 1988* and the *Climate Change Act 2017*. It states:

The land use planning framework, for example, provides a good opportunity to ensure that biodiversity is integrated early in decision-making processes.

## Native Vegetation Guidelines

The Native Vegetation Guidelines is an incorporated document in all planning schemes in Victoria. Its purpose is to set out and describe the application of policy in relation to assessing and compensating for the removal of native vegetation. It must be considered by a planning authority when preparing a planning scheme amendment, as relevant.

The Native Vegetation Guidelines states that the “*strategic planning process is the most effective planning mechanism to protect and manage native vegetation and to achieve the objectives of the State Planning Policy Framework*”. It outlines what this involves.

Regarding the three step approach (avoid, minimise, offset) to biodiversity protection it states:

Efforts to avoid the removal of, and minimise the impacts on, native vegetation should be commensurate with the biodiversity and other values of the native vegetation and focused on areas of native vegetation that have the most value.

A planning application to remove native vegetation must include an avoid and minimise statement. This should include a description of:

- Strategic level planning – any regional or landscape scale strategic planning process that the site has been subject to that avoided and minimised impacts on native vegetation across a region or landscape.
- Site level planning – how the proposed use or development has been sited or designed to avoid and minimise impacts on native vegetation.
- That no feasible opportunities exist to further avoid and minimise impacts on native vegetation without undermining the key objectives of the proposal.

## Planning for Biodiversity: Guidance, DELWP, 2017

The purpose of *Planning for Biodiversity: Guidance* (Planning for Biodiversity) is to assist local governments to use the planning system to protect and conserve biodiversity. It includes guidance on process for biodiversity planning and includes a planning toolkit.

### (iii) Evidence and submissions

Many submitters raised issues relating to biodiversity protection, including:

- areas of suitable wildlife habitat and wildlife corridors within the proposed township area need to be retained and enhanced, particularly along creeks and on road reserves
- the presence of fauna species known to be present with the township boundary should be confirmed by a targeted study
- biodiversity links should be identified and protected

- the Brush-tailed Phascogale (Tuan), which is vulnerable to local extinction, is highly dependent on wildlife corridors and commitment is needed to preserve and enhance habitat and connecting wildlife corridors.

Ms Hemkes considered the Amendment did not go far enough to guarantee protection of flora and fauna. She was concerned there was no mention of environmental protection overlays. She considered further independent assessment of biodiversity values should be undertaken before development occurs in proposed Harcourt's growth areas.

Harcourt Valley Landcare and the Harcourt Progress Association provided information about various natural assets, including specific fauna, flora and significant roadside areas. Both submitters explained that Central Victoria is one of the most cleared and fragmented landscapes in Australia and provided details of a range of known threats to native fauna. Further, the remaining native vegetation provides valuable habitat for native animals and its protection is critical. The loss of vegetation corridors across the landscape would further reduce the capacity of native animals to move and survive, and this would be exacerbated by climate change.

Both submitters considered the available biodiversity information and mapping limited, and submitted that good planning outcomes relies on up to date and accurate mapping and base data.

Harcourt Valley Landcare sought for the Amendment to support the aspirations of the Mt Alexander Environmental Strategy 2015-25, including:

- The character of a proposed subdivision plan may be altered with the contribution of remnant native veg to landscape amenity is considered.
  - The preservation of existing indigenous vegetation, clearance of weeds and inclusion of natural areas should be protected within all planning permissions.
  - A reduction of density within all divisions, or areas of no development and areas of high density with Harcourt. An assessment will help identify the corridors for fauna movement and which areas they are using.
  - An assessment would look at vegetation cover, connectivity and quality, as well as the value of private land to native animals.
  - This differs from the roadside mapping that has been completed previously.
- Council will collaborate with the many external organisations and community groups doing great work to increase the extent and connectivity of natural environmental assets across the municipality.
- Priority natural environment assets are protected and are improving in ecological condition.
- Develop and implement site specific environmental management plans for priority assets.

Harcourt Valley Landcare submitted a recommendation:

... that a vegetation and biodiversity assessment be completed as a part of the Plan Harcourt amendment to identify areas to be protected. We advocate for:

- Identification and protection of indigenous vegetation and larger areas of remnant vegetation within any development and planning in and around Harcourt
- Mapping and monitoring of native fauna species, including their movement and threats
- Identification and protection of significant trees (both native and non-native)
- For these areas to be improved and expanded to offer greater connectivity to existing remnants and movement of fauna across the landscape
- Connectivity of waterways and creekline.

It advocated for local ecological consultants and experts to be involved in monitoring and mapping studies, and for lower density housing to put less pressure on roads and allow more significant roadside areas to be conserved.

Harcourt Progress Association submitted that the natural environment is highly valued by the community and visitors to the area, and future development should be based on planning decisions which intend to achieve “*excellent environmental outcomes*”. It identified a range of ways to achieve this including “*connecting and reconnecting biodiversity links at a regional scale*”. It referenced the ambitions identified in Shine Harcourt which suggests a “*broad landscape planning process be undertaken*”.

Harcourt Progress Association was concerned the Amendment did not propose to introduce any of the environment or landscape protection overlays identified as opportunities in Plan Harcourt. It requested the following work be undertaken to ensure Harcourt’s environment is protected:

- an assessment of vegetation, waterways and wildlife that will potentially be impacted by the Amendment
- consultation with the community, Dja Dja Wurrung Corporation and Harcourt Valley Landcare to understand which locally significant assets may be impacted by the proposal
- identifying appropriate planning controls to protect the assets identified
- rezoning land to reduce the density of residential development proximate to significant environmental assets
- amending planning provisions to encourage expansion of vegetation corridors or significant vegetation areas.

Mr Foreman considered it notable that Plan Harcourt did not explicitly mention the need to balance biodiversity protection with future development. He was critical of the neighbourhood analysis, stating it barely mentioned vegetation and remnant trees. He was concerned that concepts relating to character and trees had been conflated with biodiversity, and the Amendment did not adequately acknowledge biodiversity as a separate consideration. He provided reference to research which documented the broad benefits of biodiversity protection and argued that ‘biodiversity friendly developments’ did not significantly increase the cost of development.

Mr Foreman focused his evidence on known information about environmental assets in Harcourt, in particular:

- geodiversity and biodiversity
- groundwater dependent ecosystems and riparian habitats
- remnant habitat and large old trees
- threatened species and communities.

Based on his review (which he noted as limited), he considered the study area is likely to include many environmental values. He stressed that a comprehensive assessment was needed to ensure the natural environment is properly considered in the Amendment.

In conclusion, he stated that Plan Harcourt and the Amendment:

... appears to be effectively blind to the known and likely environmental values present because it is not intended that Council or Council Officers undertake any vegetation or biodiversity assessment.

Unless the various environmental values present or likely present within the study area are recognised, described and mapped as part of the strategic decision making process, there is a high risk they will be incrementally degraded as development occurs because explicit

consideration of these values is delayed until later stages (and on a case by case basis) when it is difficult to consider these values in ecological terms and when the options for appropriate protection long term are much reduced.

Mr Foreman recommended:

- an independent, thorough biodiversity assessment of the study area by a suitably qualified expert ecologist
- making changes to Plan Harcourt and the Amendment to appropriately protect, manage and restore biodiversity values
- priority consideration be given to defined wildlife corridors linked to Barkers Creek.

Under cross examination by HVP, Mr Foreman confirmed he had not reviewed the Amendment documents in any detail and was not aware of the exact provisions proposed regarding biodiversity. Consequently he could not specifically comment on whether they were adequate or changes were needed. However, he did not consider this material to his position as his key concern was the lack of strategic biodiversity assessment.

In response to questions from HVP, Mr Foreman explained that he understood a site specific biodiversity assessment was required as part of the Development Plan Overlay (DPO) but he was not satisfied a site specific assessment would adequately consider the processes required to sustain the biodiversity asset. He also considered the assessment should be done earlier in the strategic planning process, not at the site planning stage as proposed.

In response to a question from Council, he advised that if he had to choose a priority area for an assessment in the study area he would choose the north, as this contains the most threatened vegetation and groundwater dependent ecosystems.

The Panel asked Mr Foreman's view on whether lower density housing in growth areas would allow more of the significant roadside areas to be conserved, as suggested by Harcourt Valley Landcare. He explained he had a different opinion and would prefer more dense development with greater open space and conservation areas designated.

HVP supported Council's approach to biodiversity planning and supported all of the proposed post exhibition changes. These include:

- greater consideration of the biodiversity assessment and remnant mature trees in movement network planning
- additions to the biodiversity assessment requirement relating to protection of mature remnant native trees and intact vegetation communities
- changes to the objectives to emphasise retention of mature canopy vegetation.

HVP commented on the evidence of Mr Foreman, stating it was misguided and misunderstood Council's approach to biodiversity. It considered Council had explicitly taken biodiversity into account in its strategic planning material and Amendment drafting. HVP acknowledged Council's efforts to avoid and protect areas of high biodiversity by realigning the township boundary. Further, efforts have been made to minimise the impact on biodiversity in areas that have long been identified for town growth. HVP considered this adequately responded to the three step approach (avoid, minimise, offset) to biodiversity protection.

HVP submitted that the provision in DPO12 adequately required consideration of biodiversity through its objectives and development plan requirements. Further:

- DELWP were involved in reviewing Plan Harcourt and the Amendment and did not seek to alter the biodiversity requirements

- extensive planning policy requirements require protection of biodiversity
- the majority of mature trees are in road reserves controlled by Council, and Council must issue a permit for any works in a road reserve
- removal of native trees triggers consideration of the requirements of Clause 52.17.

HVP submitted:

Any deferral of C94 process to enable a further study of the biodiversity values of the entire study area is strongly opposed. The issue of the suitability of the land for development is resolved and has been for two decades. It now remains to ensure that the planning settings are appropriate, not to re-agitate the suitability of the land. The land supply and assessment (July 2022) identifies that Harcourt has only 4 years land supply left. It takes time to bring land to the market. This factor is already significantly impacting on land prices in Harcourt.

Furthermore, until new housing development outcomes are created in Harcourt, the town centre commercial growth ambitions (such as a small supermarket and speciality support retail) will be hindered as the commercial viability of such development is dependent on a certain base of population thresholds which currently do not exist.

Council acknowledged it is vital to protect biodiversity values, vegetation and significant trees, noting this is a requirement of existing planning policy. It explained that the proposed realignment of the township boundary will ensure that vegetation on land to the south and east of Harcourt is protected, and the proposed DPO schedule will require that vegetation is considered in the design of future subdivision development.

Council considered it had adequate information to guide Council's management decisions, explaining it had in place a *Roadside Conservation Management Plan* (2012-2017) and had mapped habitat trees and significant roadsides in 2016. The mapping confirmed which sections of roadside in Harcourt contained habitat trees and significant vegetation, including sections of Leafy Lane, Shady Lane and Eagles Road.

Council submitted that while a biodiversity assessment was not part of the scope of Plan Harcourt, the Amendment seeks to "*protect biodiversity through outlining key principles and recommendations for managing change relating to open views and native trees*". The Amendment proposes new local policy that aims to recognise the importance of trees and native vegetation as part of Harcourt's character, and to protect views and vistas to the surrounding landscape. It stated:

This is to be achieved by protecting environmental assets, including the retention of significant, large old native trees in the development of sites.

Council was of the view the greatest potential impacts on biodiversity were in Growth Areas A and B, based on the presence of large, grouped native trees. To minimise impacts Council included provisions in the schedule to the DPO which consider biodiversity, vegetation and tree protection. Council proposed a number of changes to the Amendment to strengthen the requirements of DPO12 relating to vegetation protection. For areas outside of Growth Areas A and B, Council intended to rely on Clause 52.17.

In its Part B submission, Council explained the background to Plan Harcourt's recommendation to expand the application of Environmental Significance Overlay Schedule 5 (Watercourse protection) (ESO5) along Barkers Creek and other waterways. It explained that the North Central Catchment Management Authority preferred ESO5 to be reviewed at a Shire-wide level, and following flood study work proposed for Harcourt. Consequently, Council did not pursue amending the ESO5 through the Amendment.

In closing Council acknowledged that strategic planning is the most effective process for protecting and managing native vegetation. It advised that a biodiversity assessment was not prepared to inform Plan Harcourt and the Amendment due to budget constraints. Council's approach was to consider the steps for local governments in the DELWP Planning for Biodiversity guidelines.

Council emphasised:

*It is important to note that this document states that 'a balance should be sought between providing for development and growth and protecting areas of high biodiversity value'.*

Council explained that in considering the steps in section 5 of the guidelines it:

- identified there are areas of high biodiversity value in and around Harcourt, with particular consideration of *"well connected areas of native vegetation, areas with large trees, waterways, and important areas of habitat. For Harcourt, this is particularly the case for land to the south and east of the town, and to an extent, the surrounding road reserves of Growth Area B and small parts of Area A (being along the waterway)"*
- identified potential conflicts between development and biodiversity values considered how changes in use and development can be directed away from areas of high biodiversity value
- considered the planning tool kit available and chose to:
  - retract the town boundary to exclude areas with high biodiversity values
  - use of the DPO and a schedule.

Council submitted a draft version of Plan Harcourt to the Loddon Mallee DELWP Planning and Approvals team, and the following comments were received:

*"the department is supportive of the work being undertaken in preparing this plan".* This response did not include any concerns regarding the approach taken to plan for biodiversity.

In terms of the proposed potential rezoning of the land of the two clusters of land-parcels, the feedback states: *"The selected parcels are mostly cleared of native vegetation, although quality mature vegetation is observed scattered within the private land, along the road reserves and the water frontages. Any future development will need to be designed to avoid native vegetation removal in the first instance."*

Council requested that if the Panel considers a township-wide biodiversity assessment crucial to the Amendment that the scope be clearly outlined. While it acknowledged that the township-wide biodiversity assessment would have assisted to make informed decisions including land for rezoning, it *"strongly believes there are no alternative directions for township growth"*. It was satisfied that at the site level the Amendment would protect biodiversity through planning policy and the DPO12. Regarding the DPO12 it submitted:

This is advantageous also as only one DP is to be prepared for Area B and up to two can be prepared for area A. As a result, much of the biodiversity including wildlife corridors within these growth areas are to be considered together, at a relatively large scale.

To inform the assessment of this biodiversity assessment submitted as part of the DP:

- DP is to be referred internally to Council's own technical expert, Natural Environment Officer.
- Council will refer to previous strategic work undertaken on biodiversity affecting these areas, including the significant roadside vegetation mapping.

The Panel asked Council to clarify the source of the 'Existing canopy vegetation' layer on the Land Use Framework Plan and whether it reflected what is on the ground, noting it did not show the roadside vegetation or trees on Growth Areas A and B referred to by Council.

In closing Council advised it proposed to remove this layer from the Land Use Framework Plan as it is not comprehensive.



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

There was agreement among parties that planning policy requires protection of biodiversity, and its protection is important for its many environmental, economic and social benefits. It was accepted that there are significant biodiversity assets in and around Harcourt, including various ecosystems and habitats, large old trees and threatened species and communities. This is identified in the Municipal Planning Strategy which states:

High densities of threatened flora species exist in the areas around Castlemaine and Harcourt.

There was also a common understanding among parties that while there is some information and knowledge available about existing biodiversity assets, a comprehensive strategic biodiversity assessment had not been prepared to inform Plan Harcourt or the Amendment.

A critical question for the Panel is whether the Amendment adequately responds to planning policy relating to protection of biodiversity. Specifically, whether the:

- background work is adequate to inform suitable planning controls
- the proposed planning controls require adequate consideration of biodiversity protection.

#### **What does planning policy require?**

There is a robust planning policy framework for consideration and protection of biodiversity values. *Biodiversity 2037* explains there is various State and Federal legislation that may be relevant depending on the asset and its significance.

Objectives of the PE Act include:

- supporting the maintenance of ecological process and genetic diversity
- conserving places of scientific interest
- enabling integration of land use and development planning and policy with environmental policies at all levels
- ensuring that the effects on the environment are considered when decisions are made to use or develop land.

State planning policy requires that important areas of biodiversity be identified and that strategic planning take steps to protect and conserve of these areas. It seeks to achieve no net loss of biodiversity, and applies a three step approach founded on a precautionary approach to ensure that removal of native vegetation is restricted to only what is reasonably necessary. It requires that approved vegetation removal is appropriately compensated with offsets.

The strategic planning process is understood to be the most effective planning mechanism to protect biodiversity. As explained in the *Native Vegetation Guidelines*:

Considering how native vegetation will be protected and managed through strategic planning:

- allows for identification of areas of higher value native vegetation at a landscape scale
- allows for indirect and cumulative impacts of use or development on native vegetation to be understood and addressed
- provides the best opportunity to avoid and minimise impacts on native vegetation by directing use and development away from higher value areas
- minimises unnecessary or complex regulation by establishing clear expectations for where use and development can occur, and/or by coordinating approvals and offsets.

The methods and approaches outlined in the Guidelines should be used to inform strategic planning processes and the application of appropriate planning controls to ensure Victoria's native vegetation is well managed and protected.

### **Does the Amendment satisfy planning policy?**

The Panel commends Council's efforts to address biodiversity protection by realigning sections of the township boundary and embedding some biodiversity provisions in the proposed planning controls. Further the Panel acknowledges Council's efforts to respond to submitter concerns with proposed post exhibition changes to planning controls to strengthen the protection of biodiversity.

However, the approach adopted by Plan Harcourt and the Amendment:

- relies on a general understanding of the biodiversity asset and the role of native vegetation in contributing to the town's character and sense of place
- does not identify important or higher value biodiversity assets across the town and its surrounds
- relies on principles for biodiversity protection rather than specific recommendations
- does not apply planning controls with consideration of the value of biodiversity assets to be protected
- relies on site by site vegetation assessment that does not allow for consideration of habitat fragmentation, indirect and cumulative impacts and threats to be understood and addressed.

The Panel shares Mr Foreman's concern that the approach conflates concepts of biodiversity with trees and character, and does not adequately address the specific needs relating to biodiversity planning. This is evidenced in the proposed local policy objective *"To recognise the importance of trees and native vegetation as part of Harcourt's character"*.

State policy clearly directs that information must be used to identify important areas of biodiversity and strategically valuable biodiversity sites. As stated in the Native Vegetation Guidelines, the value of native vegetation must be understood to ensure the efforts to avoid or minimise impacts are commensurate with the value. A site by site assessment of biodiversity does not allow for this strategic approach.

Section 5 of the Planning for Biodiversity guidelines explains that planning should be informed by up to date information and focus on protection and conservation of high value biodiversity. Council's approach to determining areas with higher biodiversity values focussed on *"larger, well connected areas of native vegetation"*. Council did not take into account the full range of elements required to assess and understand biodiversity value, for example:

- areas with higher strategic biodiversity value scores
- areas that are highly localised habitat for rare or threatened species, particularly if they are areas of highly localised habitat for multiple rare or threatened species
- important areas of habitat within dispersed habitats for rare or threatened species or areas of habitat for many dispersed rare or threatened species
- areas with large trees, including consideration of their age and size
- areas of native vegetation that are an endangered Ecological Vegetation Class
- waterways and sensitive wetlands
- assessment of threats.

Unfortunately, without an understanding of the value of a biodiversity asset in the context of its landscape, resilience or sensitivity to change, it is not possible to know whether:

- the proposed planning controls will be effective in managing the identified biodiversity values
- development is being directed away from higher value areas.

It is clear from submissions that information about existing biodiversity assets may not be current or reliable. The Panel accepts the evidence of Mr Foreman that it is not appropriate to rely on desk-top data and site inspections may be required to verify findings.

Planning policy focusses on protecting the health of ecosystems to protect, restore and enhance biodiversity. The Panel accepts the evidence of Mr Foreman that the site by site assessment approach may not adequately consider the processes required to sustain and protect the biodiversity asset over the long term.

The Panel does not accept the submissions of HVP that Council's approach to 'avoid' native vegetation by relocating township boundary and 'minimise' the impact on native vegetation on specific development sites through specific planning provisions satisfies planning policy. While Council has attempted to find an acceptable response in the absence of information about biodiversity values, this does not represent a contemporary approach to biodiversity planning.

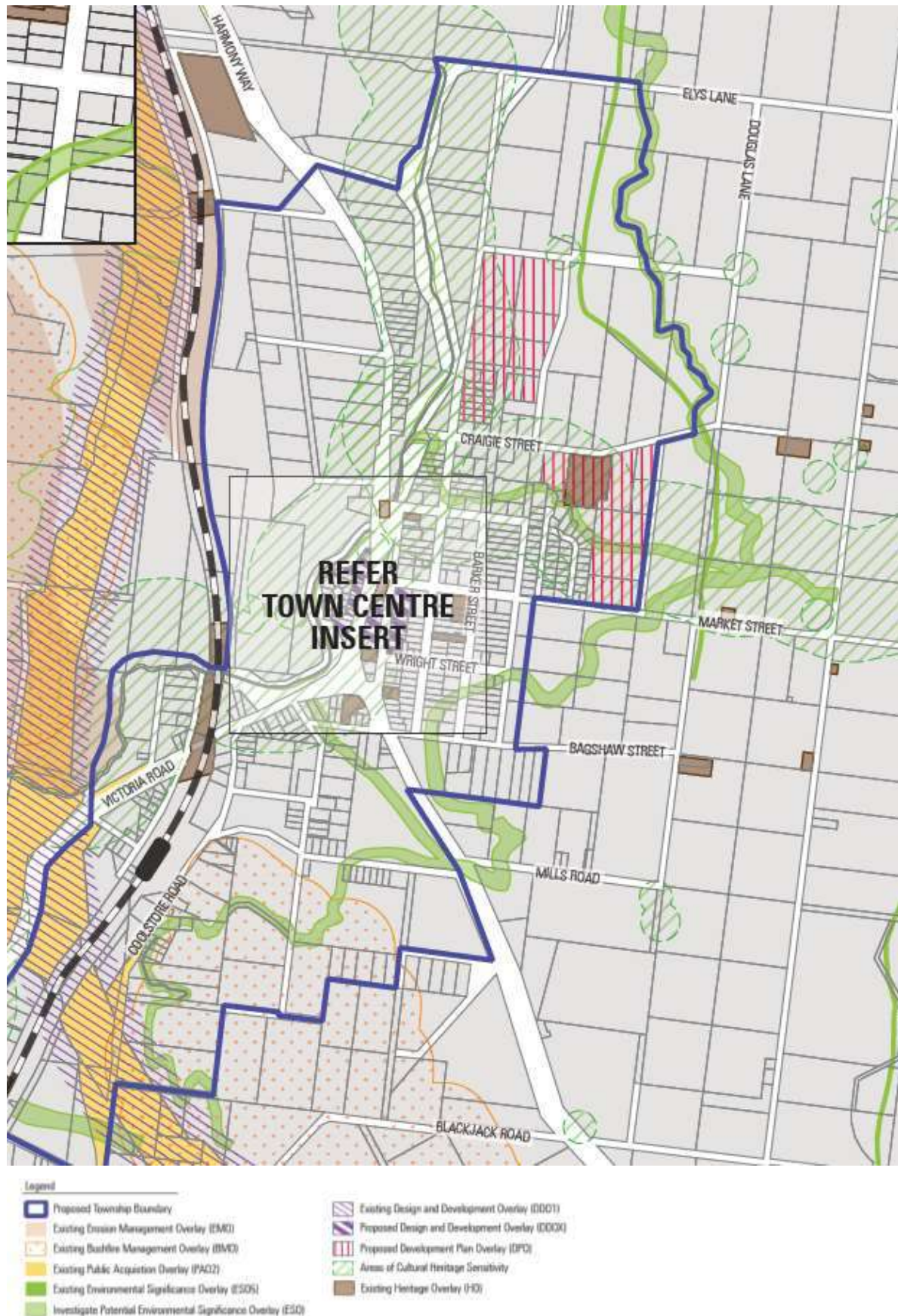
While a limitation of Mr Foreman's evidence was his lack of detailed review of the Amendment documents, the Panel acknowledges his limited assessment of biodiversity values and accepts his view that a strategic biodiversity assessment is required to properly inform the Amendment. The Panel accepts that a detailed review of the proposed planning provisions would not have assisted his assessment or alleviated his concerns.

Submitters were concerned that the site by site approach would not provide for planning and establishment of a strategic habitat link. The importance of establishing, protecting and re-establishing habitat links between important areas of biodiversity is identified in planning policy. This must be done at a landscape scale to be meaningful and effective, and therefore must be done through a strategic biodiversity assessment.

Section 3 of the Planning for Biodiversity guidelines provides a toolkit for biodiversity planning, and explains the range of tools available to achieve biodiversity objectives and appropriately manage biodiversity values. ESO5 currently applies to Eagles Channel and a section of Barkers Creek. The section of ESO5 along Barkers Creek only covers a small, narrow portion of the land zoned Public Conservation and Resource Zone. Plan Harcourt recommends amending the mapping of Environmental Significance Overlay (ESO) to cover the land on 200 metres of both sides of Barkers Creek and other waterways covered by this overlay to protect native vegetation. Appendix 1 also shows approximate alignment of an area for investigation of a potential new ESO which covers parts of the existing town and growth areas (see Figure 3).

The revised ESO5 and new ESO is not included in the Amendment. A strategic biodiversity assessment would assist with reviewing current planning controls and identifying suitable planning to protect and manage identified values. It would also identify areas where development need not be constrained by biodiversity values.

Figure 3 Plan Harcourt excerpt – Proposed overlays



Source: Plan Harcourt Appendix 1

The Panel considers that planning policy and guidelines relating to native vegetation planning and biodiversity protection provides adequate guidance on the process and scope of a strategic biodiversity assessment. This includes an expectation that the community, including local indigenous groups, will be engaged and consulted with as part of the process.

A strategic biodiversity assessment will identify opportunities to maximise biodiversity benefits in the context of relevant legislative, policy and regulatory requirements. It will:

- establish biodiversity objectives
- identify high value biodiversity assets (ecosystems and species) for priority protection
- identify and make recommendations to establish strategic habitat connections
- identify and make recommendations to manage threats
- recommend appropriate planning controls commensurate with the value of the asset and its contribution to ecosystem health.

Not only will this approach respond to requirements in planning policy, it will respond to the desire of submitters to achieve excellent environmental outcomes with wide ranging benefits.

A best practice approach to biodiversity planning would include a strategic biodiversity assessment. It is unfortunate a strategic biodiversity assessment was not undertaken as part of preparing the Amendment. The Panel appreciates the resource constraints identified by Council, and has turned its mind to whether the approach taken is acceptable with consideration of the:

- need to balance policies to manage growth
- Amendment can achieve acceptable outcomes.

### **Does the Amendment adequately balance planning policies?**

Planning policy includes strategies to:

- strategically plan for the protection and conservation of areas of biodiversity
- ensure decision making takes into account the land use and development impacts on biodiversity with consideration of cumulative impacts, habitat fragmentation and threats
- avoid impacts of land use and development on important areas of biodiversity.

These are not discretionary strategies. The *Practitioner's Guide to Victorian Planning Schemes* (A Practitioner's Guide) explains the use of verbs in planning policy, and explains the following are conclusive verbs:

- ensure - to make sure or certain to occur
- avoid – keep away from or keep clear of.

The Amendment is a significant change to local planning policy and controls for Harcourt. It establishes the guidance for growth of the town for the foreseeable future. It is critical the Amendment is based on appropriate background work to inform appropriate planning controls.

The Panel does not accept Council's submission that the proposal adequately balances "*providing for development and growth and protecting areas of high biodiversity value*". Planning for Biodiversity clearly explains the steps required to achieve this balance, including identifying and understanding the value of the asset. This work has not been done.

The Panel accepts the growth area land has been long identified for future development, and it is important that the planning settings are appropriate. While the HVP land, for example, has been identified as suitable for growth for many years, planning controls allowing development to proceed on the land must be prepared with regard to policy of the day, including protection of

biodiversity. The Panel considers a strategic biodiversity assessment is required to guide appropriate development.

The Panel notes submitter concerns that the land supply in Harcourt will be restricted and commercial development hindered if the Amendment is delayed. As discussed in Chapter 2, the *Mount Alexander Shire Land Supply and Demand Assessment*, REMPLAN, 2022 identifies that Mount Alexander Shire has sufficient residential land supply for over 15 years, and Harcourt has approximately 20 years of residential land supply. The Panel understands the concern relates to the rate of release of land, with a short term land supply exceedance until 2024 and medium to longer term land supply deficiency relative to demand. The Panel notes the township area is currently zoned TZ which does allow for some commercial development.

With consideration of the current land supply and demand assessment, the Panel does not consider demand for residential land supply an adequate reason to proceed with the Amendment in the absence of strategic biodiversity assessment.

Regarding housing density and protection of environmental assets, the Panel agrees with Mr Foreman that lower density housing will not necessarily assist with biodiversity asset protection, and a more dense development with designated conservation or open space may result in a better outcome. Planning for Biodiversity explains how the need for conservation reserves may be determined through a strategic biodiversity assessment.

### **Can the Amendment achieve acceptable outcomes?**

The Panel has turned its mind to the implications of the Amendment progressing without a strategic biodiversity assessment, and whether changes could be made to the Amendment to achieve acceptable outcomes.

The Amendment consists of local policy, rezoning of existing township and growth areas and application of overlays to guide integrated planning and design. The Panel has considered the implications for each in the following discussion.

The proposed local policy includes an objective to recognise the importance of trees and native vegetation as part of the town's character, but not for reasons related to the protection of ecological systems and the biodiversity they support. A strategic biodiversity assessment would identify biodiversity objectives for Harcourt that are likely to inform new local policy objectives and strategies. These cannot be identified without further work, and the Panel cannot recommend suitable changes to the Amendment without this information.

The strategic biodiversity assessment may also influence the location of the north eastern township boundary in the vicinity of Eagles Channel, noting Council's proposal to review application of the ESO5 and Mr Foreman's advice that the northern area of the township has the most potential for high value biodiversity.

Regarding land to be rezoned in the existing township, proposed development of land will be assessed on a site by site basis, which as explained above, will not adequately take into consideration strategic biodiversity value and importance. While the NRZ1 does strengthen existing TZ controls by including a neighbourhood character objective to encourage retention of existing trees where possible, the TZ includes a decision guideline to consider as appropriate *"the protection and enhancement of the character of the town and surrounding area including the retention of vegetation"*. This guideline is not present in the NRZ1. The rezoning is likely to



encourage development. On balance, rezoning to NRZ1 in the absence of consideration of appropriate environmental overlay may result in unacceptable biodiversity loss.

Regarding the land in the growth areas, DPO12 the biodiversity assessment requirement could be expanded to consider biodiversity at a strategic landscape scale. While this would inform specific biodiversity protection requirements for Growth Areas A and B, there are a number of deficiencies with this approach including:

- planning for the growth areas will occur through separate development planning processes (one for Growth Area B and potentially two for Growth Area A) which may not result in a common understanding of strategic biodiversity assessment or consistent recommendations
- the scope and scale of a biodiversity assessment, and associated community consultation, may be limited and not identify biodiversity protection outcomes that can be applied across the whole township area
- it would not influence the directions or result in planning controls for biodiversity protection across the wider landscape, including the existing township and future growth areas.

A strategic biodiversity assessment may also recommend different land use zones to achieve identified biodiversity objectives, and to ensure the strategic planning outcomes are commensurate with the value of the asset.

There was some discussion at the Panel Hearing about whether there would be any benefit to choosing a part of the study area as a priority for assessment rather than the full study area.

Ultimately the Panel cannot see an advantage to proceeding with part of the study area as:

- The purpose of the Amendment is to introduce the key land use planning directions for Harcourt. The relative value of biodiversity assets across the whole study area should be assessed to ensure the planning controls for the Harcourt LUPF are comprehensive and consistent.
- Assessment of the full study area can progress through one planning scheme amendment process, whereas splitting the study area may result in the need for another separate planning scheme amendment.

This is a critical Amendment that seeks to set the future directions for Harcourt, and it must properly address biodiversity values. Ultimately the Panel considers it is premature to progress with the Amendment in the absence of a strategic biodiversity assessment. The implications of the work are too significant and wide reaching to delay to a later stage, and are likely to result in changes to planning policy and controls proposed in the Amendment.

#### **‘Existing canopy vegetation’ layer**

The Panel notes Council’s suggestion to remove the ‘existing canopy vegetation’ layer from the Harcourt LUPF. It would be useful to include an existing vegetation layer in the LUPF if it is accurate and clear about its purpose, for example to identify significant biodiversity values or tree canopy cover. It may be appropriate to include accurate existing vegetation information following the preparation of a strategic biodiversity assessment and further work to confirm canopy cover.

#### **(v) Conclusions and recommendation**

The Panel concludes:

- Habitat and wildlife corridors have not been adequately identified and are not adequately protected.
- A strategic level biodiversity assessment is required across the whole study area before the Amendment proceeds.
- A strategic level biodiversity assessment is required to ensure proposed planning provisions adequately consider of biodiversity protection.
- It is premature to proceed with the Amendment in the absence of a strategic level biodiversity assessment.

The Panel recommends:

- 1. Mount Alexander Planning Scheme Amendment C94malx be abandoned.**

### **3.3 Trees**

#### **(i) The issues**

The issues are whether the Amendment adequately provides for:

- protection of existing trees
- provision of trees in new development.

#### **(ii) Submissions**

Several submitters raised issues relating to tree protection and planting, including:

- there are many isolated trees that provide habitat and should be protected
- significant trees (indigenous and exotic) should be identified/mapped, registered and protected
- indigenous trees may not be suitable for urban and road side planting, but may be suitable for public reserves, biodiversity links and buffer zones
- larger lot sizes should be provided to allow more space for trees and gardens
- trees are beneficial and should be encouraged for community health
- trees can help mitigate the impacts of climate change and provide shade and shelter in new developments.

One submitter was concerned that additional trees may increase bushfire risk.

Harcourt Valley Landcare submitted trees contribute to town character, provide many benefits and help to mitigate the impacts of climate change. Along with Submitter 2, it advised of significant tree investigations undertaken as part of planning for the Calder Freeway Bypass project for VicRoads that would be generally relevant to Plan Harcourt. It is likely there are many other significant trees.

Further, it proposed further work should be undertaken to map all significant trees, both native and non-native on public and private land. It suggested these trees need to be identified and protected, requesting that:

... Council support a project to identify and register large, old trees (both native and exotic) similar to Maldon's Landcare's Pre-1852 Eucalypts project. We ask for Council support to then protect these trees against destruction during developments outlined in Plan Harcourt.

Council submitted it was confident the Amendment, including proposed post exhibition changes, complements existing policy and provisions in the Planning Scheme and adequately protects existing trees. It considered:



- the new local policy recognises the importance of trees as part of Harcourt's character, and this was to be achieved, in part, by protecting "*significant, large old native trees in the development of sites*"
- potential impacts on significant trees in Growth Areas A and B will be minimised through application of DPO12
- outside of growth areas (on land greater than 0.4 hectares) the impacts on native trees will be managed through Clause 52.17.

The proposed post exhibition changes to DPO12 includes many changes to ensure protection of "*mature remnant native trees*" is taken into consideration, including requirements relating to the overall development plan, movement network plan, landscape and open space concept plan and biodiversity assessment.

Council submitted that the NRZ1 character objectives encourage planting of new canopy trees, retention of existing trees and planting of trees as part of landscaping in front setbacks to strengthen township character. Council submitter it proposed a post exhibition change to the B13 Landscaping requirement of NRZ1 to state:

In addition to the requirements of B13, development should provide for at least two canopy trees. At least one of those trees should be in the dwelling or residential building's front garden.

Regarding bushfire risk, Council submitted the Amendment considers bushfire risk and directs development to low risk locations. It had prepared a Bushfire Development Report to inform the Amendment. The Explanatory Report stated:

The Country Fire Authority (CFA) was consulted during the preparation of *Plan Harcourt* which nominated these town expansion areas and the CFA supported the draft Plan. Bushfire mitigation measures provided have also been considered in the preparation of the amendment. The CFA will be further consulted during the exhibition stage of the amendment.

The background work and general approach to bushfire management was not challenged by submitters. Council advised the Panel it had given notice of the Amendment to the CFA.

### **(iii) Discussion**

Tree protection is important and has many benefits including habitat, health, climate change mitigation and adaptation, shade, shelter, character and amenity. The Planning Scheme contains a number of policy and planning controls to encourage protection of trees, including the local policy at Clause 12.01-1L (Protection of biodiversity) which seeks to protect and retain dead trees for their habitat value.

Council has endeavoured to implement a genuine response to concerns of submitters, and the post exhibition changes proposed by Council are comprehensive and relate to many aspects of planning for tree protection and provision in growth areas.

Regarding tree protection in Harcourt's existing township, the Amendment relies on policy, Clause 52.17 and the NRZ1 objective to retain existing trees where possible. While NRZ1 encourages retention of existing trees, this may not be possible if the proposed use and development is constrained and exemptions apply under Clause 52.17, such as being planted vegetation, regrowth less than 10 years old or if the site area that is less than 0.4 hectares.

Council's addition of Standard B13 Landscaping requirement to provide for at least two canopy trees responds to submissions, strengthens the proposal and is supported by the Panel.

Regarding Growth Areas A and B, the Panel is satisfied that protection of mature remnant native trees will be adequately considered through a combination of State and local policy, proposed NRZ1 and proposed DPO12. DPO12 includes requirements for:

- an Arborist report detailing all trees to be retained and removed, including comments on the future health of trees proposed to be retained and how they are proposed to be retained
- the indicative subdivision plan to show trees for removal and retention and states *“Where trees are identified for protection, larger lots may be required to facilitate their retention”*.

In relation to tree selection, the DPO12 requires a landscape and open space concept plan identifying:

Areas of new planting and planting themes, including a list of preferred plant species based on existing vegetation themes and locally indigenous plants, appropriate to site characteristics and climatic conditions.

This provides for appropriate plant selection in response to the location and purpose of the planting. In combination with the provisions of NRZ1, the Panel is satisfied the provisions for tree planting and selection of appropriate species is adequately considered for Growth Areas A and B.

There are planning control options for protection of significant trees in urban areas through the Planning Scheme, such as application of the Vegetation Protection Overlay, Heritage Overlay or Environmental Significance Overlay. *Planning Practice Note 7: Vegetation protection in urban areas* provides guidance on how significant vegetation may be assessed and protected in a planning scheme.

Several submitters identified previous work prepared to identify significant trees, and Council made reference to its 2016 roadside conservation study which identified significant trees. It would be valuable to undertake further work to identify significant trees and determine appropriate protection mechanisms, which may include planning controls.

While there may be overlapping outcomes, this work would be separate to the biodiversity assessment discussed in Chapter 3.2. The strategic biodiversity assessment recommended by the Panel should identify significant native trees in Growth Areas A, B, C and D, and make recommendations for appropriate protection mechanisms which may include planning controls. The Panel considers that Council may consider further work relating to significant tree protection in the context of its strategic work program.

#### **(iv) Conclusions**

The Panel concludes:

- Significant native trees are likely to be adequately protected in Growth Areas A and B, but may not be protected in the existing township.
- Prior to adopting the Amendment, a strategic biodiversity assessment should be prepared which identifies significant native trees and recommends appropriate protection mechanisms, including planning controls if appropriate.
- Council may consider further work relating to protection of other significant trees in the context of its strategic work program.
- The Amendment adequately provides for provision of trees in new development.

## 3.4 Climate change and ESD

### (i) The issues

The issues are whether the Amendment adequately considers and addresses:

- climate change mitigation and adaptation
- requirements for ESD.

### (ii) Submissions

Several submitters raised concerns that future development would impact the community's ability to mitigate the impacts of climate change. They considered this inconsistent with Council's recent declaration of a climate emergency. Harcourt Valley Landcare stated the Amendment "*makes no reference to climate change and how planning in Harcourt can reduce it or mitigate its impacts*", and considered this should be addressed.

Ms Hemkes was of the view that recent housing development in Harcourt represented unsustainable development that would result in a heat bank and exacerbate the impacts of climate change. She suggested 'The Cape' at Cape Patterson as a fine example of sustainable development that was a model for the type of development suited to Harcourt.

Harcourt Progress Association stressed the importance of considering planning for sustainability and resilience in light of climate change impacts and recent natural disasters. It was satisfied sustainable housing and community development aspirations were captured in Plan Harcourt and some parts of the Amendment. It supported these and sought a commitment from relevant authorities to enforce the requirements. It also submitted that robust ESD targets at State or local level would be of great benefit.

Submitters requested changes to the Amendment including:

- requirements for more shade trees and adequate green spaces, and guidance on appropriate selection of tree and plant species
- requirements relating to subdivision and building design, and for a minimum 7 star energy rating before 2030 and 8 star after 2030
- application and assessment of development proposals against of the Council Alliance for a Sustainable Built Environment (CASBE) sustainable subdivision framework, relating to site layout and liveability, streets and public realm, energy, ecology, integrated water management, urban heat and circular economy
- requirements for best practice ESD in the Design and Development Overlay (DDO), such as passive solar, materials use, water capture and use, water sensitive urban design and tree planting
- application of a DDO to town growth areas to ensure environmental impacts are minimised.

Council explained in its Part A submission that the Amendment has considered the risks associated with climate change. It provided a detailed explanation of recent changes to State planning policy including:

- VC216 which introduced the requirement for consideration of ESD across a range of policy areas

- VC221 which introduced changes to planning provisions and referral requirements to facilitate transition to electrification and the State government's emissions reductions target. This includes removal of barriers to all-electric developments.

Council noted that in many ways VC216 aligns with and responds to the concerns of submitters. Further, it considered the Amendment documents align with the intent of VC216. It explained the variations to ResCode proposed in the NRZ1 would enhance sustainability outcomes, such as greater setbacks that would provide greater permeability and opportunities for tree planting.

Council acknowledged the concern of submitters and suggested changes be made to the Amendment in response to issues raised. It submitted the proposed changes were supported by Plan Harcourt and Council's declaration of a climate emergency in 2019. Council proposed the following post exhibition changes:

- amending the NRZ1 to include a variation to B13 landscaping that states development should provide for at least two canopy trees
- amending the DPO12 to include greater consideration of biodiversity protection and tree retention, and a new 'Image and character report' requirement:
  - Includes design guidelines for building siting and design (including materials and colours) that enhances environmentally sustainable development outcomes for future development and explains how the design guidelines are to be given effect.

In closing, Council acknowledged the proposed incorporation of ESD requirements into the 'Image and character report' is an alternative approach to other planning schemes. It stated:

With what has been heard from the community, Council's declaration of a climate emergency, State Planning policy (including the recent Amendment VC216), there is a clear need for ensuring future dwellings in Harcourt incorporate ESD.

Council advised it had modelled the requirement off an approved DPO in the Macedon Ranges Planning Scheme.

The Panel sought clarification on how Council would assess the proposed design guidelines as they relate to ESD. Council explained that while it is not formally part of the current CASBE stage two program it would draw on learnings from the program to inform how ESD should be incorporated into any design guidelines. It intended draw on CASBE assistance and support. Council submitted it considered the proposal manageable and appropriate given internal resourcing and capacity.

In response to a question from the Panel about drafting of the proposed DPO12 'Image and character report' requirement, HVP expressed the view that while the requirement had a desirable objective it appears to have conflated issues of design and ESD. It understood the intent was to encourage material use that worked from a character and ESD perspective. It suggested the drafting could be improved to more clearly explain the requirements for the two subject areas, noting if you were starting again you might do a separate heading for the ESD requirements.

### **(iii) Discussion**

The Panel acknowledges the concerns of submitters relating to the need for urgent action on climate change and Council's efforts to respond to these in the context of its climate emergency declaration in 2019.

Plan Harcourt identifies climate change and opportunities to mitigate and manage impacts by increasing canopy cover and encouraging sustainable development. It includes a future action to:

Undertake further work on how Environmental Sustainable Design (ESD) can be incorporated into future development.

While climate change is not explicitly mentioned in the Amendment documents, State planning policy clearly states that climate change must be considered it must be taken into consideration, including support for adaptation and mitigation measures when undertaking settlement planning. For example, the recently adopted Amendment VC216, which applies to all planning schemes, introduced State planning policy relating to climate change and ESD including:

- Clause 11 (Settlement) includes planning for:
  - Planning is to recognise the need for, and as far as practicable contribute towards:
    - A high standard of environmental sustainability, urban design and amenity.
    - Climate change adaptation and mitigation.
- Clause 11.01-1S (Settlement) - Strategies:
  - Deliver networks of high-quality integrated settlements that have a strong identity and sense of place, are prosperous and are sustainable by:
    - Minimising exposure to natural hazards, including increased risks due to climate change.
  - Support metropolitan and regional climate change adaptation and mitigation measures.

State planning policy also includes a range of objectives and strategies relating to ESD that must be considered when assessing a development proposal. For example:

- Clause 15.01-2S (Building design) includes provisions relating to energy performance, resource and materials efficiency, sustainable water use and vegetation protection
- Clause 15.01-3S (Subdivision design) includes provisions relating to habitat and native vegetation protection, creating urban structure that responds to climate hazards and supports sustainable development, and support the uptake of renewable energy technologies.

Additionally, the proposed local policy (Clause 11.01-1L-004 Harcourt) includes an objective:

To promote growth in Harcourt that is sustainable and in accordance with the Harcourt Land Use Framework Plan.

The Panel understands the State government is delivering an integrated planning system approach to ESD. Amendment VC216 updated the Planning Policy Framework to implement:

- Plan Melbourne 2017-2050 Action 80 *“Review of planning and building systems to support environmentally sustainable development outcomes”*
- aspects of Plan Melbourne’s Actions 89, 91, 94, 96, 97 and 101 relating to water management, cooling and greening, air and noise pollution, and recycling and resource recovery
- part of stage one implementation of *Environmentally sustainable development of buildings and subdivisions - A roadmap for Victoria’s planning system* (DELWP, 2020).

Future work is proposed by the State government to update ESD elements in particular provisions across all planning schemes.

The Panel notes that State and Federal governments have set emissions reduction targets of net zero greenhouse gas emissions by 2050.

The Panel is satisfied the Planning Policy Framework for Harcourt adequately addresses climate change and sustainable development. Unless further work has been completed to develop locally specific policy, it is appropriate for the Amendment to rely on the diverse range of State policy regarding climate change mitigation and adaptation. This is consistent with A Practitioner’s Guide which states that local policy must not repeat State policy and is only required where locally specific policy guidance is needed on a particular matter.

The Panel is satisfied that existing requirements in the:

- DPO12 will ensure subdivision design considers and responds to ESD and plant selection will be considered with regard to character, biodiversity and changing climate conditions
- DDO16 will require consideration of ESD elements in building design, and consideration of whether the proposal adequately implements ESD outcomes.

In principle the Panel supports Council's proposed post exhibition change to introduce a requirement relating to ESD. This responds to submitter concerns and is consistent with the Planning Policy Framework, including the proposed local policy for Harcourt, Plan Harcourt and other Council environment strategies. Introducing a requirement will ensure development proposals explicitly respond to ESD considerations in an integrated manner as part of a development plan.

The Panel considers design guidelines that address ESD requirements an appropriate tool, noting these must be approved by the responsible authority. In assessing whether the design guidelines are satisfactory, the Panel accepts Council's approach to use the learnings of the CASBE project to apply appropriate assessment. This level of detail and flexible approach is commensurate with the background work supporting the Amendment. As with local policy, it may be appropriate through a separate process to introduce more detailed requirements following further work prepared and adopted by Council.

The Panel considers the drafting of the proposed 'Image and Character report' requirement could be improved. While there may be overlap with the design response to protect township character and achieve ESD, the Panel agrees with HVP that as drafted it may be read in a manner that conflates these two issues. The Panel prefers ESD requirements to be specified separately to character requirements to ensure the intent is clear.

Regarding the request to introduce a DDO to town growth areas to minimise environmental impacts and achieve ESD, the Panel considers:

- the DPO adequately achieves this for Growth Areas A and B
- appropriate planning controls for Growth Areas C and D can be introduced at a future date. At this time the specific controls and requirements will be determined.

The Panel supports the proposed post exhibition change to the NRZ1 to require a minimum of two canopy trees to be planted. Trees in an urban environment are known to support urban cooling, and with additional potential benefits relating environmental sustainability such as green space and biodiversity, therefore supporting climate change mitigation and adaptation.

#### **(iv) Conclusions**

The Panel concludes:

- The Amendment adequately considers and addresses climate change adaptation and mitigation through relevant State planning policy and proposed planning provisions.
- Further work would be required to strategically justify and specify the requirements for a local climate change or ESD policy, or other planning provisions. This may be appropriate as part of a separate process.
- The Panel supports Council's post exhibition changes to include additional ESD requirements, including:
  - adding to the NRZ1, B13 Landscaping requirement for development to provide for at least two canopy trees

- amending the DPO12 to include greater consideration of biodiversity protection and tree retention, and ESD design guidelines requirement.
- The new 'Image and character report' requirement should be redrafted and separated under two headings; character design requirements and ESD design requirements.

## 4 Environmental risk

### 4.1 Buffers

#### (i) The issue

The issue is whether the Amendment includes adequate manages potential land use conflict at the agricultural – residential land interface, specifically buffers.

#### (ii) Context and what is proposed?

##### Planning Scheme

Clause 02.03-3 (Amenity impacts) includes a strategic direction to manage amenity impacts by:

- Avoiding locating new sensitive uses where the impact of agricultural chemical spray drift on amenity and health cannot be minimised.

Clause 02.03-4 (Natural resource management) identifies Harcourt as Victoria’s key ‘apple centre’ which produces around 40 per cent of Victoria’s apples and other fruit. Strategies to protect agriculture include:

- protecting agricultural land of local and regional strategic significance
- avoiding the fragmentation of productive agricultural land
- discouraging the use and development of land that could create conflict with existing agricultural activities
- controlling the unplanned loss of agricultural land to rural living and residential uses.

Clause 13.07-1S (Land use compatibility) includes an objective to protect community amenity, human health and safety while facilitating appropriate uses with potential adverse off-site impacts. It includes strategies to ensure land use and development is compatible with adjoining and nearby uses, incompatible land uses are not co-located, adverse off-site impacts are minimised through land use separate and other siting and design measures, and protecting existing commercial and industrial uses from encroachment.

Clause 13.07-1L-02 (Spray Drift) applies to use and development in the Rural Living Zone and Farming Zone, and includes a strategy to discourage residential development and other uses that may be affected by agricultural chemical spray drift unless they:

- are located such that chemical spray drift does not adversely affect public health and safety.
- include measures to mitigate adverse effects from chemical spray drift.

As a policy guideline, it seeks a minimum separation distance of 300 metres between any new dwelling or sensitive use and any existing agricultural land where spray drift occurs.

##### Plan Harcourt

Plan Harcourt provides guidance on managing spray drift in Harcourt. It states:

Agriculture Victoria addresses how spray drift can be reduced through buffer zones and vegetative barriers, and specified the characteristics of effective vegetative buffers. This is useful when considering whether the separation distance could be reduced. Rather than indicating a 300 metre buffer area from the town boundary on the framework plan, which creates uncertainty around the use of land within the buffer area, the buffer can be addressed through a combination of measures.



Suggested measures include:

- The town boundary should be retracted at certain locations to ensure that land cannot be rezoned to residential when it is located adjacent to an existing horticultural use. This is the case for land to the east between Craigie Street and Market Street.
- Requirements for a buffer can be built into the Development Plan Overlay Schedule to be applied to land rezoned for residential development. This could take the form of:
  - A vegetative barrier planted (in accordance with Agriculture Victoria recommendations) between any future residential development and a horticultural use if the 300 metre separation distance cannot be met.
  - The land adjacent to the decommissioned open concrete channel be allocated as a green, public open space corridor ...
  - Investigating ways to ensure that future land owners are made aware of the proximity to horticultural uses and the potential land use conflicts.

## The Amendment

The Amendment proposes to introduce:

- Clause 11.01-1L-04 (Harcourt):
  - an objective to *“reinforce the eastern town boundary as a buffer to protect agricultural activities in the Harcourt Valley”*
  - a strategy to *“ensure the design of subdivisions considers buffers and interfaces to protect agricultural activities”*
- DPO12:
  - an objective *“to ensure land is developed in a coordinated manner which provides for adequate separation distances and interfaces between agricultural uses and sensitive development”*.
  - a site analysis requirement to *“show what appropriate buffer treatments and interfaces between existing agricultural uses and future residential uses have been incorporated”*.

### (iii) Evidence and submissions

Several submitters raised issues relating to the need to retain adequate buffers and green space between agricultural land and residential development.

Mr Baldock noted that the local policy relating to spray drift relates to agricultural land, not just horticultural land. The nuisance from agricultural activities is not confined to spray drift, but for example may also include noise, dust and smell. Consequently the submitter considered there is a case for provision of a buffer for all agricultural land along the township boundary. This buffer should be provided within the township boundary and not outside it. The submitter stated:

The establishment of these buffer zones are required to protect the continuation of the existing uses of the adjacent agricultural land and should be the responsibility of the Developers.

The submitter made suggestions relating to the width of the buffer, location of the buffer along the ESO5 alignment or a perimeter road and opportunities to use buffer planting to enhance biodiversity. The submitter suggested the planning and development of Growth Areas A and B should take into consideration protection of surrounding agricultural land in Growth Areas C and D and provide appropriate buffers.

Harcourt Progress Association submitted that Harcourt is a town based on agricultural and horticultural activities which must be supported. It noted the proposed town boundary of

approximately 9 kilometres is an interface where potential agricultural-residential land use conflicts can arise. Further:

The proposed town boundary is often aligned along natural features in the landscape which invariably host native vegetation and wildlife. Caught in the middle, these habitats also need protection.

It considered further work was required to understand the areas required for necessary buffers. It suggested the rezoning of some growth area land to rural living would provide for larger, low density lots with more space to accommodate buffer requirements.

Del Norte Pty Ltd (Del Norte), the landowner of 27 Craigie Street, made extensive submissions relating to agricultural land buffers. It submitted:

- there is no detailed assessment within Plan Harcourt of alternative approaches to pre-set buffer distances in achieving appropriate agricultural interface outcomes
- there has been no critical review of the existing spray drift provisions of Clause 13.07-1L-02, nor the necessity of its 300 metre buffer preference
- excluding 27 Craigie Street from the Harcourt town boundary to achieve a buffer as proposed by Council:
  - is a “*very blunt*” approach that lacks justification and evidence
  - is inconsistent with other aspects of the Amendment that seek to create direct township/agricultural interface relationships in other parts of Harcourt.

Dr Hewitt gave evidence on behalf of Del Norte in relation to spray drift. He was of the opinion that:

- the 300 metre spray drift buffer distance of Clause 13.07-1L-02 is excessive and not based on current scientific analysis
- the risks of spray drift can be controlled through deliberate actions, such as applying chemical sprays during appropriate wind conditions and through responsible farm management practices (this distinguishes spray drift from other potential agricultural amenity impacts such as noise and odour)
- vegetation barriers and crop netting are relevant considerations to managing spray drift, and work in favour of reducing spray drift buffer distances
- agricultural chemical labels specify spray drift buffer distance requirements, and these requirements take precedence in determining appropriate spray drift buffers
- it is not necessary for the Amendment to move the township boundary to exclude 27 Craigie Street from a spray drift perspective.

Council emphasised the importance of retaining an appropriate buffer between agricultural land and future residential development. It submitted that the Planning Scheme already sought to achieve this and this would be reinforced by the Amendment (through Plan Harcourt, the proposed local policy provisions and DPO12).

With regard to the existing provisions of Clause 13.07-1L-02 (Spray Drift), Council submitted that:

- the existing provisions of the Clause have been in the Planning Scheme in their current form since 1999 (if not earlier)
- the strategic justification for the Clause’s specific spray drift buffer metric of 300 metres is not clear
- it had sought advice from Agriculture Victoria on the issue of spray drift buffers, who anecdotally confirmed that there is no ‘default’ spray drift buffer distance and that recommended interfaces include both setbacks and vegetation.

#### (iv) Discussion

Harcourt is a rural township surrounded by agricultural land uses. Development and expansion of the town provides an opportunity to introduce buffers and other measures to minimise land use conflict between new residential uses and existing agricultural activity.

It is important to take this into consideration for the entire township boundary adjoining agricultural land, and regardless of the existing type of agricultural activity which may change over time.

It is not clear how the proposed local policy objective will be achieved, specifically how the eastern town boundary in itself will be reinforced as a buffer to protect agricultural activities. The township boundary is a planning tool, and cannot in itself be reinforced to achieve an outcome. It is also not clear what needs to be reinforced. The objective currently relates to the eastern town boundary, however it is appropriate to apply it to the entire township boundary.

A Practitioner's Guide states that an objective in a local policy is:

a statement of what a policy seeks to achieve. Objectives must be clear, concise and be able to be implemented via the planning scheme.

It may be clearer to include two separate objectives, one relating to the township boundary and one relating to the buffer, to clearly address 'what' the policy is seeking to achieve. For example, the policy objectives may state:

- To maintain a township growth boundary to protect agricultural land and township amenity.
- To protect agricultural activities from residential use and development by providing and maintaining an adequate buffer.

The Panel agrees with submitters that appropriate buffers should be established within the township boundary, and to not expect these will be provided on agricultural land. As the agent of change will be the residential development this should be where the responsibility lies for provision of appropriate buffers. As suggested by several submitters, it would be beneficial for the buffers to provide multiple benefits, including but not limited to open space areas and wildlife and transport corridors.

The Spray Drift local policy at Clause 13.07-1L-02 is not of direct relevance to the Amendment as it applies to *"use and development of land for accommodation or any other sensitive use in the Rural Living Zone and Farming Zone"*. The policy was introduced to the Planning Scheme over 20 years ago and the background and strategic justification for the policy is not clear. It therefore may not provide appropriate guidance to determine buffer widths.

The Panel accepts the advice of Council, based on advice from Agriculture Victoria, that there is no default spray drift buffer distance. The Panel also accepts the advice of Dr Hewitt that:

- the buffer distances for spray drift are influenced by multiple variable and interrelated factors including the specific crops, chemicals used and weather conditions
- the users of agricultural chemicals are required to assess conditions and only apply chemicals when it is safe, taking into account the type and location of surrounding land uses.

On this understanding, the Panel considers the specific requirements in DPO12 are appropriate, and that it is not appropriate to specify a specific buffer distance. Each parcel of land proposed for

development will need to be assessed to determine appropriate buffer measures with consideration of surrounding agricultural land use and all of the potential amenity impacts.

Specific considerations relating to 27 Craigie Street are considered in Chapter 8.2.

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

The Panel concludes:

- Adequate buffers to agricultural land should be planned and established within the township boundary.
- Adequate buffers should be determined for each development site with consideration of surrounding agricultural land use and all of the potential amenity impacts.
- The proposed objective in local policy 11.01-1L-04 (Harcourt) should be reworded to clearly state what it intends to achieve relating to buffers, for example:
  - To maintain a township growth boundary to protect agricultural land and township amenity.
  - To protect agricultural activities from residential use and development by providing and maintaining an adequate buffer.
- The DPO12 provisions are appropriate.

## **4.2 Contaminated land**

#### **(i) The issues**

The issues are whether:

- the DPO12 should contain a requirement for a Contamination Report
- further investigation is required relating to potential contamination of land in Growth Area D.

#### **(ii) Submissions**

##### **DPO12**

The EPA questioned the proposal to defer consideration of potentially contaminated land by including provisions in the DPO12 rather than undertaking steps the required to identify land that is potentially contaminated. It stated:

it does not appear that Council have considered the updated potentially contaminated land framework under the EP Act 2017<sup>2</sup>.

The EPA recommended that Council firstly identify if the land is potentially contaminated, and then take appropriate steps to inform appropriate planning controls. It stated, in accordance with MD1 and PPN30:

If the land is identified as not being potentially contaminated, the Explanatory Report should also be updated to reflect this. The requirement for a contamination assessment in the DPO can then simply be removed and no further action is required.

The EPA provided further written advice on 10 August 2022 in response to advice from Council that it intended to maintain its approach in the Amendment. The EPA stated that as the investigation undertaken by Council concluded there is 'low' potential for contamination, the proposed DPO12 requirement may be a duplication of the work already undertaken. It considered

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<sup>2</sup> *Environment Protection Act 2017*

the matters were clearly dealt with by MD1 and PPN30, and that if Council maintained the need for the DPO12 requirement this should be a matter for the Panel to consider.

HVP was of the view that Council had correctly found, based on its review of historical land use data, that the site is not potentially contaminated land. It submitted:

In that context, because the land has been found to be not potentially contaminated land, having regard to the PPN30, no further action is required. Therefore, the clause in the DPO12 requiring the preliminary site assessment should be removed.

Council provided details of its site history review in its Part B submission. This included information provided by the site owner of 10 Craigie Street in Growth Area B. It stated that the investigations led Council to conclude with reasonable confidence that the land was not potentially contaminated, however it intended to keep the DPO requirement for a Contamination Report to remove any doubt.

In closing, Council submitted that while it:

initially thought to retain the DPO requirement regarding the need to undertake a preliminary site inspection (PSI), after further review of PPN30, as well as recent correspondence from EPA having satisfied itself with reasonable confidence that the land is suitable for residential use, it would appear the need for a PSI is no longer required. Council's position therefore is that the PSI requirement in the DPO should therefore be removed.

## **Growth Area D**

Harcourt Progress Association submitted that anecdotally future Growth Area D has high levels of copper contamination due to historic horticultural practices. It considered consequently residential expansion may be a better future use than agriculture, and that a *“valley wide characterisation of soil and contamination”* was required.

Council submitted a valley wide review was not prioritised due to the need to complete other technical work and the area is not proposed for rezoning at this stage. It noted that further investigation will be required when the land is proposed for rezoning.

### **(iii) Discussion**

#### **DPO12**

Taking into consideration the detailed site history review material provided by Council, and EPA's views, the Panel considers that if Council is satisfied that the land is not potentially contaminated then it is not necessary to include provisions in the Amendment to require further investigation. Council has explained that it is satisfied, and the Panel accepts this. The requirement for a Contamination Report should be removed from DPO12.

While no longer relevant, if the land was considered potentially contaminated by Council, the Panel is not satisfied with the approach taken by Council to include a requirement in the DPO12 would satisfy PPN30 or MD1. For example, PPN30 provides guidance that where land has been *“determined to be potentially contaminated, but it is difficult or inappropriate to meet environmental audit system requirements at the amendment stage, the application of the Environmental Audit Overlay (EAO) to the land allows deferment of these requirements”*.

## **Growth Area D**

The Panel does not have any specific information to base an assessment of the potential contamination of land in Growth Area D. Council has indicated it intends to undertake further investigation when the land is proposed for rezoning. This is appropriate.

**(iv) Conclusions**

The Panel concludes:

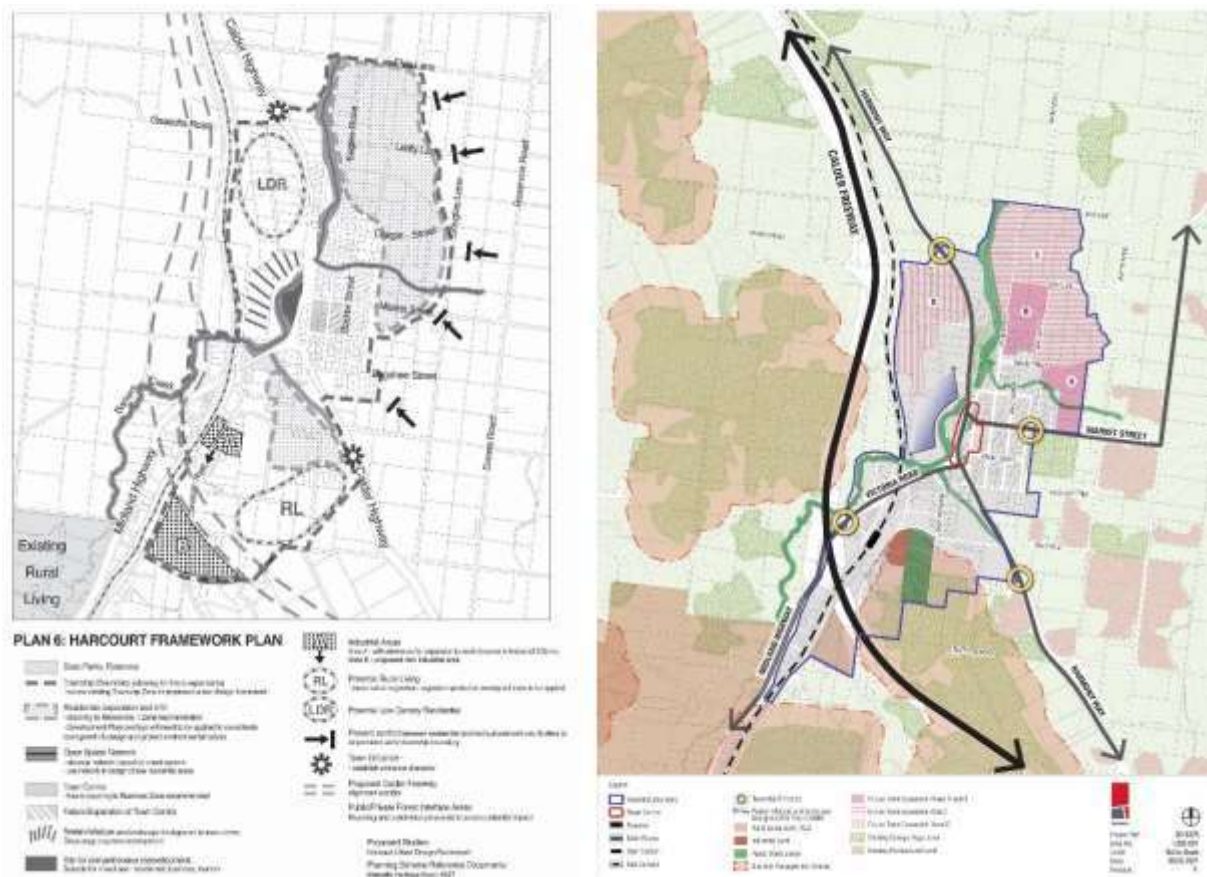
- The requirement for a Contamination Report should be removed from DPO12.
- It is appropriate to undertake further investigation relating to potentially contaminated land of Growth Area D when the land is proposed for rezoning.

## 5 Township boundary

### 5.1.1 What is proposed?

The Amendment proposes to update the existing Harcourt Framework Plan by defining a clear town boundary. It makes a number of revisions to the current town boundary and removes a number of properties that are currently within it. The existing township boundary (Clause 02.04) and the proposed township boundary are shown in Figure 4.

**Figure 4** Existing and proposed township boundary



Source: Clause 02.04 (left) and exhibited Amendment documentation (right)

### 5.1.2 The issues

The issues are whether the proposed township boundary:

- is appropriate
- adequately provides for protection of agricultural land
- should be shown conceptually on the Harcourt LUFP or adopt a defined alignment.

### 5.1.3 Evidence and submissions

Mr Baldock submitted it was important to protect agricultural land surrounding Harcourt. He advocated to retain the current Harcourt Framework Plan's eastern township boundary, and to ensure adequate buffers are provided.

Submitter 14 objected to rezoning agricultural land for residential purposes.

Submitter 8 objected to altering the eastern boundary of the township to align with Eagles Channel. It stated that for most properties the channel is *“a disused earthen gravity channel which, since decommission in 2016, has already had significant demise associated with silt build up and livestock wearing away the banks”*. The submitter provided photos showing the condition of the channel on their property. It submitted the channel was lacking definition in parts and considered if it is used to define the township boundary, the result would be:

- irregular shaped allotments
- split zonings across parcels of land
- small parcels of farming zoned land that will not be viable.

Further, Submitter 8 did not consider the principles relating to agricultural land protection and bushfire protection were relevant to the township boundary alignment for its property. It favoured the use of property boundaries over physical features as an appropriate boundary determinant in the north east of Harcourt.

Harcourt Progress Association submitted that the town boundary and specifically rezoning of land should be reviewed with consideration of the quality of agricultural land being lost, with the objective to:

minimise the loss of high quality land and confine the losses to land with the lowest agricultural potential

It submitted that the township boundary should follow road or title boundaries. This would assist with the efficient sale of land and allow developers to sufficiently large parcels of land on which to place environmental or agricultural buffers.

A number of submitters sought changes to the exhibited township boundary to include specific properties.

Del Norte questioned the logic of the proposed town boundary and sought a continuation of the ‘status quo’ set by the current Harcourt Framework Plan, which currently includes the majority of 27 Craigie Street within the town boundary. Del Norte submitted that 27 Craigie Street has been strategically identified as potentially suitable for additional housing since the approval of Mount Alexander Planning Scheme Amendment C24 in 2004.

Mr Glossop gave planning evidence on behalf of Del Norte, and his evidence focussed on 27 Craigie Street. He was of the view that 27 Craigie Street should be retained within the Harcourt township boundary as the proposed township boundary would have the effect of ‘quarantining’ the site as a physical buffer to surrounding agricultural uses, and there are other ways of addressing interface buffer requirements.

Council submitted the Amendment recognises the highly productive agricultural operations around Harcourt by maintaining the township boundary, ensuring that there is adequate land supply and infrastructure to accommodate growth, and protecting other natural and cultural features of the area.

Council submitted that Harcourt has *“some of the best”* agricultural land within the municipal boundaries of Mount Alexander Shire (namely ‘Class 3 - Moderate Quality’ agricultural land), and it understood that the importance of appropriately protecting agricultural land from encroachment was of key concern to the Harcourt community. In response to a question from the Panel, Council explained that it relied on the 2014 Rural Land Study prepared by Enplan. While it had plans to undertake further work to prepare a more detailed rural land use study this was not a high priority.



Council explained the Amendment considers planning policy Clause 14.01-1S (Protection of agricultural land) by excluding productive agricultural land from the township boundary and ensuring buffers are considered as part of any future sensitive use and development. It submitted that the township boundary had been determined with consideration of buffers to protect agricultural land and minimise potential land use conflict by:

- using the existing now decommissioned open concrete channel and topographic lines as a township boundary in the northeast and east of the town, with the possibility of this becoming an open space corridor through Growth Area C
- retracting the eastern township boundary to manage potential land use conflict (among other things) *“due to the potential impacts of spray drift”*.

Council anecdotally submitted that the alignment of Harcourt’s town boundary is partly influenced by the ‘350 AHD<sup>3</sup> contour line’, which is a relevant agricultural consideration in Harcourt due to frost.

Council submitted there is no strategic need to extend the existing Harcourt township boundary, as the current boundary remains sufficient to accommodate Harcourt’s projected population growth *“for at least the next 15 years”*. Council explained this position is supported by a number of residential supply and demand assessments, with Plan Harcourt identifying a likely need for 219 new residential dwellings by the year 2036 based on a ‘medium growth scenario’ annual population growth rate of 4 per cent.

Alignment of the township boundary is supported by Clause 02.03-1 (Strategic directions) which states that Harcourt *“has potential for growth because it is fully serviced and strategically located close to the Calder Freeway and railway line”* and *“rezoning of land for urban purposes outside the urban/township boundaries”* is discouraged.

Compared to the ‘conceptual’ town boundary shown on the current Harcourt Framework Plan, Council submitted the proposed Harcourt LUPF provides greater clarity and certainty on Harcourt’s town limits by defining a clear and unambiguous edge. In doing so, specific refinements are proposed to the boundary alignment to respond to specific circumstances. These include:

- extending the western edge of the township boundary to capture land along Midway Highway that is currently in the TZ
- aligning the north eastern edge of the township boundary to follow a disused irrigation channel (Eagles Channel), so as to provide a ‘hard edge’ to the township boundary and a buffer between residential and agricultural uses
- retracting the eastern edge of the township boundary to minimise impacts on biodiversity and address buffers relating to surrounding agricultural uses
- revising the southern edge of the township boundary to respond to existing zoning, biodiversity, potential agricultural/residential land use conflict, and the potential effects of bushfire.

During the course of the Hearing, a number of submissions were made with respect to the ‘pros and cons’ of defining a ‘hard edge’ township boundary verse a more conceptual option. Mr Glossop’s evidence acknowledged that both options have positive and negative attributes, but did not make a specific recommendation. Submissions included:

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<sup>3</sup> Australian Height Datum

- A ‘hard edge’ boundary can provide certainty and clarity on the town boundary, which avoids conjecture and the possibility of unintended ‘development creep’. It can also provide certainty for the planning of public infrastructure, such public connections and linkages at edge conditions. These are positives. However, it can also be at risk of being inflexible and rigid, and almost inevitably results in a level of land fragmentation.
- Conversely, a ‘conceptual’ boundary is the opposite; it can provide greater flexibility to respond to specific physical conditions (such as vegetation, geographic features and property boundaries) but provides less certainty.

#### **5.1.4 Discussion**

There was general agreement among parties of the principles proposed by Council to determine an appropriate township boundary, including:

- ensuring adequate supply of land to satisfy projected township growth
- protection of agricultural land
- minimising bushfire risk
- avoiding important areas of biodiversity.

There was disagreement about whether:

- it is appropriate to use a physical feature, specifically Eagles Channel, or property boundaries to determine the north eastern boundary
- with reference to specific sites, whether land currently within the township boundary should be retained in the township boundary or excluded to provide a buffer to agricultural land.

#### **Township boundary alignment**

The Regional Growth Plan at Clause 11.01-1R identifies that Harcourt has a role to play in accommodating regional growth, and seeks to “*support sustainable growth and expansion in Harcourt*” to capitalise on its proximity to Bendigo and Castlemaine. Clause 11.02-1S (Supply of urban land) seeks to ensure a sufficient supply of urban land for towns like Harcourt by providing clear directions on locations where growth should occur and by planning for projected population growth over a minimum 15 year period. In identifying suitable areas, consideration should be given to opportunities for intensification, neighbourhood character and landscape considerations, servicing limitations, and the capability of land with respect to natural hazards and environmental quality.

The Panel considers the Amendment’s proposed town boundaries will respond appropriately and facilitate the expected residential growth of Harcourt in accordance with its identified role in the Regional Growth Plan. The Amendment’s proposed town boundaries will ensure an adequate supply of residential land for Harcourt for a minimum 15 year period (based on supplied population growth forecasts), and will continue to confine future urban growth to areas that have been long been identified as strategically suitable for potential housing. This will respond to planning policy relating to settlement and supply of urban land by facilitating urban consolidation and reasonably protecting surrounding agricultural uses from residential encroachment.

The Panel generally supports town boundary revisions that have been influenced by relevant local considerations, including environmental quality, natural hazards, landscape and opportunities for the consolidation of existing urban areas. The Panel supports the general principle of refining the township boundary in response to the potential effect of bushfire, which is consistent with Clause

13.02-1S (Bushfire planning). Further, it is logical to expand the Harcourt's town boundary to capture existing residential land on the Midland Highway in the TZ and logical to retract the town boundary on the southern side of Market Street to protect areas of environmental significance.

The Panel accepts that the proposed township boundary alignment does not extend into additional agricultural land, and that planning controls provide for adequate buffers (see Chapter 4.1).

As noted in Chapter 3.2, there may be some refinement of the north eastern township boundary required following preparation of a strategic biodiversity assessment, in particular in the vicinity of Eagles Channel.

### **Eagles Channel**

While the current township boundary generally aligns with Eagles Channel, it is indicative and is accompanied by the following notations relating to:

- rezoning to a residential zone
- applying the DPO to coordinate growth and design and protect environmental values
- providing buffers on the township side.

While the Panel understands the logic of using the now decommissioned Eagles Channel as a 'hard' township boundary, the Panel considers there are disadvantages to this approach. The Panel agrees with submitters that:

- the channel is decommissioned, in variable condition and no longer concrete in parts and in places may not be well defined
- using the channel will result in irregular shaped lots, split zonings and fragmented, small remnant farming zoned land that is unlikely to be viable
- using property boundaries is more straight forward from a planning and development perspective.

The use of property boundaries is preferred as this provides opportunities for:

- inclusion of the channel in the development area providing for one land manager of the waterway and associated potential open space link and habitat corridor
- the channel to potentially form part of buffer with agricultural land (depending on the channel alignment in each property)
- property boundaries that may also provide logical transport links which can form part of the buffer.

Having regard to the provisions of Clause 11.02-1S that seek to provide "*clear directions on where growth should occur*" in the supply of urban land, further work should be undertaken to confirm the appropriate north eastern boundary in the vicinity of Eagles Channel. This should not result in large parcels of additional agricultural land included in the town boundary, but should be based on the guiding principles and logical inclusions. Alternatively, the boundary should be shown as indicative on the Harcourt LUPF with notations outlining the requirements of further investigation.

### **Specific sites**

A number of submitters sought specific refinements to the exhibited town boundary based on specific site circumstances, and the submissions of each are addressed in the specific property sections of this chapter.

### **5.1.5 Conclusions**

The Panel concludes:

- The principles used to inform the township boundary alignment are appropriate, apart from using Eagles Channel as a hard edge.
- The township boundary alignment adequately takes into consideration protection of agricultural land.
- The use of properties boundaries is preferred to Eagles Channel for the township boundary in the north eastern part of town.
- Further work should be undertaken to confirm the appropriate north eastern boundary in the vicinity of Eagles Channel, or if not confirmed the location should be shown as indicative with notations outlining the requirements of further investigation.

## 6 Residential areas

### 6.1 What is proposed?

The Amendment proposes to rezone:

- the majority of land in the TZ and GRZ to the NRZ, and give effect to Harcourt's preferred neighbourhood character through specific objectives and standards in NRZ1
- land in Growth Areas A and B from FZ to NRZ1 and apply specific design requirements by way of DPO12.

### 6.2 Neighbourhood Residential Zone

#### (i) The issues

The issues are whether:

- it is appropriate to rezone existing land in the town zoned TZ and GRZ to Neighbourhood Residential Zone (NRZ)
- 71 Harmony Way should be zoned GRZ instead of NRZ
- it is appropriate to rezone Growth Areas A and B from FZ to NRZ.

#### (ii) Submissions

Several submitters raised issues relating to the proposed use of the NRZ and the importance of ensuring Harcourt's character is protected.

Submitter 24 sought to introduce the GRZ to land at 71 Harmony Way and submitted the GRZ is a more appropriate zone for sites in Harcourt that are able to provide housing growth and diversity. The submitter stated:

- the size and existing condition of 71 Harmony Way positions it as unique development opportunity in the broader context of Harcourt, and *"well placed to provide the housing growth and diversity sought by Plan Harcourt"*.
- the GRZ is preferred over the NRZ, as it will *"enable the development of a more diverse outcomes in the future and will better align with the strategic actions and future housing objectives outlined in Plan Harcourt."*
- the NRZ will constrain the potential scope for residential development and increased housing diversity on the land.
- the GRZ will assist in facilitating the delivery of a future retirement village.

Submitter 14 considered the growth areas should be rezoned for rural living purposes to maintain the rural fringe of the town and protect what people see as attractive.

Mr Baldock and Harcourt Progress Association considered it may be appropriate to rezone Growth Areas C and D for rural living, as this may eliminate the need for buffer zones around Growth Areas A and B. Harcourt Progress Association suggested a corridor of rural living along the eastern boundary of Growth Areas A and B, as this is a defacto rural living area now, the disruption to land use would be minimal and it would improve the interface between agricultural and residential land use.

HVP submitted it supported rezoning Growth Area B to NRZ. It submitted the land has long been identified as strategically suitable for residential expansion and that it is *“now time for the strategic planning rubber to hit the statutory planning road”*.

Council submitted the use of NRZ was required to implement the various strategic provisions of Plan Harcourt, and provided a detailed explanation of how it had chosen NRZ as the preferred residential zone. It submitted that the release of PPN91 in 2019 altered the way that residential zones are applied in Victoria, and this supports application of the NRZ to Harcourt as now proposed. This position was supported by DELWP officers in authorising the Amendment, and use of the NRZ is a specific condition of authorisation.

Council submitted the rezoning of Growth Areas A and B to the NRZ is strategically sound as it builds on the longstanding designation of each as potentially suitable for future residential uses. It also submitted the rezoning is supported by the latest residential supply and demand figures for Harcourt. Rezoning Growth Area A and B to NRZ is required to meet projected demand.

Council submitted Plan Harcourt takes a *“place based approach”* to guiding residential growth in Harcourt, and seeks to protect its existing *“rural village character”* through its design guidance. The mandatory double storey height maximum for dwellings and residential buildings in NRZ is consistent with this and the proposed Schedule 1 provisions are appropriate to achieve these objectives.

A key part of Plan Harcourt is to achieve a clear, consolidated town centre through the application of the C1Z. Applying the NRZ to residential land outside of this will remove the potential ‘out of centre’ commercial development currently permissible under the TZ.

Regarding 71 Harmony Way, Council submitted that application of the NRZ will achieve an appropriate built form responses, and its application is consistent with both PPN91 and DELWP’s conditions of authorisation. Council submitted that no aspect of the Amendment’s proposed policy changes for 71 Harmony Way will preclude the potential delivery of a future retirement village.

### **(iii) Discussion**

PPN91 provides useful guidance on the role of Victoria’s various residential zones. It identifies that the TZ is appropriate for *“small towns with no specific structure of residential, commercial and industrial land uses”* and that the GRZ is appropriate to areas where *“housing development of three storeys exists or is planned”*. It also identifies that the NRZ is appropriate for areas where *“there is no anticipated change to the predominantly single and double storey character”*, and to areas *“that have been identified as having specific neighbourhood, environmental or landscape character values that distinguish the land from other parts of the municipality or surrounding area”*.

The NRZ is an appropriate planning control tool that will contribute to Plan Harcourt’s envisioned township structure, and will support built form outcomes that integrate with Harcourt’s existing and valued character.

Application of the NRZ is supported by the fact that:

- The TZ is no longer appropriate, as it is a tool that is intended to be applied to small towns with no specific structure of land uses. Plan Harcourt and the Amendment instead both seek to move toward a clearly defined town structure in Harcourt comprised of a legible

and defined town centre surrounded by low-scale residential areas. The NRZ will help achieve this.

- The purpose of the NRZ is to “*recognise areas of predominantly single and double storey development*”. This is consistent with the existing character and ‘rural village’ feel of Harcourt, which is predominantly comprised of low-scale detached residential dwellings of one to two storeys in height.
- PPN91 seeks to apply the NRZ to “*areas that have been identified as having specific neighbourhood, environmental or landscape character values that distinguish it*”. Plan Harcourt strategically demonstrates this is the case for Harcourt.

The Panel acknowledges the size and strategic potential of 71 Harmony Way and agrees that it has certain attributes that works in favour of future redevelopment. The strategic direction of Plan Harcourt that seeks to achieve appropriate built form outcomes that respond to Harcourt’s identified and valued “*rural village*” character. The NRZ will achieve this.

The Panel also agrees with Council’s submission that no aspect of the Amendment or proposed NRZ1 would constrain the future potential delivery of a retirement village at 71 Harmony Way. ‘Retirement Villages’ are different to ‘Dwellings’ or ‘Residential Buildings’ under the land use terms and nesting diagrams of Clause 73, and are therefore exempt from mandatory Garden Area and building height requirements irrespective of whether 71 Harmony Way is included in the GRZ or NRZ1. The Amendment’s proposed NRZ1 neighbourhood character objectives will work to ensure that any future retirement village on 71 Harmony Way is designed in a way that responds to the identified and valued character of Harcourt. This is appropriate.

Regarding the Growth Areas A and B, the existing Harcourt Framework Plan has long identified these as ‘residential expansion and infill areas’, which are suitable for potential future inclusion in a residential zone. The Amendment gives effect to this in a way that responds to an identified short term strategic need for additional residential land in Harcourt. This is appropriate.

Council advised it is pursuing a future Rural Living Strategy that will provide further strategic guidance for rural living across the entire municipality of Mount Alexander, and anticipates that this will likely have implications for rural living land within and around Harcourt at a future date. The appropriate zone for Growth Areas C and D will be considered at the time this land is proposed for rezoning, and may consider rural living based on the outcomes of this further work.

The Panel notes that Plan Harcourt refers to proposed application of TZ, which has been superseded by the current approach. To avoid confusion Plan Harcourt should be updated to ensure it is consistent with the Amendment.

The Panel has explored issues relating to town character further in Chapter 7.

#### **(iv) Conclusions**

The Panel concludes:

- It is appropriate to rezone existing land in the town zoned TZ and GRZ to NRZ, including 71 Harmony Way.
- It is appropriate to rezone Growth Areas A and B from FZ to NRZ.

## 6.3 Minimum lot sizes, housing diversity and housing affordability

### (i) The issues

The issues are whether:

- minimum lot sizes are required
- the Amendment adequately addresses issues of housing diversity and affordability.

### (ii) Evidence and submissions

Several submitters sought to refine the Amendment to include minimum lot sizes for various reasons:

- Submitters 9 and 14 sought minimum lot sizes of 1,200 and 2,000 square metres respectively for new housing within Growth Areas A and B to respond to Harcourt's existing character
- Submitter 16 raised the relationship between neighbourhood character and minimum lot sizes.

Submitter 3 was concerned the Amendment makes no specific provision for housing for elderly people, including smaller dwellings located close to the town centre. The submitter considered a caveat should be placed on land to specifically set aside housing for elderly persons.

Harcourt Progress Association provided a detailed submission noting the importance of density and lot size from an environmental and housing diversity perspective. It sought to ensure that large scale residential developments be *"encouraged to provide a diversity of lot sizes"*.

Council submitted that:

- applying a minimum lot size requirement is not supported by Council and is not found to have strategic merit
- by choosing not to apply a minimum lot size requirement, Council is encouraging housing diversity, affordability and housing choice.

Council submitted that applying a minimum lot size could potentially have unintended consequences, such as increasing pressure on urban expansion at the expense of surrounding agricultural land.

HVP adopted a similar view to Council. HVP submitted it is *"quite appropriate"* that there are no minimum lot sizes in the Amendment, as it would result in lower density development. This would be contrary to contemporary planning objectives seeking more efficient and sustainable development (including achieving the broader sustainability provisions of Amendment VC126). It stressed that the town should provide options for people to downsize, and that minimum lot sizes would also dilute the potential to achieve housing diversity within the existing Harcourt township.

### (iii) Discussion

#### Minimum lot sizes

The Panel notes the importance of achieving housing growth in Harcourt in appropriate locations within the identified township boundary. Plan Harcourt seeks to *"manage growth in a village setting"* in a way that protects surrounding agricultural land.

The Amendment seeks to facilitate sufficient residential land supply for forecast demand partly on the basis of an 'urban' level of density for future housing supply (including lots of approximately



650 to 750 square metres in size). The absence of minimum lot sizes will assist in facilitating this and assist in achieving consistency with the provisions of Clause 11.02-1S, including *“rural residential development that would compromise future development at higher densities”*.

The Panel acknowledges the importance of Harcourt’s existing ‘rural village’ character and notes that residential lot sizes contribute to character. The neighbourhood character analysis in Plan Harcourt affirms this, and identifies that Harcourt’s existing character is comprised of a diversity of lot sizes that range from 330 square metres (‘Area 1 – Town Centre’) to 15,000 square metres (‘Areas 5a, b and c – Semi-Rural Residential Areas’). The broad brush application of minimum sizes is not consistent with the existing diversity in Harcourt’s lot size pattern.

### **Housing affordability and diversity**

The Panel agrees with the submissions of Council and HVP regarding the importance of facilitating housing diversity and choice within Harcourt. By not specifying a minimum lot size requirement, the Amendment facilitates greater planning and design flexibility in meeting Harcourt’s identified growth obligations under the Regional Growth Plan. A range of lot sizes will also facilitate a range of housing options, which in turn will contribute to housing affordability and cater for the housing needs for all life stages (including elderly persons). This is important and appropriate.

Clause 16.01-2S (Housing affordability) seeks to deliver more affordable housing through a range of approaches, such as providing adequate residential land supply, facilitating housing choice for diversity in life stages and communities, and promoting good housing and urban design to minimise negative environmental impacts. The Amendment satisfies this policy by maintaining an appropriate level of residential land supply and providing detailed urban design guidance for new housing through NRZ1 and DPO12.

The Panel does not support the submission seeking the introduction of a caveat on land to provide housing for elderly people. The NRZ facilitates a range of ‘as of right’ housing options for elderly members of the community (including dwellings, dependent persons units, community care accommodation and residential aged care facilities) and the absence of a minimum lot size requirement will provide greater flexibility in how this can be delivered.

### **(iv) Conclusions**

The Panel concludes that:

- Minimum lot sizes are not required.
- The Amendment adequately addresses issues of housing diversity and affordability.

## **6.4 Residential built form**

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

The issue is whether the NRZ1 will achieve appropriate built form and character outcomes for Harcourt.

### **(ii) Evidence and submissions**

Several submitters raised issues relating to built form and character management.

Submitters 14, 16, 21 and 23 sought to ensure that new residential development does not result in a loss of the existing *“village feel”* of Harcourt.

Submitter 9 sought to avoid a continuation of recent residential development at Pippin Court and Molly Drive, which the submitter considered does *“not maintain the overall neighbourhood character, or respect the natural bushland setting of Harcourt”* due to a combination of smaller lot sizes, lack of vegetation, inappropriate housing design and inappropriate street network design. It suggested that specific planning controls be applied to ensure that future residential built form achieves outcomes that are more appropriate to Harcourt’s character.

Mr Baldock raised concern with a 9 metre maximum building height for dwellings in Harcourt, but expressed support for it on the proviso that additional controls exist to ensure they are confined to *“a limited number of appropriate sites”*.

HVP submitted it is supportive of the various neighbourhood character objectives and design provisions of NRZ1.

Council submitted that a key aspect of Plan Harcourt is to achieve appropriate built form in the context of Harcourt’s valued ‘rural village’ character. The strategic neighbourhood character analysis of Plan Harcourt confirms that Harcourt’s prevailing character is low-scale and in the order of one to two storeys in scale. The proposed neighbourhood character objectives and ResCode variations within the Schedule were intended to protect these valued character elements of the town.

Council suggested post exhibition changes to further refine the NRZ1 Schedule through additional landscaping requirements. It proposed to introduce additional variations to Standard B13 of Clause 55 to require *“in addition to the requirements of B13, development should provide for at least two canopy trees. At least one of those trees should be in the dwelling or residential building’s front garden”*.

### **(iii) Discussion**

A defining feature of Plan Harcourt is its place based approach to planning for growth and change specific to Harcourt’s local setting, which is predicated on principles including *“managing growth in a village setting”*, achieving a *“defined town centre”*, and retaining *“open views and native trees”*. Plan Harcourt includes a neighbourhood character analysis that effectively seeks to retain the ‘rural village character’ of Harcourt; a character that is largely derived from low-scale detached dwellings, landscaping, views between buildings and low front fencing. It identifies that Harcourt has a specific neighbourhood, environmental and landscape character, and that this character distinguishes it from other parts of Mount Alexander Shire.

The Panel supports the proposed NRZ1 built form metrics and design objectives and considers that these are consistent with Plan Harcourt. Specifically:

- The mandatory maximum double storey/9.0 metre building height of the NRZ parent clause is appropriate for Harcourt, and will result in built form of a scale that will comfortably integrate with Harcourt’s existing ‘rural village’ character.
- The mandatory Garden Area requirements of the NRZ parent clause will prohibit the possibility of future dwellings with unusually high levels of site coverage, as will the propose discretionary maximum 40 per cent site coverage provisions and minimum 40 per cent permeability requirements in the Schedule. This is consistent with Harcourt’s existing character and the neighbourhood character analysis in Plan Harcourt.
- The discretionary maximum 1.2 metre front fence height requirement and minimum 50 per cent transparency requirement will appropriately respond to the general ‘openness’

of front fencing styles evident in Harcourt's residential areas, and allow for greater visibility of private realm landscaping from the public realm.

- The neighbourhood character objectives in NRZ1 align with the neighbourhood character analysis within Plan Harcourt and will ensure that future housing within Harcourt is required to demonstrate compliance with the unique character and attributes of Harcourt.

In the absence of any specific viewline analysis within Plan Harcourt, the Panel has contemplated whether it is appropriate to include the NRZ1's proposed neighbourhood character objective seeking to *"support development that maintains view lines to Mount Alexander and the hill slopes to the west of the town"*. However, the Panel notes that this is an objective rather than a mandatory requirement, and that view lines to both Mount Alexander and adjoining hills are a defining character elements in some parts of Harcourt and valued by the community. The Panel supports this objective.

Consistent with the Panel discussion and findings in Chapter 3.3, vegetation and landscaping are important to the existing character of Harcourt. The post exhibition changes to the NRZ1 that seek to provide further guidance on landscaping requirements under Standard B13 are appropriate. It will assist in further facilitating residential development that responds appropriately to Harcourt's existing, valued landscape character.

#### **(iv) Conclusions**

The Panel concludes:

- The NRZ1 neighbourhood character objectives and ResCode variations are appropriate.
- Council's proposed post exhibition change to Standard B13 within the NRZ1 is appropriate.

## **6.5 Growth area planning and design**

### **(i) The issues**

The issues are whether the:

- provisions of DPO12 will achieve appropriate planning and urban design outcomes for Growth Areas A and B
- development plan requirements for Growth Area A are appropriate.

### **(ii) Evidence and submissions**

Several submitters raised issues relating to the residential expansion of Harcourt and its potential impact on Harcourt's existing character.

Submitter 9 sought to avoid a 'repeat' of other recent greenfield developments in Harcourt through the careful consideration of neighbourhood character and ESD. It preferred the use of a DDO for Growth Areas A and B rather than the proposed DPO12, and also sought for a neighbourhood character analysis to be undertaken for all of Harcourt's intended Growth Areas prior to any residential rezoning. Submitters 16, 18 and 23 raised similar concerns.

Council submitted that application of the DPO12 is necessary to achieve a coordinated development outcome for each expansion area that gives effect to the strategic provisions of Plan

Harcourt, and which achieves appropriate neighbourhood character and environmental outcomes. Council suggested post exhibition changes to refine the wording of DPO12 to:

- place greater emphasis on the protection of the environment and landscaping through additional requirements and design objectives
- introduce the requirement for an 'Image and Character Report'
- make minor refinements and administrative changes to the DPO12 provisions, including deletion of superfluous requirements and providing greater clarification on exhibited requirements.

Submission 6 related to the land at 29 Craigie Street which is included in Growth Area A. The submitter sought a change to the DPO12 to allow it the option of submitting a separate development plan for its land.

In response to Submission 6 Council proposed the following changes to DPO12 (with deleted text in red and added text in blue):

- The area identified as Area A on the Harcourt Framework Plan excerpt (Figure 1) may have a maximum of two development plans prepared and approved. Should two development plans be prepared for this area, ~~one is to be applied to the area to the north of the waterway (identified by the green line), and the other to be applied to the area to the south of the waterway~~ each Development Plan must be a contiguous area, and account for at least 40% of the overall land area of Area A.

### (iii) Discussion

The Panel acknowledges the shared concern of many submitters regarding the importance of achieving appropriate character and environmental outcomes within any new housing estates.

The Panel supports the use of a DPO for Growth Areas A and B to guide appropriate planning and development outcomes. Unlike a DDO, the DPO requires preparation of a comprehensive and holistic development plan to be approved prior to any construction, which will allow Council to exercise greater control over the outcomes to ensure it is consistent with Plan Harcourt and sympathetic to Harcourt's valued character. Importantly, the proposed use of the DPO is consistent with *Planning Practice Note 23: Applying the Incorporated Plan and Development Plan Overlays*. It is a planning tool that is consistent with Plan Harcourt's strategic intent to provide greater certainty and clarity on the specific design and form of new residential development across large development precincts.

The Panel supports application of DPO12. Specifically:

- The suite of proposed objectives within the DPO12 will appropriately require consideration of Harcourt's specific character in the design of any development and seek achieve a range of best-practice urban design outcomes. This is consistent with both Plan Harcourt and Clause 15.01-1S.
- DPO12's objective for *"a range of lot sizes which respond to the site's features, constraints and location"* will embed the importance of contextually-responsive design within any future development plan.
- The 'cap' on the maximum number of development plans able to be prepared for each Growth Area will assist in avoiding piecemeal development outcomes, and increase the likelihood of achieving coordinated and efficient development.
- The specific requirements of the development plan are typical and appropriate, and are likely to achieve the type of character and design outcomes sought by Plan Harcourt - including the requirement for a 'Planning Assessment and Site Analysis', 'Indicative

Subdivision Layout’, ‘Movement Network Plan and Associated Report’ and ‘Landscape and Open Space Concept Plan’.

The Panel supports Council’s proposed post exhibition changes and believes that they respond to issues raised in submissions and will assist in further achieving outcomes aligned with the strategic intent of Plan Harcourt. These changes include:

- The addition of the proposed ‘Image and Character Report’ requirement, which will make a meaningful contribution to achieving appropriate planning and urban design outcomes for Harcourt. The Panel has made comment on drafting with regard to ESD outcomes in Chapter 3.4.
- Specific requirements for development plan preparation in Growth Area A, as it will logically provide 29 Craigie Street with greater flexibility in how it contributes to Harcourt’s identified short term housing need.
- Providing for greater consideration of mature canopy tree retention within the DPO12’s objectives and specific design requirements, which will further increase the likelihood of future residential development achieving appropriate character and biodiversity outcomes.
- Requiring indicative dwelling layouts for smaller lots of less than 500 square metres, which will allow greater control and consideration of built form character outcomes whilst allowing for housing choice and diversity
- Removing superfluous or repetitive provisions which will assist in usability and application.

#### **(iv) Conclusions**

The Panel concludes:

- The DPO12 will achieve appropriate planning and urban design outcomes for Growth Areas A and B.
- The Council’s proposed post exhibition of DPO12 is appropriate and will achieve appropriate planning and urban design outcomes, subject to refining the proposed ‘Image and Character Report’ requirement as discussed by the Panel in Chapter 3.4.
- The proposed post exhibition change relating to delivery of development plans for Growth Area A is appropriate.

## **6.6 Development contributions**

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

The issue is whether requirements for development contributions are adequately clear.

### **(ii) Evidence and submissions**

Submitters raised questions relating to development contributions, including:

- the proposal for developers to contribute financially is unclear (Submitter 16)
- whether there is a development levy proposed (Submitter 21).

Council explained in its Part A submission that an Infrastructure Plan had been prepared for Harcourt to clearly identify the infrastructure needed for the growing town. It establishes the strategic basis for “*negotiating and collecting development contributions through the direct*

*provision of infrastructure as works in kind or as a monetary contribution toward infrastructure provision". At the time of the Hearing it had not yet been adopted by Council.*

Council submitted it proposed to make a post exhibition change to the DPO12 requirement relating to infrastructure contributions to state:

Prior to a permit being granted to subdivide or develop the land, the owner(s) of the land must prepare a report that details arrangements for the provision of [shared](#) infrastructure which has ~~be~~ been prepared to the satisfaction of the responsible authority.

**(iii) Discussion**

Planning policy at Clause 11.02-3 (Sequencing of development) includes a strategy to:

Require new development to make a financial contribution to the provision of infrastructure such as community facilities, public transport and roads.

The Panel is satisfied that Council's approach to development contributions is satisfactory, noting the requirement to prepare a report detailing how shared infrastructure will be provided is mandatory as a condition and requirement of a permit to develop the land.

**(iv) Conclusions**

The Panel concludes:

- The Panel considers the requirements for development contributions are adequately clear, subject to the post exhibition changes proposed by Council to the Infrastructure Contributions requirement in DPO12 relating to 'Conditions and requirements for permits'.

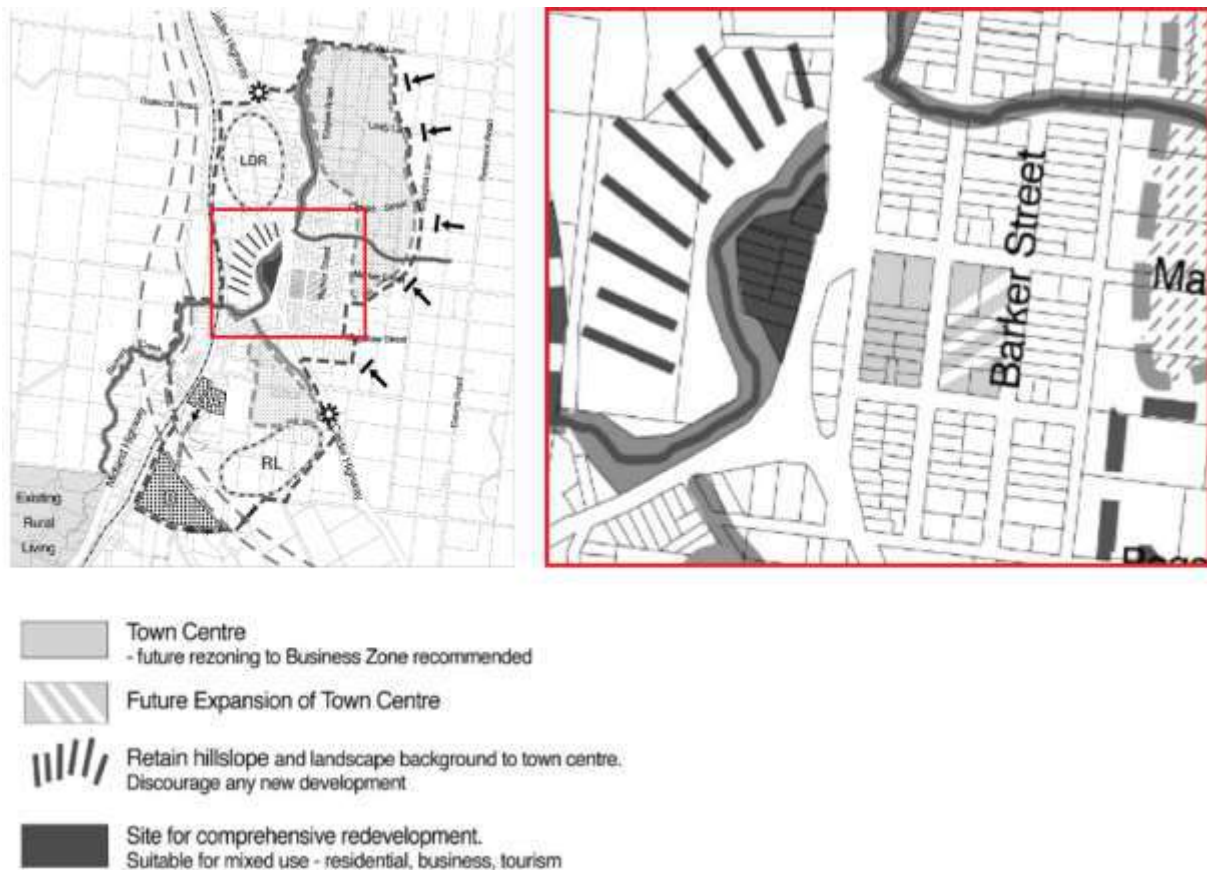
## 7 Town centre

### 7.1 Context and what is proposed?

The existing Harcourt Framework Plan identifies a town centre for Harcourt bound by High Street to the west, Market Street to the north, Buckley Street to the east and Wright Street to the south (see Figure 5). It envisions future rezoning of the town centre to a business zone.

It identifies a 'future town centre expansion area' to the east of this area (land bound by Buckley Street, Market Street, Wright Street and Barker Street) as well as an area of land suitable for 'comprehensive redevelopment' on the western side of Harmony Way (land "suitable for mixed use – residential, business, tourism").

**Figure 5** Existing Town Centre provisions – Harcourt Framework Plan



Note – edited by the Panel for legibility

Since introduction of the existing Harcourt Framework Plan in 2004, Council has commissioned a series of strategic studies that are relevant to the Harcourt town centre, including:

- *Harcourt: After the Bypass – A Plan to Secure Harcourt's Future* (2009) - a strategic action plan that explores opportunities for Harcourt's town centre following the completion of Calder Freeway's Harcourt bypass
- *Harcourt Town Centre Masterplan* (2011) - a spatial masterplan for Harcourt's town centre that 'shifts' the focus of it toward Harmony Way and away from High Street. Figure 6 shows a comparison of the short term and ultimate long term town centre option



- *Shine Harcourt Leanganook* (2019) - an economic stimulus project that sought to provide a clear economic direction for Harcourt. It outlines community ambitions for Harcourt to establish a “*clear heart*”, and ‘Ambition 5’ recognises the importance of town centre activation to improve Harcourt’s sense of place and drive growth.

Many of the spatial requirements for anticipated levels of necessary commercial land in Plan Harcourt stem from strategic assessments undertaken by consultants MacroPlan Dimasi in the 2017 *Harcourt Framework Plan Review*.

**Figure 6**      **2011 Harcourt Town Centre Masterplan**



Note: Short-term strategy 2011-2015 (left) and Ultimate development potential (right)

## Plan Harcourt

Plan Harcourt aims to facilitate sufficient amount of commercial land in Harcourt for planned population growth, under a ‘medium’ population growth scenario (namely a town of approximately 1,000 people) or a ‘higher’ growth scenario (namely a town of approximately 2,000 people). Under the ‘higher’ growth scenario, likely commercial requirements include a small supermarket (up to 1,000 square metres), up to 20 specialty stores (approximately 100 square metres each) and a range of various non-retail facilities.

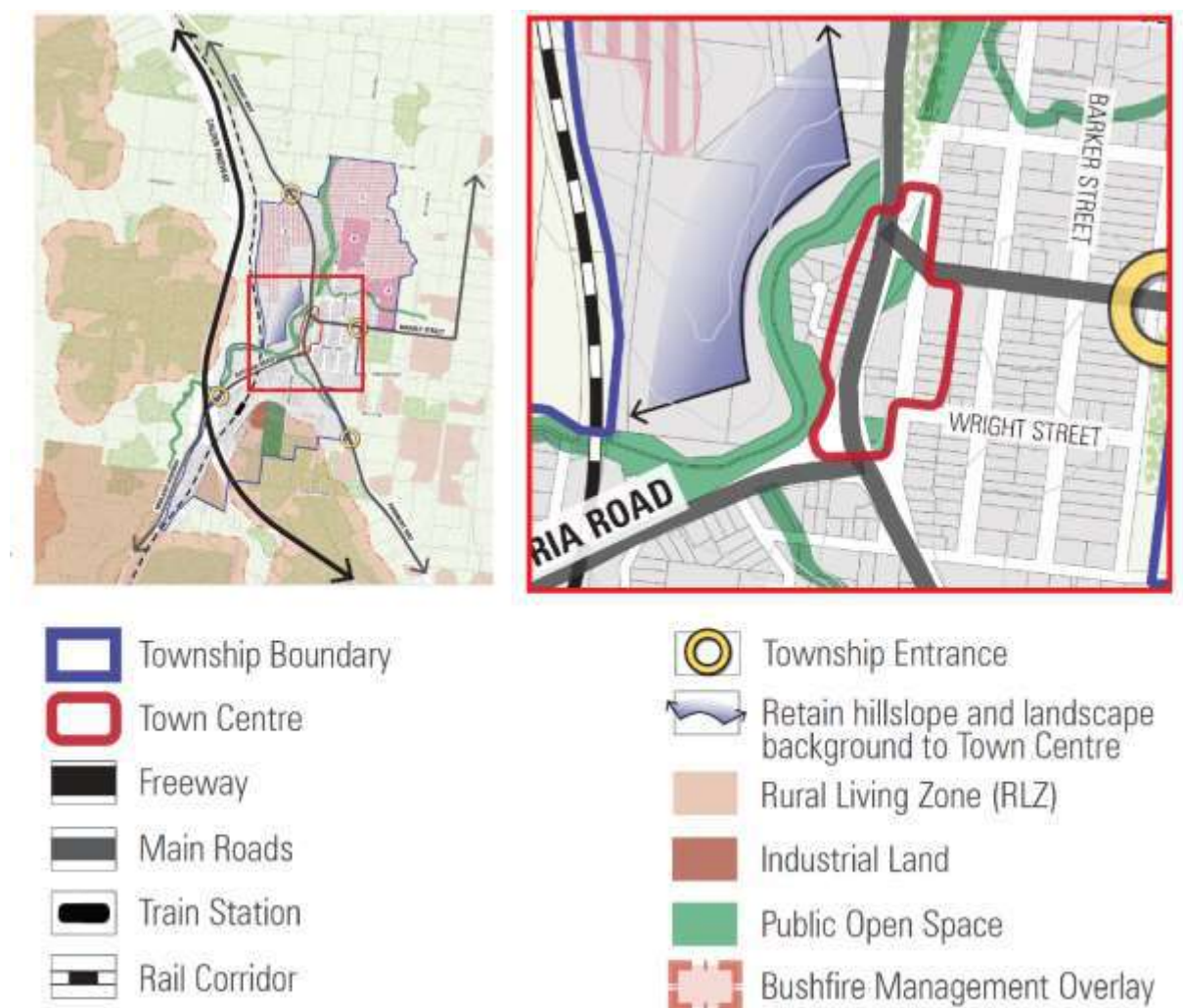
Plan Harcourt provides guidance for Harcourt’s town centre by seeking to:

- consolidate commercial uses in Harcourt to a defined town centre through introduction of the C1Z
- identify a new town centre boundary for Harcourt within the Harcourt LUPF
- concentrate the Harcourt town centre to land along High Street and Harmony Way, between Market Street and Wright Street



- facilitate a southerly commercial town centre expansion (depending on the level of growth and subject to further investigation).

**Figure 7** Harcourt Town Centre boundary – shown in Plan Harcourt and the Harcourt LUPF



Note – edited by the Panel for legibility

### The Amendment

The Amendment proposes to define a clear town centre for Harcourt by:

- introducing a new town centre boundary in the proposed Harcourt LUPF
- introducing local policy relating to Harcourt town centre
- rezoning approximately 3.16 hectares of land in Harcourt's town centre from TZ to C1Z (see Figure 8)
- applying DDO16 to all proposed C1Z land
- rezoning land at Stanley Park North from Road Zone 1 to Public Park and Recreation Zone to reflect existing use.

**Figure 8** Proposed Town Centre zoning (map no. 6)

## 7.2 Location and extent of town centre

### (i) The issues

The issues are whether the town centre location and extent of C1Z are appropriate.

### (ii) Submissions

Submitter 17 identified that a number of recently constructed dwellings exist on the western side of Harmony Way (12 Liyaka Court and 103-109 Harmony Way) and considered this land was no longer suitable for a commercial zoning as proposed by the Amendment. Harcourt Progress Association and Submitters 2 and 20 shared the same concern.

Harcourt Progress Association also queried whether sufficient regard had been given to the potential integration of Harcourt's town centre with other local assets, such as the Harcourt Community Centre at the old Harcourt train station, any potential new Harcourt train station, and local pedestrian and cycling routes. It queried whether establishing Harcourt's town centre on Harmony Way is appropriate given the "dominance" of the Old Calder Highway (now Harmony Way).

Conversely, Submitter 3 sought for the Amendment to potentially apply C1Z to additional land, including the land at the north western corner of Harmony Way and Victoria Street.

Council submitted that rezoning land in Harcourt's town centre from TZ to C1Z (and applying DDO16) will assist in achieving a town centre that functions safely and efficiently. This will be increasingly necessary as Harcourt continues to grow. It submitted that the Harcourt community has aspirations for a vibrant mixed use town centre and that the Amendment seeks to facilitate this.

Council submitted the proposed 3.16 hectares of land proposed to be zoned C1Z will be sufficient to accommodate the various commercial uses and spatial requirements identified as potentially necessary for Harcourt's growing residential population (with reference to 2017 Harcourt Framework Plan Review). It considered that expanding the town centre to the western side of Harmony Way is consistent with aspects of the Harcourt Town Centre Masterplan and will capture "key opportunity sites" sites at 99 Harmony Way and 115 Harmony Way.

During the Hearing, the Panel sought clarification from Council on the amount of C1Z proposed by the Amendment, as well as the relationship to land on Harmony Way that has recently been redeveloped for residential purposes (12 Liyaka Court, 103-109 Harmony Way and 15/15A High Street).

Council explained:

- The preparation of an updated strategic commercial demand analysis to inform the Amendment was not able to be pursued due to resourcing constraints. As a consequence, the Amendment's town centre boundary and extent of C1Z land is informed by Council's latest available information.
- Harcourt is unique compared to other Victorian regional towns in that it never developed with a legible 'high street' commercial centre, which – anecdotally – is partly due to its proximity to Castlemaine and partly due to the 'dispersed' nature of its agricultural primary industry.
- The importance of defining a legible commercial 'heart' to Harcourt is a key aspect of *Shine Harcourt Leanganook* and Plan Harcourt, and a key desire of the community.
- The Amendment identifies land in Harcourt that would "work well together" for commercial uses, but it acknowledges that land on Harmony Way for commercial uses and zoning is more of a "longer term possibility".
- It considers the priority areas for C1Z are:
  - the eastern side of High Street between Market Street and Wright Street
  - 21 and 23 High Street on the western side of High Street (containing the motel)
  - 99 Harmony Way (a large, vacant site with development potential)
  - 115 Harmony Way (the current 'Harcourt General Store').

In closing, Council acknowledged it would have been preferable to update the strategic analysis underpinning the proposal to rezone land to C1Z. It submitted:

- the extent of land proposed to be rezoned to C1Z is more akin to a 'longer term' town centre growth scenario for Harcourt
- the extent of C1Z does not necessarily respond to recent evolutions in Harcourt's physical context, including the recent construction of dwellings at 12 Liyaka Court, 103-109 Harmony Way and 15/15A High Street
- the highest short term priorities for Harcourt's town centre and commercial zoning are for properties on High Street and on select 'opportunity sites' on Harmony Way
- 99 and 115 Harmony Way may be suitable for rezoning to Mixed Use Zone (MUZ) to assist with the interface to residential development.

### (iii) Discussion

The Panel acknowledges the desire to establish a clear and legible town centre within Harcourt is strongly reflected in both *Shine Harcourt Leanganook* and Plan Harcourt. The broad intention to

establish a clear and discernible town centre within Harcourt is consistent with planning policy relating to activity centres and urban design (Clauses 11.03-1S and 15.01-1S) is supported.

The Amendment effectively seeks to consolidate Harcourt's town centre in a location where various commercial uses already exist. This is both logical and appropriate as it will effectively capitalise on the physical attributes of Harcourt's existing town centre that support its ongoing commercial function (including accessibility and relatively central location within the broader Harcourt township).

The C1Z is an appropriate planning control to guide future development of the town centre. The purpose of the C1Z aligns closely with the intent of Plan Harcourt to create a vibrant commercial centre, and the C1Z is consistent with the existing Framework Plan's longstanding strategic aspiration to introduce a business zone to the town centre. Rezoning to C1Z will assist in delivering Plan Harcourt's desire for a vibrant, consolidated and legible commercial town centre for Harcourt, and operate in conjunction with the NRZ1 to deliver a discernible town structure for Harcourt.

A critical consideration for the Panel is whether the extent of C1Z land proposed is compatible with Plan Harcourt's vision for a vibrant and consolidated town centre. An excess of C1Z land relative to projected commercial demand requirements can have unintended consequences, including a continuation of the existing pattern of town centre dispersal and disconnection.

At a 'high growth' residential growth rate scenario of 7 per cent (and resultant local resident population of approximately 2,000 people), Council's own commercial supply and demand analysis suggests that a likely commercial floorspace requirement will be in the order of approximately 3,000 to 4,000 square metres of commercially-zoned land (excluding car parking). The area of C1Z land proposed by the Amendment will provide approximately 10 times that projected requirement.

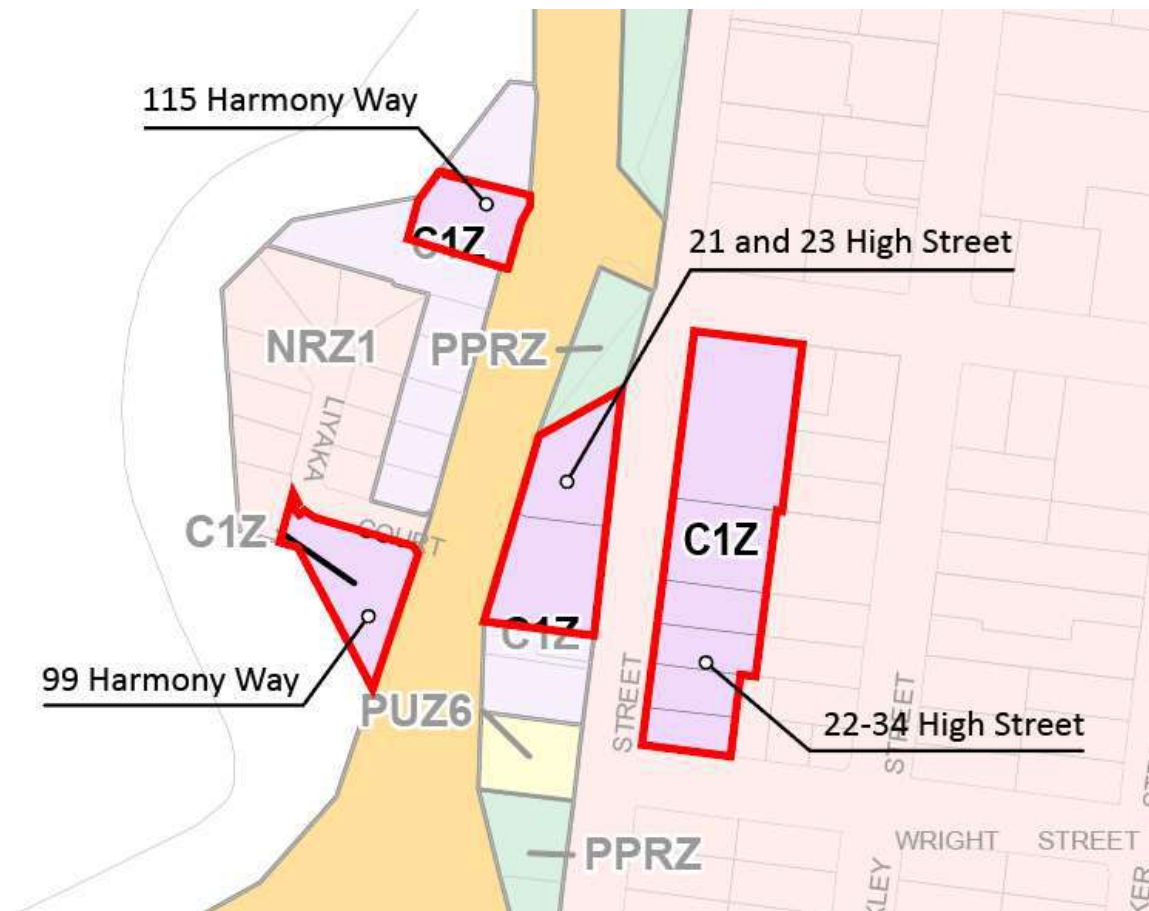
The Panel does not disagree with Council that projected commercial floorspace demands can be accommodated within the proposed C1Z boundaries, whether in response to a medium or high growth scenario for Harcourt. The Panel notes instead that this can be accommodated in a far smaller area of C1Z than what is now proposed by the Amendment, and doing so would be more consistent with the community aspirations expressed in Plan Harcourt for a more connected, consolidated, legible and vibrant town centre.

While the Panel commends Council on the commissioning of various strategic studies to help crystallise the vision and detail for Harcourt's town centre, the absence of updated strategic commercial land assessment to justify the extent of C1Z proposed has created a challenge. The Panel agrees with Council this updated strategic assessment would have been useful.

The Panel is of the view that the extent of proposed C1Z is excessive and beyond the long term growth scenario requirement. Such extensive provision is likely to result in a range of unintended planning and design consequences that will run counter to Plan Harcourt's clear aspiration for a connected, consolidated and vibrant town centre.

The Panel notes Council's proposed priority areas for rezoning to C1Z, which are identified by the Panel in Figure 9 below. The Panel understands Council's logic behind identifying each as commercial priority areas.

**Figure 9 Council identified priority land for C1Z**



Source: Exhibited zone plan, with Panel markups for legibility

With specific regard to each:

- 22-34 High Street, Harcourt:
  - rezoning to C1Z responds to the existing commercial use of a number of properties on the eastern side of High Street (including 22 High Street and 34 High Street) and responds to the longstanding strategic direction of the existing Harcourt Framework Plan to introduce a business zone
  - different to Harmony Way, High Street has certain characteristics that position it as a suitable candidate for the establishment of a 'high street' spine to a future town centre (including width and role, in addition to its relationship to existing parkland and community uses)
- 21 and 23 High Street, Harcourt:
  - rezoning to C1Z reflects the existing use of each (hotels and accommodation) on large sites that oppose other properties on High Street considered suitable for inclusion the C1Z
- 99 Harmony Way, Harcourt:
  - 99 Harmony Way is a logical strategic opportunity site due to its size and main road location. It is identified in the existing Framework Plan as land for 'comprehensive redevelopment' and rezoning to C1Z is logical
- 115 Harmony Way, Harcourt:
  - rezoning to C1Z reflects its existing commercial use and is identified in the existing Framework Plan as land for 'comprehensive redevelopment'.

Rezoning the 'priority areas' identified by Council would result in approximately 2 hectares of land zoned C1Z. This remains excessive within the broader context of Harcourt's most recent identified commercial requirements. The 'priority area' land has not been strategically justified and rezoning may potentially weaken the delivery of Plan Harcourt's town centre objectives as discussed above facilitate the same type of unintended planning consequences.

In the absence of updated commercial supply and demand analysis (and ideally updated urban design analysis), the Panel is reluctant to support the reduced 'priority area' C1Z rezoning at this time.

Given the Panel's findings in relation to other issues and recommendation to abandon the Amendment subject to further work, it would be appropriate to undertake further work to confirm the appropriate extent and location of land proposed for rezoning to C1Z. This further work may include an updated commercial land supply and demand assessment and an updated town centre masterplan that has regard to contemporary physical and policy conditions. Council may wish to consider the land suitable for rezoning to MUZ as suggested in its closing submissions. Community and stakeholder consultation will be required as part of this further work.

#### **(iv) Conclusions**

The Panel concludes that:

- The general location of Harcourt's town centre is appropriate.
- The extent of the proposed C1Z to accommodate future growth is not strategically justified.
- Further strategic work is required to inform any future commercial land rezoning in Harcourt.

### **7.3 Mandatory commercial building heights**

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

The issue is whether there is sufficient justification for mandatory maximum building heights within DDO16.

#### **(ii) Submissions**

Council submitted that the Amendment proposes to apply DDO16 to all land zoned C1Z to guide future built form in Harcourt's town centre. DDO16 seeks to apply a mandatory maximum building height of two storeys of up to 9 metres.

In support of the control, Council submitted that the maximum height limit has been provided "*in order to restrict the height of buildings while allowing for the potential for shop-top housing within the C1Z*". It submitted that no specific visual analysis work has been undertaken with regards to potential buildings heights in Harcourt's town centre (nor how these relate to view lines to features such as hillslopes or Mount Alexander), but that the proposed decision guidelines of DDO16 will require visual analysis work to be undertaken as part of any future planning permit application. Council explained the metrics and provisions of DDO16 were based on 'observational analysis' of Harcourt.



During the Hearing, the Panel asked Council to provide further justification on how the mandatory maximum building heights sought within DDO16 have been considered with regard to planning guidance, specifically PPN59.

In closing, Council provided a response to the guidance in PPN59 and concluded the mandatory provisions of DDO16 *“could be removed”*. It explained:

- there is no evidence to suggest that Harcourt is experiencing development applications for buildings taller than 9 metres in height
- the proposed mandatory provision of DDO16 have not been considered to ensure they will be appropriate in the vast majority of cases to limit the unnecessary loss of flexibility of Victoria’s performance based planning system.

### **(iii) Discussion**

The Panel agrees with Council’s assessment against PPN59 and does not support mandatory maximum buildings heights for Harcourt’s town centre.

A future permit application for taller built form above 9 metres in the town centre would be assessed with consideration of design objectives and decision guidelines in DDO16. The Panel considers this appropriate.

### **(iv) Conclusions**

The Panel concludes that:

- Sufficient justification has not been established for mandatory maximum building heights within DDO16.

## **7.4 Residential amenity**

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

The issue is whether DDO16 adequately protects residential amenity at the interface of residential and commercial areas.

### **(ii) Submissions**

Submitters 17 and 20, who both own land abutting properties proposed for C1Z on Harmony Way, were concerned that commercial areas may unreasonably impact upon their amenity in terms of odour, noise and privacy.

The Panel asked Council how the Amendment addresses potential conflicts between proposed commercial areas and adjoining residential land. In response, Council submitted:

- the C1Z is typically applied to land adjacent to residential land across all parts of Victoria and the proposal does not create a unique situation
- C1Z includes specific provisions to assist within amenity management, including a requirement that use of land must not detrimentally affect the amenity of the neighbourhood (Clause 34.01-2)
- the decision guidelines of C1Z requires consideration of amenity impacts on residential land
- Council has used the DDO schedule in other areas of the municipality to manage amenity impacts between commercial land uses and surrounding areas (including within DDO8,

DDO13 and DDO15), and the proposed DDO16 could include similar provisions to further strengthen it.

Council did not suggest any specific changes.

### **(iii) Discussion**

The Panel shares the concerns of Submitters 17 and 20 that the commercial-residential land interfaces may result in undesirable amenity impacts without specific guidance. While many aspects of the Amendment are concerned with potential amenity impacts associated with the interface between agricultural and residential land uses, the same consideration has not been given to potential amenity impacts at the interface of commercial and residential areas. DDO16 provides built form guidance for Harcourt's town centre yet does not provide specific amenity impact guidance within the design objectives of the control or built form provisions.

While the existing provisions of the Planning Scheme will provide a level of guidance for future decision makers on assessing appropriate amenity impacts (including C1Z and general decision guidelines at Clause 65), there is an opportunity to provide specific amenity protection or built form guidance. This would be consistent with Plan Harcourt's broader place-centric approach to Harcourt's built form future. DDO16 would be the most logical tool to provide this, noting that many other DDOs within the Planning Scheme do provide specific guidance on matters of amenity protection.

Given the Panel's findings that the extent of land proposed the zoned C1Z is excessive and further work is required (see Chapter 7.2), it is premature to consider appropriate amenity controls. The recommended further strategic work will likely refine and reduce the extent of C1Z proposed for Harcourt, which will likely reduce the amount of commercial-residential land interfaces and potential for amenity conflict. It would be appropriate to revisit the issue of amenity protection and built form guidance to adjoining residential land as part of any future work.

### **(iv) Conclusion**

The Panel concludes that:

- Protection of residential amenity should be considered as part of further strategic work to confirm the extent of Harcourt's commercial areas.

## **7.5 Car parking**

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

The issue is whether the Amendment will result in poor car parking outcomes within Harcourt's town centre.

### **(ii) Submissions**

Several submitters raised issue with the potential for carparking to result in poor design and amenity outcomes within Harcourt's town centre. Submitter 2 sought to ensure that adequate parking be provided for the Harcourt town centre, especially during particular events (including holiday periods and public events) where car parking availability is constrained. The submitter also stated there is no provision within the Amendment for any parking associated with additional commercial properties in Harcourt's town centre.



Submitter 4 supported provision of adequate future town centre parking that are appropriately designed with landscaping and Water Sensitive Urban Design features. Submitters 17 and 20 raised concern with the potential for on-street car parking associated with Harcourt's town centre to "trickle into" residential side streets.

Council submitted that specific provisions within DDO16 will help guide appropriate car parking outcomes for Harcourt's town centre, including achieving high quality urban design outcomes through siting car parking toward the rear of shops and businesses. The DDO16 would work in conjunction with other Planning Scheme provisions to guide matters of car parking provision, such as Clause 52.06.

Outside of the Amendment process, Council explained it is currently undertaking a 'Town Centre Action Plan' for Harcourt, which is a separate piece of work to the Amendment that will investigate priority capital works for public realm infrastructure requirements including car parking.

### **(iii) Discussion**

The proposed provisions of DDO16 will combine with other Planning Scheme provisions (such as Clause 52.06-9) to provide an appropriate statutory framework for the assessment of car parking provision and design. Appropriate planning and urban design outcomes for Harcourt's future town centre should include adequate provision of carparking and siting car parking areas at the rear of future commercial developments. No evidence or submissions were presented to the Panel that a specific or alternative approach is required for Harcourt to achieve appropriate car parking outcomes, such as through the application of a Parking Area Overlay or similar.

The Panel notes that Design Standard 7 of Clause 52.06-9 states that "*the layout of car parking areas must provide for water sensitive urban design treatment and landscaping*" (amongst other requirements). This is a State-wide requirement that applies to the vast majority of new use and development proposals, and which will apply to new commercial development within Harcourt's town centre.

### **(iv) Conclusion**

The Panel concludes that the proposed car parking provisions in the Amendment are appropriate.

## 8 Specific sites

### 8.1 Growth Area B

#### (i) The issue

The issue is whether the DPO12 should be applied to all of Growth Area B.

#### (ii) Submissions

HVP owns all the land within Growth Area B and that it is supportive of the proposed DPO12. It sought to refine the boundaries of the DPO12 to include the entirety of its land, including that which is currently zoned TZ on Craigie Street and which is currently excluded from DPO12 (see Figure 10).

In closing, Council submitted it agreed with HVP that the DPO12 should be applied to all of the land bordered by Eagles Road, Craigie Street, Shady Lane and Leafy Lane.

**Figure 10** DPO12 as exhibited and as proposed by HVP



Source – Exhibited DPO12 Map 6 (left) and Panel-amended version showing effect of HVP submission (right)

#### (iii) Discussion

The Panel agrees with HVP and Council that it is appropriate to match application of DPO12 to the entire land landholding of HVP, which includes the Growth Area B and existing TZ land.

The fundamental purpose of DPO12 is to achieve a coordinated development outcome, and extending its application will allow the provisions of DPO12 to apply to a greater proportion of

Harcourt's identified residential growth areas than what is currently proposed. While the Panel is cautious of recommending changes to exhibited overlay boundaries in principle, it acknowledges that the request to do so in this instance has been made by the only party likely to be materially affected by the change.

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

The Panel concludes it is appropriate to apply the DPO12 to all land bound by Craigie Street, Eagles Road, Leafy Land and Shady Lane.

## **8.2 27 Craigie Street, Harcourt**

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

The issue is whether 27 Craigie Street should be included in the township boundary.

#### **(ii) Evidence and submissions**

Del Norte submitted that the Amendment should preserve the opportunity for 27 Craigie Street to be used and developed as part of the township of Harcourt *"including the opportunity to provide an appropriate and effective buffer to the horticultural uses to the east"*. It requested the Amendment be changed to:

- relocate the township boundary to the east of 27 Craigie Street partially along the title boundary and partially along the decommissioned channel
- nominate the site as 'Future Township Expansion Area A' or investigation area
- where the township boundary/buffer aligns with the decommissioned channel, the buffer should form a green, open space corridor with linking trails.

Del Norte explained the current Harcourt Framework Plan includes the majority of 27 Craigie Street within a conceptual township boundary (see Figure 11). It submitted:

- there is no detailed analysis within Plan Harcourt that assesses the practicality of agricultural uses on 27 Craigie Street
- there is potential that the Amendment will result in *"planning blight"* on 27 Craigie Street.

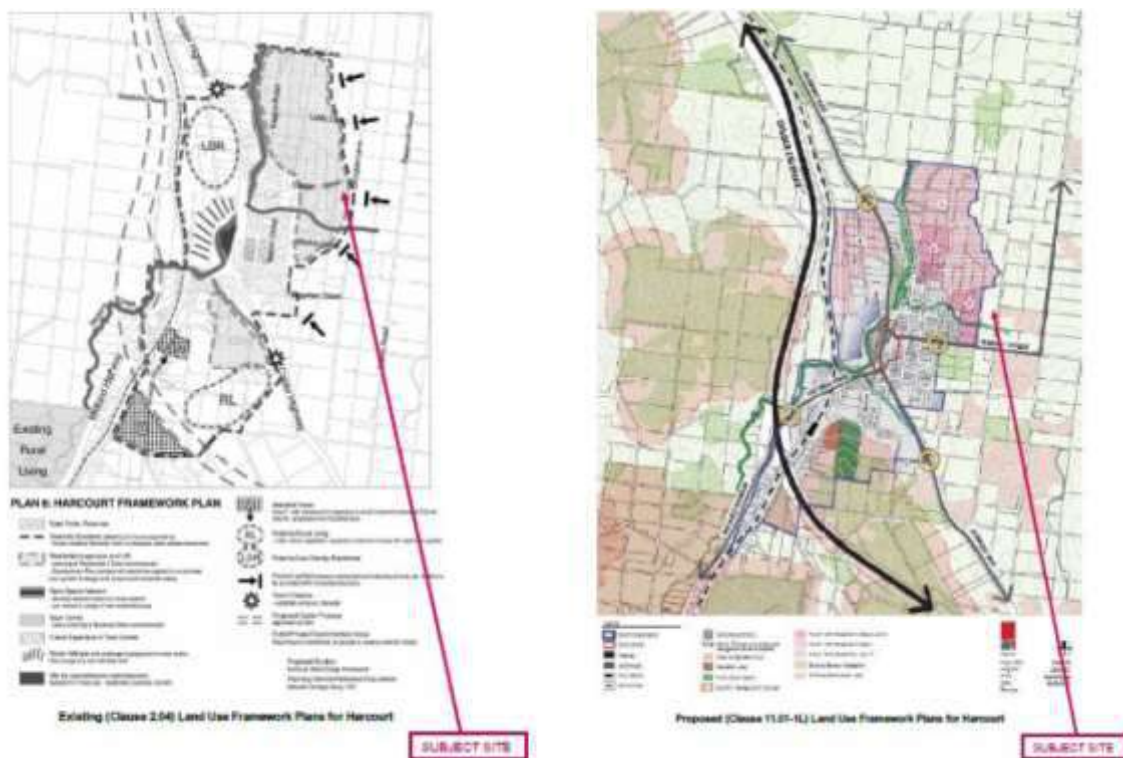
Mr. Glossop stated that 27 Craigie Street:

- is strategically located in relative proximity to services, amenities and infrastructure, and is consequently a good candidate for potential future housing
- is capable of making a 'medium term' contribution to identified housing supply requirements in Harcourt
- is unsuitable for agricultural uses due to its elevation and has not been used as such for approximately 60 years
- through the Amendment is effectively positioned as a 'permanent buffer' between agricultural land and residential land in Growth Area A, which will potentially curtail any reasonable future use of it and result in *"planning blight that is neither fair nor reasonable for the site's owner"*, and this was inconsistent with Section 4 of the PE Act
- being outside the town boundary does not address the issue of residential/agricultural interfaces, as it would have the effect of simply retaining FZ land closer to Harcourt's existing and future residential areas.

In relation to spray drift Mr Glossop identified that:

- Clause 13.07-1L-02 (Spray Drift):
  - applies only to land in the Rural Living Zone or FZ and does not apply to adjacent residential or urban areas. In these instances, new dwellings in a residential zone could establish close to existing agricultural uses and be exempt from the requirements of the Clause
  - expressly contemplates alternative measures to mitigating adverse impacts from spray drift apart from setbacks
- the width of 27 Craigie Street (approximately 160 metres) is already insufficient to meet the 300 metre spray drift buffer distance of Clause 13.07-1L-02 relative to Growth Area A.

**Figure 11** Existing and proposed Framework Plans showing 27 Craigie Street, Harcourt



Source: Del Norte submission

Dr Hewitt was of the view it was not necessary to move the township boundary to exclude 27 Craigie Street from a spray drift perspective. Unless specified on a label, a buffer distance of 40 metres is sufficient for 27 Craigie Street to prevent spray drift exposure provided farmers follow pesticide regulations and vegetation barriers and crop netting is maintained.

Regarding the retraction of the township boundary at 27 Craigie Street, Mr Baldock submitted the original township boundary was appropriate. He stated:

...there is no advantage in the new proposed boundary, which has been designed with the intention of providing a Buffer Zone to the orchard, as a separate, and parallel, Buffer Zone would still be required to protect the Agricultural land to the west of the orchard.

He was of the view an improvement would be to include the whole of the affected allotment to allow developers to provide an appropriate buffer zone within the township boundary.

Harcourt Progress Association submitted that excluding 27 Craigie Street from Harcourt's residential areas is *"likely to place significant restrictions on the use of this land"* and that *"growth and diversification are essential to [Harcourt's] future"*.

Council submitted it was “*taking a cautious approach*” to the issue of spray drift and buffer management by excluding 27 Craigie Street from the Amendment’s proposed township boundary, and that the rationale for this was primarily due to spray drift management (although Council also considered it “*very important*” that the full suite of potential conflicts are managed, including odour, noise and visual amenity). In Council’s view, exclusion of 27 Craigie Street from the Harcourt town boundary is consistent with Plan Harcourt’s suite of potential interface design responses that contemplate town boundary retractions.

### **(iii) Discussion**

The Panel has addressed the issues of township boundary and buffers in other chapters of this Report (Chapters 4.1 and 5).

Of relevance to 27 Craigie Street, the Panel concludes:

- buffers to all agricultural land should be within the township boundary
- adequate buffers should be determined for each site
- the use of properties boundaries is preferred to Eagles Channel
- if exact location of the township boundary is not confirmed in the vicinity of Eagles Channel in the north eastern part of the town, the Harcourt LUFP should show the boundary as indicative.

The Panel does not accept Council’s submission that the township boundary needs to be relocated to provide an adequate buffer to agricultural land.

The Panel agrees with Mr Glossop that 27 Craigie Street is well located, well serviced or close to infrastructure, has long been recognised for urban growth and is a good candidate for potential future housing. The majority of the site is currently in the township boundary.

The Amendment should be refined to include all the land at 27 Craigie Street within the township boundary. This would retain the urban design potential for Plan Harcourt’s preferred continuous future public link along a greater proportion of the decommissioned irrigation channel (Eagles Channel). Further, the Panel notes that the potential ESO discussed in Chapter 3.2 covers part of the land at 27 Craigie Street. Investigation of this potential ESO is supported by the Panel as part of a strategic biodiversity assessment before planning controls are applied to the land.

The Panel considers it is premature to include 27 Craigie Street within Growth Area A. In recognition of the need for further investigation regarding the future use of 27 Craigie Street the Amendment should be refined to identify 27 Craigie Street as a potential future residential growth area.

### **(iv) Conclusion**

The Panel concludes:

- That the whole property of 27 Craigie Street, Harcourt should be included in the township boundary on the Harcourt LUFP, and the land should be identified as a potential future residential growth area..

## 8.3 1 Poplar Drive, Harcourt

### (i) The issues

The issues are whether:

- it is appropriate to exclude land at 1 Poplar Drive the town boundary
- the land should be rezoned to NRZ1.

### (ii) Evidence and submissions

Ms Edquist (Submitter 5), owner of 1 Poplar Drive, requested the land be retained in the township boundary because:

- it is a large property that consists of five separate allotments under one title
- while it contains old orchard trees, it has not been meaningfully used for agricultural purposes for over 25 years
- is well-separated from existing bushland that would present a bushfire hazard.

Ms Edquist explained that 1 Poplar Drive is currently included within the conceptual town boundary for Harcourt (identified as 'Rural Living Area'), and she objected to the boundary realignment to exclude it. She submitted that retaining 1 Poplar Drive in the town boundary would facilitate *"the opportunity to have more residential dwellings on the property"*. She submitted that 1 Poplar Drive should be rezoned from FZ to NRZ1.

**Figure 12 1 Poplar Drive, Harcourt**



Note: The land at 1 Poplar Drive, Harcourt relative to the existing Harcourt Framework Plan of Clause 02.04 (left), existing zoning (middle) and the Amendment's proposed Harcourt Framework Plan and town boundary (right)

Council submitted that the property at 1 Poplar Drive has been excluded from the town boundary:

- as its alignment has been designed to follow the boundaries of existing TZ zoned land to the north and west of the property
- in response to the potential risk of bushfire, as well as the anticipated infrastructure costs of servicing residential development.

Council submitted the Amendment does not seek to identify new areas for the Rural Living Zone (beyond areas within the southwest of Harcourt). Council intends to undertake further strategic work for potential Rural Living land at a municipal-wide scale, and this may potentially lead to the application of the Rural Living Zone to 1 Poplar Drive at a later date.

### **(iii) Discussion**

Subject to the discussion and conclusion in Chapter 5, the Panel understands and supports the general principles applied to determine the township boundary. It appreciates that bushfire risk is a key driving factor to determine an appropriate town boundary for Harcourt's southern areas.

However, 1 Poplar Drive has a number of attributes that distinguish it from its surrounds which support consideration for future residential development. Specifically:

- it consists of five separate properties under a single title, with each individual allotment being approximately 4,000 square metres. Consequently, it exhibits a finer grain of subdivision pattern that is more characteristic of Harcourt's urban areas than its rural context.
- much of the land is located outside the Bushfire Management Overlay, with only a relatively small portion of its south west corner. The Panel notes there are a number of TZ zoned properties in proximity to it that are entirely in the Bushfire Management Overlay.
- land to the immediate north and west is proposed to be included in Harcourt's town boundary. It is not clear why future infrastructure servicing is a concern for this property but not for those properties.
- it is identified as potentially suitable for Rural Living in the existing Framework Plan, along with several abutting properties that are now proposed for inclusion in the town boundary (such as 22 Poplar Drive).

The Panel agrees with Ms Edquist that the Amendment should not preclude the potential for 1 Poplar Drive to accommodate some form of residential use and development in the future. Subject to the other conclusions and recommendation in this report, it is appropriate to consider including 1 Poplar Drive in the town boundary. Further strategic work, including the strategic biodiversity assessment recommended in Chapter 3.2, is required to determine an appropriate future residential use and associated planning controls. The land should be identified on the Harcourt LUPP as a potential future residential growth areas. .

### **(iv) Conclusions**

The Panel concludes that:

- The property at 1 Poplar Drive has attributes that support potential future residential development.
- It is appropriate to include the land in the township boundary and identify it as a potential future residential growth area.

## **8.4 36 and 50 Harmony Way and 66 Mills Road, Harcourt**

### **(i) The issues**

The issues are whether:

- the land at 36 and 50 Harmony Way and 66 Mills Road should be included in the Harcourt town boundary
- NRZ1 and DPO12 should be applied to the properties.



## (ii) Submissions

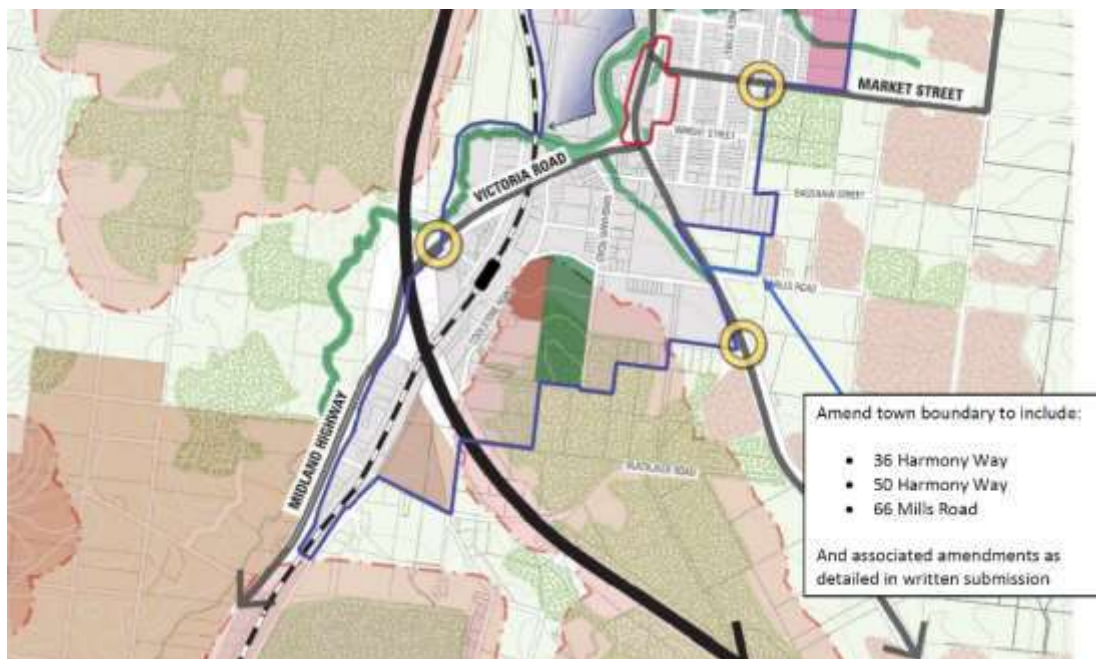
Submitter 11 represents the landowners at 66 Mills Road, Harcourt. The submitter requested the properties at 66 Mills Road, 36 and 50 Harmony Way be included in the township boundary, be rezoned to NRZ1 and with the DPO12 applied. The land has a number of attributes that support potential future residential development, including:

- the relatively large size of the amalgamated landholdings
- proximity to Harcourt's town centre
- the absence of a Bushfire Management Overlay or identified Area of Aboriginal Cultural Heritage Sensitivity.

Submitter 11 expressed the view that the Amendment should *"review Harcourt from a neutral starting position of the existing use and development of land"* rather than proceed on the assumption that Harcourt's existing town boundary is appropriate.

The submitter also considered Plan Harcourt Appendix 1 showed the ESO5 being applied to the land at 66 Mills Road in error and asked for this to be corrected.

**Figure 13** Submitter 11 preferred town boundary



Source: Submission 11

Council submitted that the existing Harcourt Framework Plan does not include the properties within Harcourt's town boundary, and it has commissioned a number of recent residential supply and demand assessments that confirm there is no strategic need to identify new residential areas for Harcourt. There is no strategic justification to include the properties identified by submitter 11 in Harcourt's town boundary, within the proposed NRZ1, or apply the DPO12 at this time.

## (iii) Discussion

While the properties at 66 Mills Road, 36 and 50 Harmony Way are well located in relatively close proximity to Harcourt's town centre, the site is not within the existing township boundary and the addition of this land to the town for residential purposes has not been demonstrated to be strategically justified. Council has undertaken strategic assessment to determine the amount of



required residential land in Harcourt to meet demand, and there is currently no justification to extend the boundary into new farming land.

Further, Appendix 1 to Plan Harcourt shows a potential ESO subject to further investigation on the land at 66 Mills Road (see Figure 14). As discussed in Chapter 3.2, investigation of this potential ESO is supported by the Panel as part of a strategic biodiversity assessment. Noting the submitter was concerned this was an error, the Panel does not consider it requires correction. The Panel observes that the notation for ESO5 and the proposed ESO are difficult to distinguish on the plan due to the similarity in colour used to denote them.

**Figure 14 Investigate potential ESO**



Source: Plan Harcourt Appendix 1 (with the submitter site boundaries included in red by the Panel for clarity)

#### (iv) Conclusions

The Panel concludes that:

- It is not appropriate to include the land at 36 and 50 Harmony Way and 66 Mills Road within the NRZ1, DPO12 and Harcourt town boundary at this time.

## 8.5 Barkers Creek

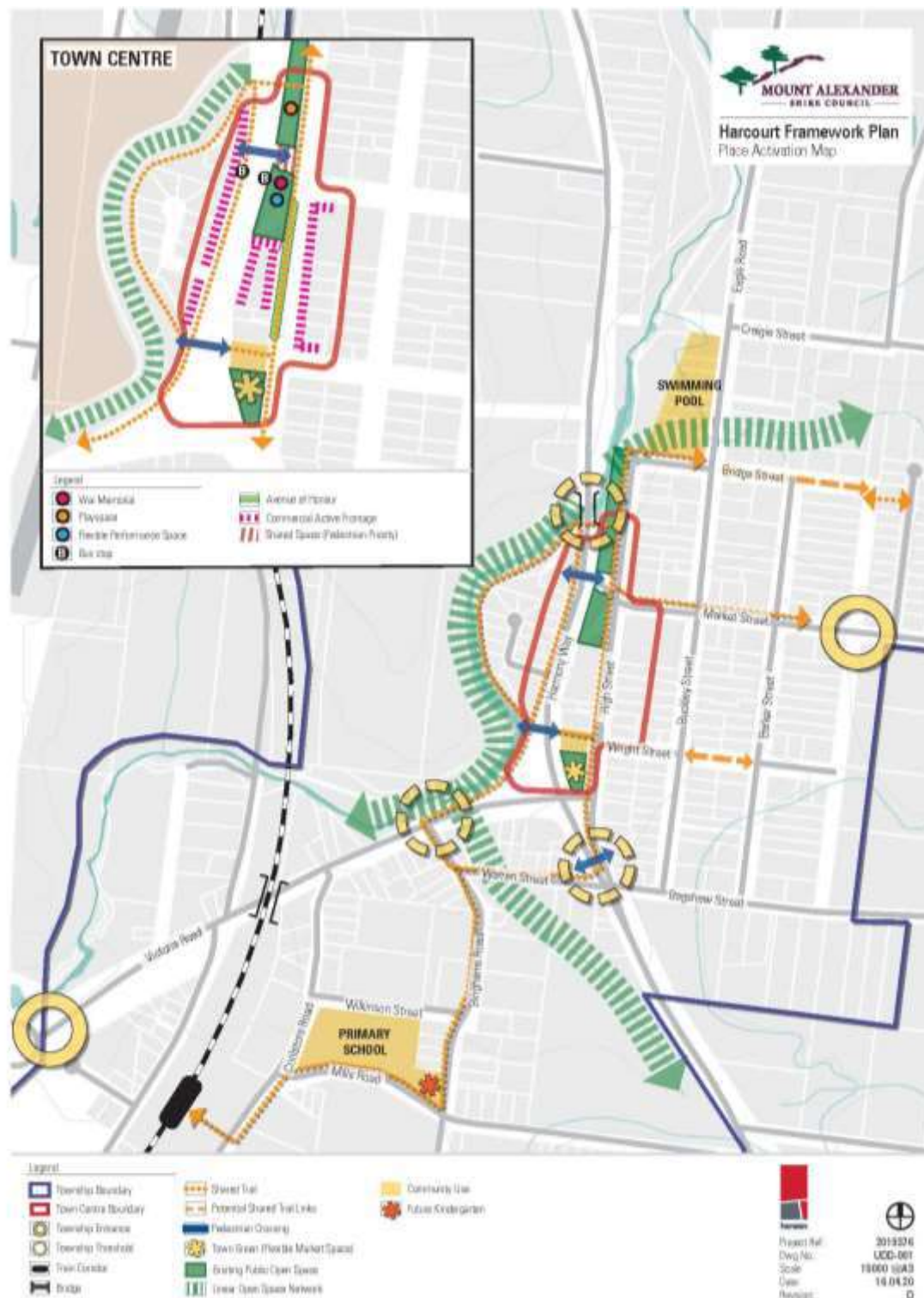
#### (i) Context and what is proposed?

Plan Harcourt seeks to reinforce the environmental qualities of Barkers Creek through landscape revitalisation and protection. As part of this, it recommends:

- developing a landscape plan in consultation with Traditional Owners and the Harcourt community to regenerate the environment along Barkers Creek
- amending the mapping of ESO5 to cover land located 200 metres of both sides of Barkers Creek (and other waterways in Harcourt) to protect native vegetation.

It also identifies Barkers Creek as a potential future public open space and pedestrian/cyclist link, with the *'Town Centre Activation Plan'* at Appendix 1 (extract in Figure 15) identifying part of Barkers Creek as a *'Linear Open Space Network'* and *'Shared Trail'* opportunity that is subject to a future landscape plan process.

Figure 15 Harcourt Framework Plan Place Activation Map



Source: Plan Harcourt, Appendix 1

The proposed Harcourt LUP identifies Barkers Creek as a linear 'Public Open Space' and outlines a range of associated objectives and strategies seeking to protect environmental assets, enhance existing pedestrian and cycling links, create new pedestrian and cycling links, and ensure new development improves the quality of the pedestrian environment.

**(ii) The issue**

The issue is whether the Amendment will result in an appropriate interface to Barkers Creek.

**(iii) Submissions**

Several submitters supported the strategic intent to apply ESO5 to land within 200 metres of both sides of Barkers Creek and highlighted the importance of Barkers Creek to Harcourt's biodiversity and natural environment.

Several submitters representing property owners with a direct rear interface with Barkers Creek along Liyaka Court raised concerns regarding the interface, future use and associated amenity impacts of Barkers Creek as part of an expanded public open space and pedestrian/cyclist movement network. Issues raised include:

- new public linkages could potentially affect their internal privacy and amenity, as permit conditions and agreements prevent solid privacy fencing and landscaping within 30 metres of the creek
- the potential for flooding along Barkers Creek could create ongoing maintenance issues for any new public linkages
- the Amendment did not provide sufficient clarity on matters relating to tree protection, bushfire or excavation as part of any future open space linkage within Barkers Creek.

**(iv) Discussion**

Barkers Creek has been strategically identified as an appropriate location for an expanded public open space network for many years, including in the existing Harcourt Framework Plan, the 2011 Harcourt Town Centre Masterplan, and now within Plan Harcourt.

It is a future strategic direction of Plan Harcourt to prepare a landscape plan for Barkers Creek in consultation within the local Harcourt community and Traditional Land Owners to provide specific detail and guidance on any new public open space corridor, in addition to a number of non-planning recommendations. A future landscape plan process is the most appropriate and logical process to resolve matters of detailed design for public open space within Barkers Creek, and associated risk management and maintenance requirements.

Identifying Barkers Creek as a public open space linkage in the Harcourt LUPF is appropriate, as are the objectives and strategies in Clause 11.01-1L-04 (Harcourt) that seek a range of high quality public realm and urban design outcomes within it.

The Panel has discussed issues relating to ESO5 in (see Chapter 3.2).

**(v) Conclusions**

The Panel concludes the Amendment appropriately addresses amenity and interface issues with Barkers Creek.

## 9 Corrections and clarifications

### (i) Submissions

Submitter 11 submitted there were a number of errors with the Amendment documents, including:

- the Harcourt LUPF incorrectly identifies the land at 72 Mills Road as ‘existing horticultural land’ when in fact it is a former orchard site
- the Amendment refers to public use and road zone terms which have been deleted from all planning schemes and replaced with new transport zones (through Amendment VC205).

Submitter 7 requested ESO5 be removed from its property at 1 Leafy Lane Harcourt, as there is no associated waterway on the land.

Council submitted in closing:

that the large area of land between Harmony Way and Barkers Creek (adjacent to Area D) that is located within the township boundary but has not been identified specifically for a future use. This is an area highly constrained given its steep topography (refer to aerial below) and therefore was not included as an area for future town expansion (despite its proximity to Area D). Its potential future use is to be subject to further investigation. Council is open to the Panel's advice as to whether a notation of ‘subject to further investigation’ for this land should be included.

### (ii) Discussion and conclusions

Regarding the concerns of Submitter 11:

- the Harcourt LUPF should be accurate. If Council is satisfied the land at 72 Mills Road is not being used for horticultural purposes this should be corrected
- outdated reference to zones should be corrected in accordance with Amendment VC205.

The Panel notes that Council intends to review and update ESO5 as part of a separate process, and this should address the concerns of submitter 7. The Panel discusses this in Chapter 3.2.

The Panel does not have enough information to form a view on the appropriate planning guidance for the *“large area of land between Harmony Way and Barkers Creek (adjacent to Area D)”*.

Council may consider this as part of any further work program. The Panel notes it would be useful to have some notation on the Harcourt LUPF to indicate the status, conditions or future directions for this land.

## Appendix A Planning context

### A:1 Planning Policy Framework

Council submitted that the Amendment is supported by various clauses in the Planning Policy Framework, which the Panel has summarised below.

#### Victorian planning objectives

The Amendment will assist in implementing State policy objectives set out in section 4 of the PE Act by:

- providing for the fair, orderly, economic and sustainable use, and development of land:
  - ensuring that future development and use of land within Harcourt is managed in a fair, orderly, sustainable and economic manner
  - including Plan Harcourt as a background document and implementing the key rezoning of land will result in greater transparency and certainty for the community
- providing for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity:
  - providing protection for the existing natural and human-made resources and assets within Harcourt and its surrounds
- securing a pleasant, efficient and safe working, living and recreational environment:
  - strengthening the strong sense of place which is already established and thriving in Harcourt
- conserving and enhancing those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value:
  - protecting and enhancing existing buildings and places which are valued and contribute to the town's character and identity
  - continuing to apply the existing Heritage Overlay and Significant Landscape Overlay
- facilitating development in accordance with the objectives set out in paragraphs (a), (b), (c) and (d):
  - facilitating future use and development of land in an appropriate, manageable and coordinated manner, and attracting retail and other commercial activities into the town centre
- balancing the present and future interests of all Victorians:
  - balancing current and future interests of all Victorians by protecting the existing character and amenity of Harcourt, and planning for its future growth.

#### Municipal Planning Strategy

##### Clause 02.03 Strategic Directions

Identifies Harcourt as a local community centre. The policy acknowledges that Harcourt has local convenience shopping and community facilities and that its physical identity is influenced by the town's location on important road and rail routes, proximity to the Mount Alexander Regional Park and stands of native vegetation. Growth is encouraged in Harcourt, particularly given it is a town that is fully serviced in terms of infrastructure, whereas many other townships within the Shire are not.

#### Clause 02.03-7 Tourism

Recognises the role of tourism in Harcourt based on wineries and cideries located in the Harcourt Valley and supported by several annual events that celebrate the area's local produce.

#### Clause 02.03-4 Agriculture

Avoiding the fragmentation of quality agricultural land as a result of inappropriate subdivision. Controlling the unplanned loss of agricultural land to rural living and residential uses.

#### Clause 02.04 Framework Plans

Indicates a preferred settlement pattern based on the Cluster Connect and Consolidation model. This model includes Harcourt as an area planned for growth given its location within the 'Calder Corridor'.

### **Planning policies**

#### Clause 11.01-1S Settlement

The Amendment plans and responds to the changing needs of communities through providing for zoned and serviced land for housing, employment, recreation and open space.

#### Clause 11.01-1R Settlement – Loddon Mallee South

The Amendment facilitates the sustainable growth and expansion of Harcourt in order to capitalise on its proximity to Bendigo.

#### Clause 11.02-1S Supply of urban land

The Amendment considers the supply of urban land at a municipal level and helps to ensure that sufficient land is available to meet forecast demand in the Shire over at least a 15 year period. It also has regard to municipal growth directions by seeking to accommodate projected population in an area identified for growth.

#### Clause 11.02-2S Structure Planning

The Amendment implements a framework plan that considers the strategic and physical context of the location; provides the broad planning framework for an area; provides for sustainable and liveable residential and commercial areas in an integrated manner; supports the development of walkable neighbourhoods; facilitates logical and efficient provision of infrastructure; and facilitates the use of existing infrastructure and services.

#### Clause 11.02-3S Sequencing of development

The Amendment manages the sequence of development in areas of growth so that services are available from early in the life of new communities.

#### Clause 11.03-6S Regional and local places

The Amendment is based on a place based approach, which recognises and fosters Harcourt's unique character and attributes into the future. This approach aims to ensure that growth and change does not overwhelm the town's character or its fabric, but rather contributes to it.

#### Clause 12.01-1S Protection of biodiversity

The Amendment assists in the identification, protection and management of important areas of biodiversity through the promotion of enhancing existing biodiversity corridors located to the south of the township and those along waterways.

#### Clause 12.03-1S River corridors, waterways, lakes and wetlands

The Amendment protects the environmental, cultural and landscape values of waterways through ensuring that future development considers these for public open space corridors.

#### Clause 13.01-1S Natural hazards and climate change

The Amendment considers the risks associated with climate change in planning and management decision making processes by directing future development to areas of low bushfire and flood risk.

#### Clause 13.02-1S Bushfire planning

The Amendment directs population growth and development to low risk locations.

#### Clause 14.01-1S Protection of agricultural land

The Amendment protects productive agricultural land from unplanned loss due to permanent changes in land use by ensuring that this is excluded from the township boundary and that buffers are considered as part of future sensitive development.

The Amendment also prevents inappropriately dispersed urban activities in rural areas and new housing in rural areas is limited by directing new housing growth into existing settlements.

#### Clause 15 Built Environment and Heritage

The Amendment ensures development responds to its context and reinforces a sense of place and the valued features and characteristics of the local environment and place, is designed to protect and enhance valued landmarks, views and vistas, provides safe access and egress for pedestrians, cyclists and vehicles and retains existing vegetation.

#### Clause 16 Housing

The Amendment implements the objectives of Clause 16 by:

- Increasing the supply of housing in existing urban areas by facilitating increased housing yield in appropriate locations.
- Ensuring housing developments are integrated with infrastructure and services.
- Facilitating diverse housing that offers choice and meets changing household needs.
- Encouraging the development of diverse housing while supporting existing neighbourhood character objectives.
- Improving housing affordability by providing land supply to meet demand and promoting good housing and urban design to minimise negative environmental impacts.

#### Clause 16.01-3L Rural residential development

Prevent the sprawl of low density residential land uses along the Calder Highway, throughout the Harcourt horticultural area, and on the fringes of towns along the Calder, Midland and Pyrenees highways.

#### Clause 17 Economic Development

The Amendment encourages commercial, tourism, retail and service industries within the existing activity centre by rezoning land to Commercial 1 Zone (C1Z).

### Clause 18 Transport

The Amendment creates an integrated, sustainable and safe transport system and enhances active transport links in and across Harcourt.

### Clause 19 Infrastructure

The Amendment implements the objectives of Clause 19 by:

- Ensuring the provision of infrastructure and services with a logical sequence of development that has access to services.
- Establishing, managing and improving open space that meets the needs of the community.
- Considering demographic trends, existing and future demand requirements and the integration of facilities in planning for the location of education and early childhood facilities.

### **Planning scheme provisions**

A common zone and overlay purpose is to implement the Municipal Planning Strategy and the Planning Policy Framework.

### **Zones**

The following table includes the purposes for each relevant zone.

Control	Purposes
TZ	<ul style="list-style-type: none"> <li>- To provide for residential development and a range of commercial, industrial and other uses in small towns.</li> <li>- To encourage development that respects the neighbourhood character of the area.</li> <li>- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.</li> </ul>
NRZ	<ul style="list-style-type: none"> <li>- To recognise areas of predominantly single and double storey residential development.</li> <li>- To manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.</li> <li>- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.</li> </ul>
C1Z	<ul style="list-style-type: none"> <li>- To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.</li> <li>- To provide for residential uses at densities complementary to the role and scale of the commercial centre.</li> </ul>

### **Overlays**

The following table includes the purposes for each relevant overlay.



Control	Purposes
DDO	- To identify areas which are affected by specific requirements relating to the design and built form of new development.
DPO	<ul style="list-style-type: none"> <li>- To identify areas which require the form and conditions of future use and development to be shown on a development plan before a permit can be granted to use or develop the land.</li> <li>- To exempt an application from notice and review if a development plan has been prepared to the satisfaction of the responsible authority.</li> </ul>

## Other provisions

Relevant particular provisions include:

- Clause 71.02-3 (Integrated decision making):

Victorians have various needs and expectations such as land for settlement, protection of the environment, economic wellbeing, various social needs, proper management of resources and infrastructure. Planning aims to meet these needs and expectations by addressing aspects of economic, environmental and social wellbeing affected by land use and development.

The Planning Policy Framework operates together with the remainder of the scheme to deliver integrated decision making. Planning and responsible authorities should endeavour to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. However, in bushfire affected areas, planning and responsible authorities must prioritise the protection of human life over all other policy considerations.

Planning authorities should identify the potential for regional impacts in their decision making and coordinate strategic planning with their neighbours and other public bodies to achieve sustainable development and effective and efficient use of resources.

## Appendix B Submitters to the Amendment

No	Submitter
1	Georgie Steptowe
2 & 3	John Baldock
4	Liesl Malan
5	Mary Edquist
6	Jo Sheldrick-Doherty and Gary Doherty
7 & 8	Chris and Wayne Mitchell
9	Ella Henderson
10	Del Norte Pty Ltd (originally Gateway Property Developments Pty Ltd)
11	Paul Mizzi and Vicki Polglase
12	Bryn Carney
13	Angela Leain
14	Joel Hards and Kate Gifford
15	Harcourt Valley Landcare
16	Bron and Terry Willis
17	Giselle Maurice
18	Vera Hemkes
19	Harcourt Valley Properties (VIC) Pty Ltd
20	Lauren Burnett and Zachariah Clark
21	Carole Fingersoll
22	Gary Grant
23	Harcourt Progress Association
24	Bloque Developments
25	Environmental Protection Authority Victoria
24	Department of Transport

## Appendix C Document list

No.	Date	Description	Provided by
1	27 July 2022	Letter from Panel to submitters advising of Directions Hearing	Planning Panels Victoria (PPV)
2	12 August 2022	Letter from Panel to submitters with draft directions	"
3	24 August 2022	Letter from Panel to submitters with Directions and Hearing timetable	"
4	25 August 2022	Bushfire Development Report, Terramatrix, 2019	Mount Alexander Shire Council (Council)
5	"	Housing Demand Policy, REMPLAN, August 2020	"
6	"	Post exhibition changes to DPO Schedule 12	"
7	"	Post exhibition changes to the NRZ Schedule 1	"
8	"	Post exhibition changes to the Harcourt Framework Plan	"
9	"	Harcourt Framework Plan Review, Final Draft, MacroPlan Dimasi, 2017	"
10	"	Residential Supply and Demand Analysis, Philip DeAraugo, 2010	"
11	"	Harcourt Town Centre Masterplan Implementation Strategy, SJB Urban, 2011	"
12	"	Harcourt Landscape Master Plan, Spiire, 2015	"
13	"	Harcourt Community Plan, 2013	"
14	"	Mount Alexander Planning Scheme Review, Ethos Urban, 2019	"
15	"	Loddon Mallee South Regional Growth Plan, 2014	"
16	"	Number and location of C94malx submitters map	"
17	"	DELWP letter authorising preparation of C94malx	"
18	"	C94malx exhibited amendment documents	"
19	"	Planning Practice Note 90 (PPN90) - Planning for Housing	"
20	"	Planning Practice Note 91 (PPN91) - Using the Residential Zones	"
21	2 September 2022	Council Part A submission	Council
22	9 September 2022	Expert Evidence – Paul Foreman, Blue Devil Consulting	Harcourt Valley Landcare
23	"	Expert Evidence – Andrew J. Hewitt PhD, University of Queensland	Del Norte Pty Ltd

No.	Date	Description	Provided by
24	12 September 2022	REMPPLAN Shire-wide Land Supply and Demand Assessment, May 2022	Council
25	"	Mount Alexander Shire Draft Settlement Planning Assessment, July 2022	"
26	"	Expert Evidence – John Glossop, Glossop Town Planning	Del Norte Pty Ltd
27	"	Email from Council referring further submission (submission 19B, dated 16 August 2022)	Council
28	"	Hearing submission	Bron and Terry Willis
29	13 September 2022	Hearing submission	John Baldock
30	14 September 2022	Council Part B submission	Council
31	"	Hearing submission	Vera Hemkes
32	16 September 2022	Outline of submissions	Del Norte Pty Ltd
33	"	EPA Letter to Council– Plan Harcourt (August 2022)	Council
34	"	Council Letter to EPA (July 2022)	"
35	"	Harcourt Infrastructure Plan Summary Report (March 2022)	"
36	"	Mount Alexander Shire Council Rural Land Study (2014)	"
37	"	Mount Alexander Shire Council Urban Living Strategy (2004)	"
38	"	Climate Change and Planning in Victoria (2021)	Vera Hemkes
39	19 September 2022	Outline of submissions	Harcourt Valley Properties (VIC) Pty. Ltd.
40	"	Macedon Ranges Planning Scheme Development Plan Overlay Schedule 24 (DPO24 – Lancefield Development Plan Areas)	Council
41	"	Plan Harcourt – Discussion Paper (2018)	"
42	"	Plan Harcourt – What We Heard (2019)	"
43	"	Shine Harcourt Leanganook (2019)	"
44	"	C94malx Clause 11.01-1L-04 (word version)	"
45	20 September 2022	Harcourt Valley Landcare (Submitter 15) – complete submission	"
46	"	Clause 11.01-1L-04 – Submitter preferred Option A	Del Norte Pty. Ltd.

No.	Date	Description	Provided by
47	“	Clause 11.01-1L-04 – Submitter preferred Option B	“
48	“	Post exhibition DPO12 – Submitter preferred Version	“
49	“	Harcourt Strategic Framework Plan – Submitter preferred Version	“
50	“	Mount Alexander Amendment C24 Panel Report	“
51	“	Title particulars for 27 Craigie Street, Harcourt (1/2)	“
52	“	Title particulars for 27 Craigie Street, Harcourt (2/2)	“
53	“	Email correspondence and website links to Regional Development Victoria information	“
54	“	Harcourt Modernisation Project (2012)	Harcourt Valley Properties (VIC) Pty. Ltd.
55	“	Email correspondence including web link regarding ESD	Vera Hemkes
56	21 September 2022	Closing submission	Council

## Appendix D Proposed changes to the Planning Scheme

As detailed in the Explanatory Report.

Zoning mapping changes:

- Rezone 22 hectares of land along Eagles Road, Harcourt and Market Street, Harcourt from Farming Zone to Neighbourhood Residential Zone Schedule 1 as shown on Planning Scheme Zoning map No 6.
- Rezone 135 hectares of land within the Harcourt settlement boundary that is currently zoned Township Zone and General Residential Zone to Neighbourhood Residential Zone Schedule 1 as shown on Planning Scheme Zoning map Nos 5, 6 and 19.
- Rezone land along Harmony Way, Harcourt and High Street, Harcourt from Township Zone to Commercial 1 Zone as shown on Planning Scheme Zoning map No 6.
- Rezone 8.41 hectares of land at 61 Coolstore Road, Harcourt from Township Zone to Rural Living Zone as shown on Planning Scheme Zoning map Nos 6 and 19.
- Rezone Harmony Way and a portion of Victoria Road from Road Zone Category 1 to Road Zone Category 2 as shown on Planning Scheme Zoning map Nos 5, 6, 19, 25, 33 and 34 to reflect Council as the responsible authority for Harmony Way.
- Rezone land along Victoria Road, Harcourt from Road Zone Category 1 to Neighbourhood Residential Zone Schedule 1 as shown on Planning Scheme Zoning map No 6 as the Department of Transport confirmed the land is no longer required for transport purposes and is to be rezoned to reflect the current residential use.
- Rezone land at Stanley Park North, Harcourt from Road Zone Category 1 to Public Park and Recreation Zone to reflect existing use.

Overlay mapping changes:

- Apply Schedule 16 to the Design and Development Overlay (DDO16 – Harcourt Commercial Area) to encourage new development to enhance amenity of the public realm and create a safe and healthy pedestrian environment.
- Apply Schedule 12 to the Development Plan Overlay (DPO12 – Harcourt Future Town Expansion Areas A and B) to land along Eagles Road, Harcourt and Market Street, Harcourt as shown on Planning Scheme map Nos 5DPO and 6DPO to encourage land to be developed in a coordinated manner which provides for separation distances and interfaces between horticultural uses and future sensitive development and responds to the established character of Harcourt.

Ordinance changes:

- Amend Clause 02.03 Strategic Directions of the Municipal Planning Strategy to insert policy to support tourism based on indigenous cultural heritage and teachings.
- Amend Clause 02.04 Strategic Framework Plans of the Municipal Planning Strategy to delete the Harcourt Framework Plan.
- Create Clause 11.01-1L-04 Harcourt to include an updated Land Use Framework Plan for Harcourt and include the new objectives and strategies for Harcourt.
- Insert Clause 32.09 Neighbourhood Residential Zone into the Mount Alexander Planning Scheme.

- Insert Schedule 1 to Clause 32.09 Neighbourhood Residential Zone to introduce new neighbourhood character objectives, residential development standards and mandate a maximum building height of 9 metres.
- Insert Schedule 16 to Clause 43.02 Design and Development Overlay to guide built form outcomes for the town centre.
- Insert Schedule 12 to Clause 43.04 Development Plan Overlay to guide a coordinated approach to future development.
- Amend the Schedule to Clause 72.03 to update the list of maps forming part of the Mount Alexander Planning Scheme.
- Amend the Schedule to Clause 72.08 Background Documents to include *Plan Harcourt* as a background document to the Planning Scheme.