



Amendment C393 Greater Geelong Planning Scheme

Strategic planning evidence

Prepared for:

Shell Road Developments Pty Ltd

ROBERT MILNER DIP T&CP LFPIA FVPELA

October 2019



David Lock Associates Pty Ltd (DLA)

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1.0 Introduction

1.1 Instructions

1. I have been instructed by Minter Ellison on behalf of their client Shell Road Development Pty Ltd, to review the strategic and statutory planning merits of the exhibited planning scheme amendment C393 to the Greater Geelong Planning Scheme (GGPS).
2. Shell Road Development Pty Ltd owns the land at 92-160 Grubb Road, Ocean Grove (the **Site**) (Figure 1) and is the developer of the emerging Kingston Downs commercial and residential estate on the Site. In this report the commercial centre is referred to as the '*Kingston Downs Neighbourhood Activity Centre*' (**KDNAC**), as referenced in the planning scheme amendment.



Figure 1: Site context

3. The amendment may be summarised as seeking to give statutory standing to The City of Greater Geelong Retail Strategy 2016-2036 (the **Retail Strategy**) by way of changes to the Planning Policy Framework (**PPF**) and the statutory controls regulating the amount of retail floor space that might be established in activity centres without the need for a planning permit.

4. This evidence presumes that the Panel will be familiar with the exhibited amendment and associated Retail Strategy and will be aware that:
 - KDNAC will be identified as a ‘future neighbourhood retail centre’ *“that serves a neighbourhood catchment and is to be anchored by one or more supermarkets plus specialty stores”* with an indicative retail floorspace range of 2,000 to 15,000 square metres (proposed Clause 21.19);
 - The ‘*Assessment criteria for retail planning applications*’ (Clause 22.03) will be strengthened;
 - A 7,650 square metre maximum leasable floor area for shops is proposed as a line item for the KDNAC in the proposed amended Schedule to Clause 34.01 – Commercial 1 Zone.

1.2 Considerations

5. In preparing this report I have considered all the planning policies, strategies and provisions detailed in **Attachment 1**.
6. I am not qualified to comment upon the appropriateness of retail floor space projections per activity centre as advanced in the Retail Strategy and confine my review and commentary to the merits of the amendment for a regional and local strategic and statutory planning perspective.
7. I have previously prepared and presented planning evidence on behalf of the City of Greater Geelong in the matter of Amendment C346 which was concerned with the review and revision of the *Ocean Grove Structure Plan 2016 (Structure Plan)*.
8. As a result of that work I have a sound and established understanding of the issues and opportunities presented by Ocean Grove and the KDNAC in the context of urban and retail growth.

1.3 Witness Statement

9. A witness statement forms **Attachment 2** and my curriculum vitae is set out at **Attachment 3**.

2.0 Overview

10. It is entirely appropriate that the City of Greater Geelong has undertaken a review of its retail strategy and seeks to reference and implement it through its planning scheme.
11. If strategic policy driven planning schemes are to function effectively established policy must be regularly reviewed and revised where it can be demonstrated that it is not appropriate to the emerging social, economic and environmental expectations, strategic context and community needs.
12. Within the Greater Geelong region, Ocean Grove has been nominated over the last decade as an urban growth area, despite its location on the Bellarine Peninsula.
13. The extent and amount of urban growth, including the setting of a settlement boundary and the role, functions and composition of activity centres within Ocean Grove has been managed through an iterative structure planning process.
14. The structure plans have been complemented by a hierarchy of master plans, development plans and permits, to confirm an increasing level of detail.
15. The culmination of that work is a clarity and detail about the further development and growth of the town and the KDNAC to at least 2021 and the next review of the structure plan.
16. At that time (2021) a commitment has been made to complete a strategic review of the settlement boundary and set a long-term settlement boundary and limit to growth.
17. In other words, relying on the current settlement boundary, a reasonable estimate of future population and housing (and in turn the supportable retail floorspace) can be made. However, there is a prospect that within 2-3 years additional area(s) of developable land might be added to the township, in which event the basis of floorspace projects and proposed statutory caps on permitted retail floor space would be rendered obsolete.
18. The unresolved question of the long-term settlement boundary for Ocean Grove is also the subject of another current review as part of the contemplated declaration of a '*Distinctive Area and Landscape*' for the Bellarine Peninsula and the subsequent preparation of a '*Statement of Planning Policy*' for the area under the terms of the *Planning and Environment Amendment (Distinctive Areas and Landscapes) Act 2018*. This process is estimated to be completed in late 2020.

19. Given that planning permits at the KDNAC have already issued that would enable more retail floorspace than provided for under the proposed permitted land use cap there is no strategic justification for the nominated cap.

20. For the reasons set out in this report I conclude that neither the community nor the efficient, orderly or timely development of the KDNAC would be appropriately served by applying a cap to the permitted amount of retail floorspace. If that justification is not accepted, I recommend that the cap be set at 15,000 square metres.

3.0 The relevant planning policy and provisions

3.1 Introduction

21. There are four themes of the Planning Policy Framework of the GGPS that are useful and relevant to the evaluation of the merits of the C393 as it applies to KDNAC. These include existing settlement, activity centre, retail and significant landscapes policy.

3.2 Settlement policy

22. Support for the growth of Ocean Grove (and select other towns) as a district town is an explicit regional planning strategy supported by local policy (Clauses 11.01-1 R, 21.04 and 21.06-2 GGPS) (Figure 2).



Figure 2: Framework Plan (Source: Bellarine Peninsula Localised Planning Statement, September 2015)

23. The role of district towns is to provide services to surrounding areas, but there is also a requirement for a settlement boundary for all towns (Clause 11.01-R GGPS).

24. The Localised Planning Statement for the Bellarine Peninsula (September 2015) articulates Ocean Grove's role in the following terms:

“Ocean Grove is one of three designated growth locations on the Bellarine Peninsula. The town centre at the Terrace is the commercial heart, with the neighbourhood centre at Shell Road providing additional retail facilities. Ocean Grove is experiencing strong growth as a destination for both permanent residents and tourists. The major growth front is to the north with residential and commercial growth planned”.

25. The orderly development of urban and growth areas such as Ocean Grove is expected to be achieved by the preparation of a hierarchy of structure plans (Clause 11.02-2S GGPS).

26. The local policies for the Bellarine Peninsula (Clause 21.14-3 GGPS) carry that theme forward seeking to facilitate the development of Ocean Grove as a hub of development, residential growth and service provision with land use and development undertaken generally in accordance with relevant structure plan maps.

27. There have been two recent iterations of the Ocean Grove Structure Plan (2011 and 2016). Figure 3 details the current structure plan.

28. The policy framework for Ocean Grove is explicit in that:

- Development will occur within the defined settlement boundary;
- Support will continue for development of the north east growth area;
- The Town Centre is to remain the primary retail centre;
- Support is to be given to the development of a new Neighbourhood Activity Centre including community uses, in the north east growth area adjacent to Grubb Road.

29. Despite the requirement for urban development to be undertaken within the settlement boundary the *Further Work* provisions of the planning policy at Clause 21.14-3 GGPS explicitly require the review of the structure plan for Ocean Grove to include an assessment of long term growth options (both infill and settlement expansion) by no later than 2021.

30. The assessment is to consider the following topics, the implications of which are that the population, density of development and boundaries of the settlement may be different to that provided for in the current adopted and referenced structure plan.

- Land to the north, north west and east of Ocean Grove;
- The role of Ocean Grove as a district centre;
- Other planned growth on the Bellarine Peninsula;
- Development trends, lot supply and housing capacity within the settlement boundary;
- The desirability of providing a diversity of living options;
- Physical and environmental constraints,
- Maintaining a rural break between settlements;
- The protection of landscape values and implications for the character of approaches to Ocean Grove, including Grubb Road;
- The implications for significant agricultural uses and their employment generating potential; and
- Whether an adjustment the settlement boundary is required.

31. The recommendation for review of the Structure Plan was one that I made in evidence to the Panel in Amendment C346 to the Greater Geelong Planning Scheme, and which was accepted by both the Panel and the Planning Authority.

32. The Commercial 1 and 2 and the Industrial 1 and 3 Zones; the Development Plan Overlay – Schedule 22 and the Design and Development Overlay – Schedule 39 are applied to the KDNAC to give effect to the above policy and to manage the more detailed planning and development of the area (Figures 3-5).

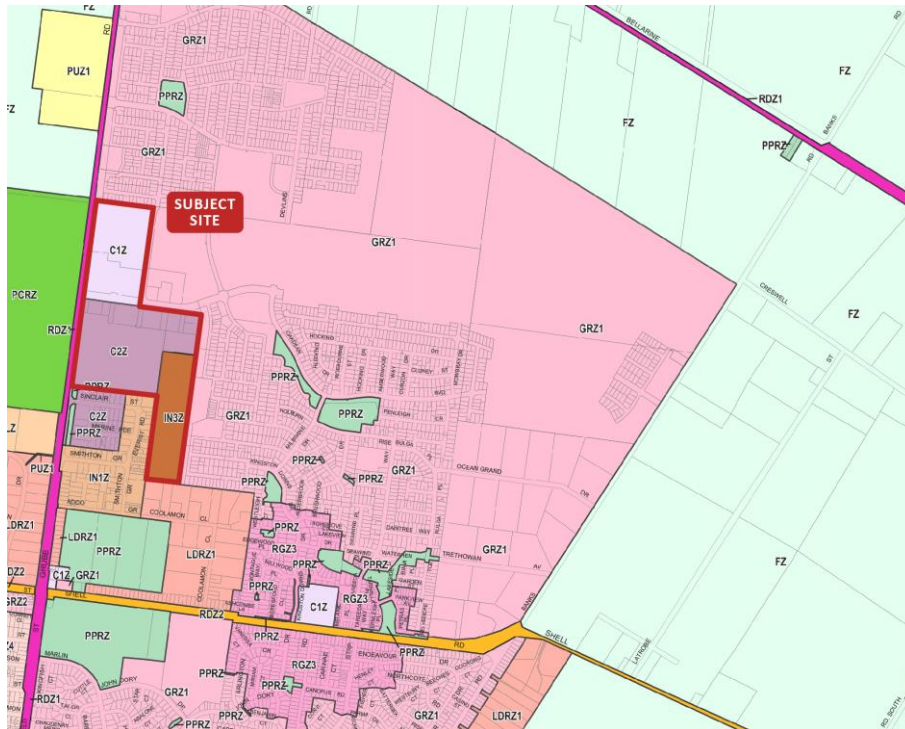


Figure 3: Zoning plan
(Source: Greater Geelong Planning Scheme, with annotation)

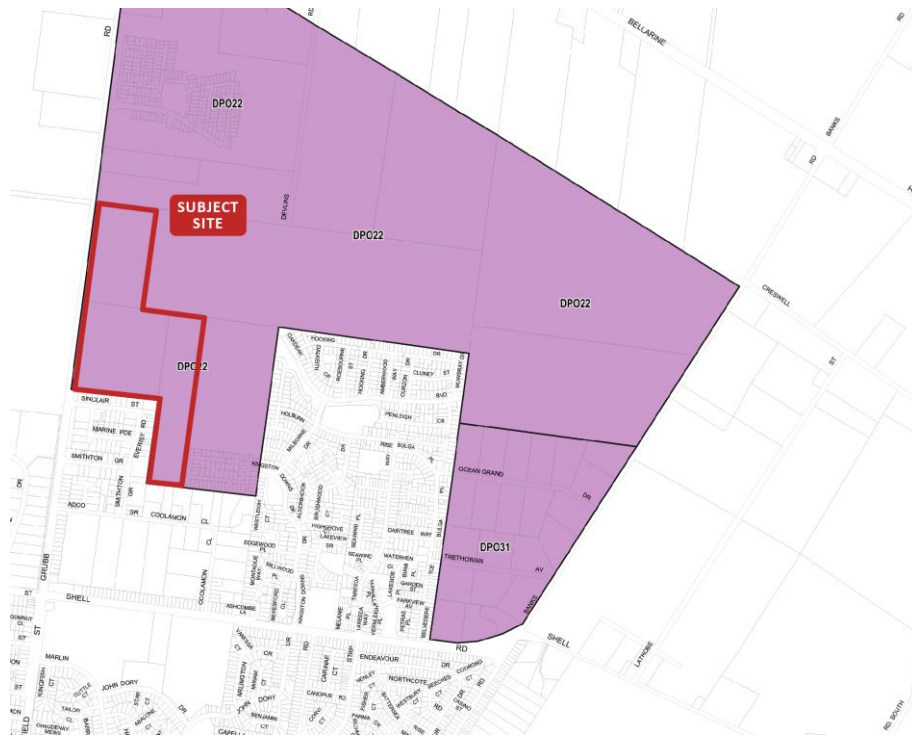


Figure 4: DPO22 map
(Source: Greater Geelong Planning Scheme, with annotation)



Figure 5: DDO39 map
(Source: Greater Geelong Planning Scheme, with annotation)

- The Ocean Grove Growth Area - Development Plan (DPO22) - applies to a larger area than the KDNAC, covering most of the north east growth area. Curiously the overlay does not include all the land zoned Commercial 2 however the *Ocean Grove Growth Area Masterplan* that forms part of the DPO22 Schedule (Figure 6) includes a greater area than is covered by the overlay map!



Figure 6: Ocean Grove Growth Area Masterplan
(Source: Greater Geelong Planning Scheme DPO22)

- As detailed in the approved *Ocean Grove Structure Plan* the *Masterplan* at Figure 7 was approved under the DPO provisions and details the layout of the core retail area, locations for bulky goods retailing and light industrial use as well as at grade car parking.

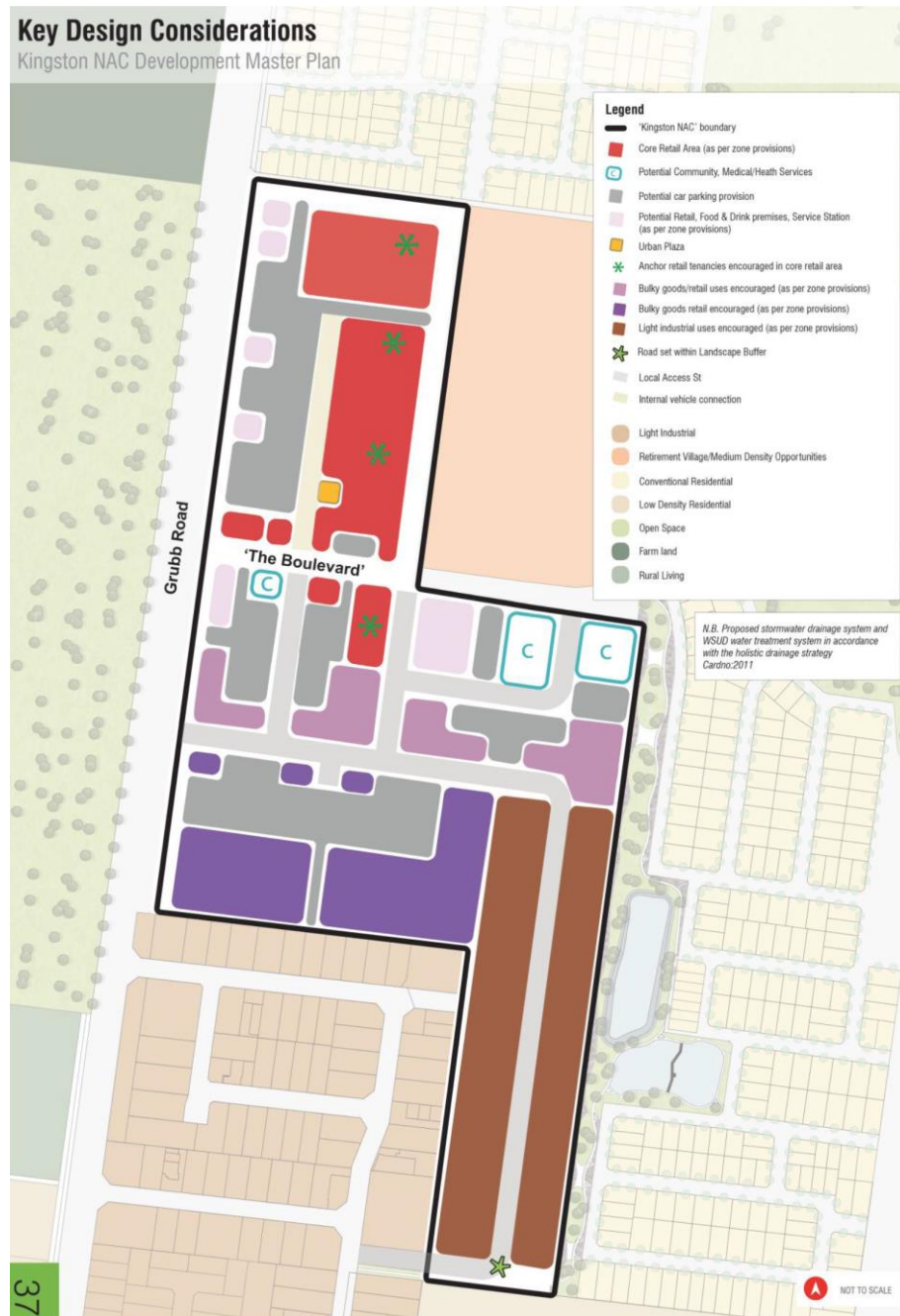


Figure 7: Proposed Kingston NAC Development Master Plan
(Source: *Ocean Grove Structure Plan*)

- The Design and Development Overlay (DDO39) applies to the Grubb Road Activity Centre and Restricted Retail Precinct.
- The Grubb Road Activity Centre Framework Plan 2015 informed the guidance on the future subdivision and development of the activity centre and restricted retail precinct as detailed in the provisions of the DDO.

3.3 Activity centre and retail policy

33. While the above has touched on activity centre policy and planning, it is appropriate to be reminded that the objective of this policy is to encourage the concentration of retail, among other land uses within activity centres and to build them up as a network of centres (Clause 11.03-1S GGPS).
34. The *City of Greater Geelong Retail Activity Centre Hierarchy* details the role and function fulfilled by different activity centres of different size.
35. The retail hierarchy supports the primacy of Central Geelong as a focus of retail activity in the region.

36. Within the current retail hierarchy (Figure 8) a 'Potential Neighbourhood Centre' (the KDNAC) is identified adjacent to Grubb Road with no indicative floorspace or examples of key tenants.

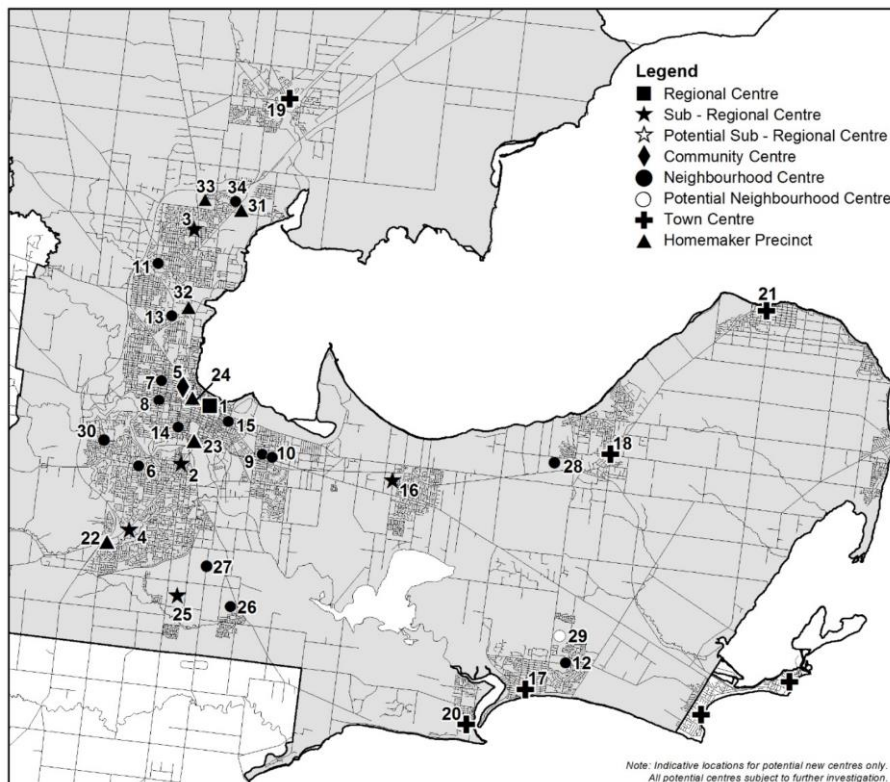


Figure 8: City of Greater Geelong Retail Activity Centre Hierarchy
(Source: Greater Geelong Planning Scheme Clause 21.07)

37. Within the same hierarchy the Terrace is identified as a *Town Centre* (1,500 to 15,000 square metres – supermarket, mini major(s) specialty) and Ocean Grove Market Place, on Shell Road, as a *Neighbourhood Centre* (2,500 to 25,000 square metres including a supermarket (small or full line), primary convenience orientated speciality).

3.4 Distinctive Areas and Landscapes

38. This theme of policy, at Clause 11.03-5S GGPS, is relevant only in so far as regard has to be taken of the *Localised Planning Statement for the Bellarine Peninsula* and the *Planning and Environment Amendment (Distinctive Areas and Landscapes) Act 2018 (Act)* is the basis upon which a *Statement of Planning Policy* is foreshadowed for the region.
39. The *Statement of Planning Policy* may also determine a long-term settlement boundary for Ocean Grove.

40. A *Statement of Planning Policy* under the Act is intended to secure the long term sustainability of townships in declared areas by designating long term settlement boundaries to ensure growth does not encroach into valued natural and rural landscapes.
41. Once designated any future amendment to settlement boundaries must be ratified by Parliament in a similar manner to the process in place for Melbourne's Urban Growth Boundary.
42. It is not evident how this initiative will integrate with the review of the *Ocean Grove Structure Plan* in 2021.

4.0 Strategic Context

4.1 Ocean Grove

4.1.1 Urban structure

43. The urban structure of Ocean Grove is appropriately characterised as:

- A traditional coastal settlement developed around an older style town centre, established either side of the Terrace, and adjacent streets and supplemented by a small local convenience strip centre in Madeley Street;
- Subsequent growth in an easterly direction, supported by the freestanding supermarket-based Ocean Grove Market Place Neighbourhood Activity Centre in Shell Road;
- More recent development to the north, east of Grubb Road, with the emergence of the first stages of the KDNAC marking the establishment of an additional Neighbourhood Activity Centre with a broader role as a focus of restricted retail, industrial and service business activity.

44. The further urban growth potential of Ocean Grove within the settlement boundary of the current Structure Plan is illustrated in Figure 9.

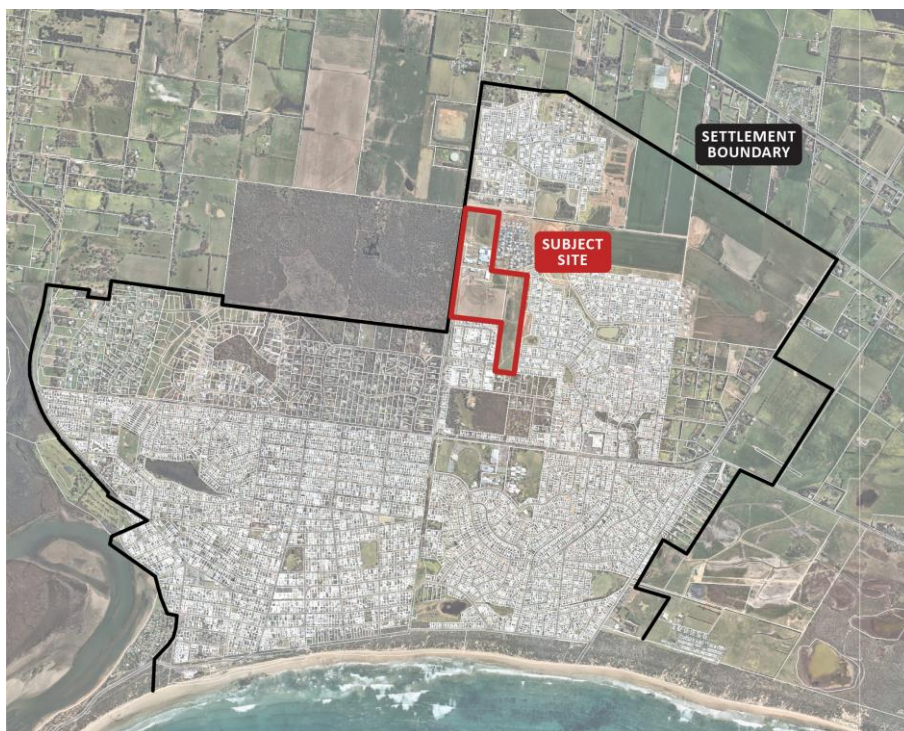


Figure 9: Ocean Grove Structure Plan's settlement boundary (Source: *Ocean Grove Structure Plan*, with annotation)

45. Within the above context the following observations are pertinent:

- While it is appropriate to retain and support the town centre as a prime retail and community services-based hub in Ocean Grove the ability to deliver any meaningful growth or diversification in retail and commercial floor space is constrained by several considerations:
 - The fragmented layout of the centre over several streets and around car parking;
 - The limited availability of suitable developable land;
 - The multiplicity of small holdings;
 - The established patterns of land use and development;
 - Relatively congested localised access and circulation conditions.
- There is no further meaningful commercial development potential at Market Place as the centre has been comprehensively developed.

46. In practical terms the above considerations mean that the KDNAC will have an important primary longer-term role in supporting and accommodating the projected and emerging retail, community and other commercial needs of the growing Ocean Grove community, its hinterland and visitors.

47. If further growth is strategically justified as part of the Structure Plan review in 2021 then that would translate into an expand demand and expectation upon the KDNAC to support additional floorspace and services, particularly given the centre's location at the entrance and within the growth area of the town.

4.1.2 Sub-regional context

48. Ocean Grove occupies a distinctive location in the structure and distribution of settlements on the Bellarine Peninsula (Figure 10).

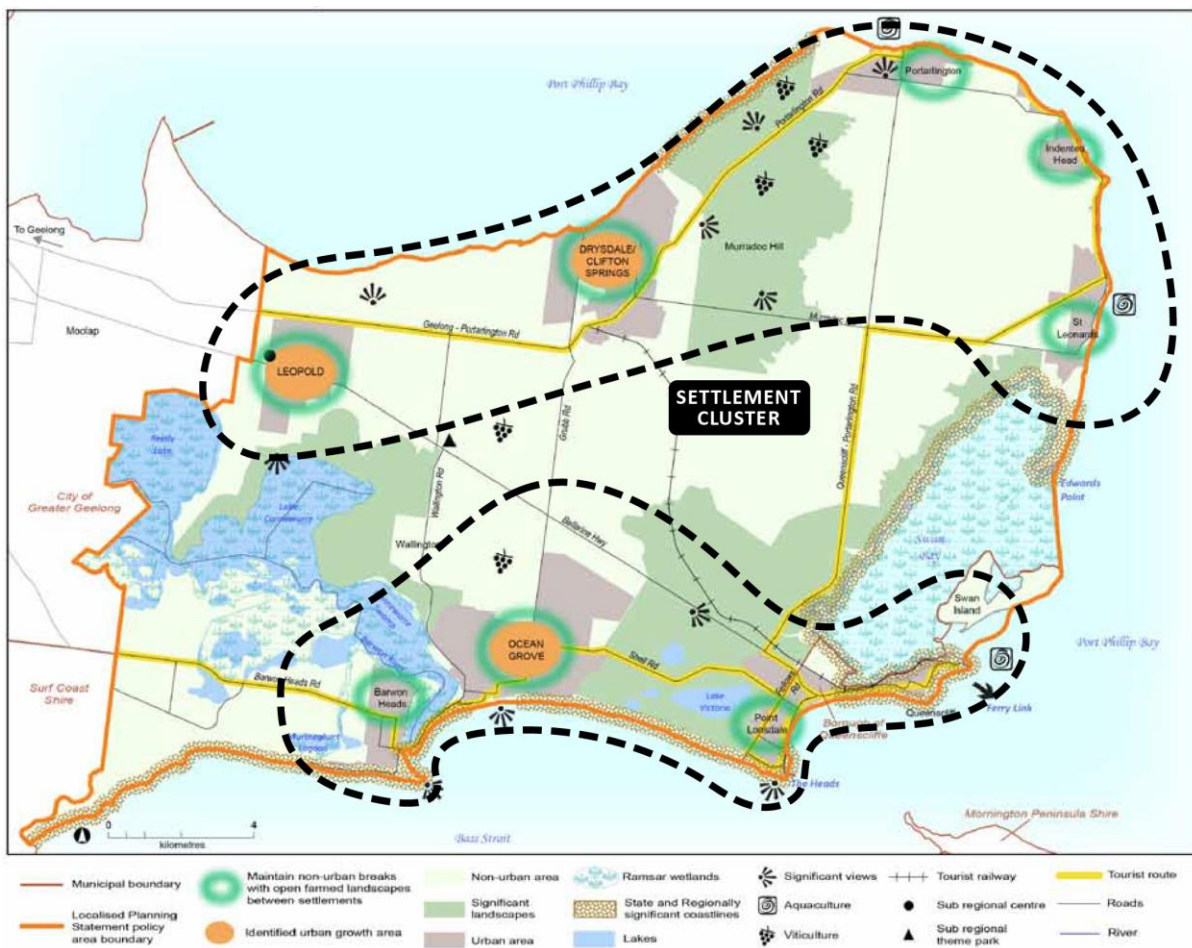


Figure 10: Bellarine Peninsula settlement cluster (Source: Bellarine Peninsula Localised Planning Statement, September 2015, with annotation)

49. It is located to the immediate south of the Bellarine Highway, one of two primary arterial roads connecting the peninsula with Geelong, and is surrounded by smaller towns and settlements including Barwon Heads, Point Lonsdale and Queenscliff that support smaller retail offers and minimal prospects of population growth.

50. As the KDNAC is developed it is appropriate to envisage it will be attractive and of value to the residents in these smaller communities because of the broader range of its retail and restricted retail offer; the greater diversity of its commercial and industrial services and its convenient accessibility.

4.2 The KDNAC

4.2.1 Permit approvals

51. The development currently being undertaken on the site of the KDNAC is the implementation of a planning permit (233-2016) issued in May 2017 for 12,022 square metres of floor area comprising retail floor area of 10,452 square metres.
52. The approval provided for a full line Woolworth's, a smaller Aldi, supermarkets specialty shops and a large discount liquor outlet, as well as other commercial, medical and personal services.
53. Three other planning permits have issued in the last three years for the following uses and development, but no permits have issued for the restricted retail component of the centre:
 - A staged multi lot subdivision;
 - A convenience restaurant; and
 - A service station.

4.2.2 Development Plan approval

54. These approvals have been granted in the context of the approval of the Kingston Downs Neighbourhood Activity Centre and Industrial Estate Development Plan in October 2016.
55. This development plan was a revision of an earlier development plan approved in 2011. I am instructed that both plans remain applicable to the land.
56. Both Development Plans were endorsed as satisfying the provisions of the Development Plan Overlay – Schedule 22.
57. The important relevant features of the more recent endorsed development plan are:
 - It provides a land use, development and movement framework for the overall NAC (Figure 10);
 - It identifies a retail activity area for the centre encompassing the land within the Commercial 1 Zone and part of the Commercial 2 Zone (Figure 11);

- It nominates a clear set of retail and land use objectives (Attachment 4);
- It does not nominate an estimate of total retail floor area.

4.3 Conclusions

58. There is clear evidence of a hierarchy of settlement and activity centre plans having been prepared, reviewed, revised and implemented in Ocean Grove and at the KDNAC, through structure plans, a development plan and permit process.

59. The activity centre structure of Ocean Grove presents a series of constraints and opportunities in which the KDNAC is best placed to meet changes in the diversity of retail offer and the amount of supportable retail floor space.

60. The permitted maximum leasable retail floor area for the KDNAC, advanced in Amendment C393 is less than that already approved by permit and being built.

5.0 Assessment

5.1 Retail Strategy 2016-2036

61. The strategic justification and rationale of Amendment C393 is based upon the Greater Geelong Retail Strategy 2016-2036.
62. The continuing reliance upon a hierarchy of retail / activity centres as the central tool to the orderly development of new and additional retail floor space across Greater Geelong is endorsed as sound planning.
63. Similar support should be given to the focus upon further developing existing centres while recognising that out of centre development may be supported by clear evidence of a net community benefit.
64. Kingston Downs is appropriately characterised as a Neighbourhood Activity Centre in the retail hierarchy, however it is noted that the maximum floor area envisaged for NACs is proposed to be reduced from 25,000 square metres to 15,000 square metres, by the amendment.
65. The Retail Strategy appropriately draws the fundamental link between population growth and the location / amount of retail floor space to be supported and approved.
66. Within this context the Retail Strategy acknowledges that Ocean Grove is among a select few centres experiencing population growth and that growth is for both retail and restricted retail floorspace.
67. With reference to Ocean Grove the Retail Strategy:
 - Appears to base its growth projections on the existing settlement boundaries and does not acknowledge the 2021 structure plan review and its possible consequences for further growth;
 - Illustrates that a notable portion of the Ocean Grove settlement is not within the primary catchment for supermarkets;
 - Records that Ocean Grove is poorly served by restricted retail floorspace;

- Credits the town centre with offering discount department store services, being unaware that the Country Target that was the basis of that credit was to close in September 2019;
- Advances the following retail floorspace guidelines for Ocean Grove:
 - *Town Centre* - 16,700 square metres (2016) – 19,400 square metres (2036)
 - *Market Place* - 5,800 square metres (2016) – 6,700 square metres (2036);
 - *KDNAC* – 11,200 square metres (planned 2016) – 6,000 square metres (2036).
- Acknowledges approval of 10,500 square metres of floor area at the KDNAC but recommends a retail cap of 7,650 square metres and the need for a planning permit for any floorspace above the cap.
- This recommendation is advanced on the basis that an economic impacts assessment should be undertaken to ensure that the timing and size of development does not impact on the retail hierarchy and other nearby centres including Market Place, the Town Centre and Leopold. It also appears motivated by a concern about the ability to establish a supermarket and speciality shops on land zoned Commercial 2, as a result of the 2014 reform of the commercial zones.
- Does not recommend a retail cap for established Neighbourhood Activity Centres which it indicatively envisages as supporting between 2,000 and 15,000 square metres of retail floor space but does when they are in growth areas.

5.2 Assessment

68. For the following reasons I do not consider that a cap should be placed upon the permitted maximum leasable retail floor area in the Schedule to the Commercial 1 Zone for the KDNAC.

69. If that recommendation is not accepted the cap should be set at 15,000 square metres for the reasons also detailed below.

5.2.1 The strengths and weaknesses of floor space caps and permits for use in the schedule to the Commercial 1 Zone

70. As noted above the Retail Strategy advances the use of the cap as a means of regulating the market and protecting the role, standing and performance of other centres in the retail hierarchy. The use of the local schedule to the Commercial 1 Zone, in areas outside the metropolitan area, for the purposes controlling the amount of retail space in the zone is an option (not a requirement) that was created by VC100 in 2013.
71. Its effect would be to require a full economic impact assessment for any proposal, however big or small, to increase the permitted retail use above the floor area nominated in the schedule. Any application for use under these provisions is not exempt from third party notice.
72. In effect given that the approved floor space in the KDNAC already exceeds the proposed 7,650 square metre cap for the proposed Commercial 1 Zone schedule, the proposed planning scheme amendment would at the least encumber and possibly discourage the further retail development of that part of the activity centre zoned C1Z.
73. At a minimum the control imposes a considerable reporting, cost and administrative burden justifying any additional floor space. It creates uncertainty if and when a permit for use might issue.
74. The cap and additional control operate from an artificial and arbitrary base. The choice of 7,650 square metres has no regard to the approved development plans and permits for the KDNAC that have already approved the area of the site that is expected to be developed for retail purposes.
75. Further the control does not recognise that the proposed policy envisages up to 15,000 square metres being appropriate for some NACs.
76. It creates an interpretive issue on the strategic intent for the NAC. The planning policy framework and the zone purposes seek to encourage the concentration of retail activity in activity centres in accordance with the nominated hierarchy.
77. The language and structure of the proposed control states and infers that the preferred floorspace outcome is the nominated cap, (a floor area that would have a stronger association to a local or small neighbourhood centre). Given that the approved floor area already exceeds the cap by almost 40% it infers considerable caution to any further attempt to approve additional floor area.

78. The control also discriminates against 'growth area' NACs relative to established NACs, as no similar constraint on use would be imposed on the latter.
79. Upon approval the planning scheme, as a stand-alone guideline would not inform the user about the floorspace guidelines documented in the Retail Strategy, which advance a considerably greater floor space expectation for the KDNAC.

5.2.2 Does the control have strategic merit in the Ocean Grove context?

80. The Retail Strategy expresses a concern at the growth of KDNAC at the expense of Market Place, the town centre and Leopold.
81. This report has already detailed the opportunities and constraints presented by the other two established centres in Ocean Grove. Market Place has almost no space to grow and the town centre is undergoing notable change with the loss of its DDS, even before the KDNAC is open for business.
82. While it is appropriate and necessary to invest in the future of the town centre and assist and facilitate its long term wellbeing it would be inappropriate to deny the community access to the timely delivery of retail services and the orderly development of the NAC particularly as that investment in the growth area is unlikely to be transferable to the town centre, for the reasons and constraints noted earlier.
83. The following extract from the Retail Strategy captures the approach to be taken simultaneously with the KDNAC and town centre:
- *Retailing that encourages people to spend time at a location or have an experience (slow or cultural retailing) should be the basis for a new approach to developing and enhancing retail centres across Greater Geelong.*
84. Concern for the relationship between the KDNAC and Leopold needs to be seen in its broader strategic context. Leopold and Ocean Grove serve different markets.
85. Aside from supporting their own communities with retail goods and services, persons on the north side of the Bellarine Peninsula living in the arc of coastal communities that extend from Drysdale / Clifton Springs, in the west, through to Indented Head / St Leonards in the east are more likely to rely upon the Geelong-Portarlington Road and use Leopold as they move across the peninsula.

-
86. Settlements on the south side of the peninsula are more likely to rely upon the Bellarine Peninsula and may be attracted to the broader offer that will be created at KDNAC.
87. For the above reasons I am not persuaded that protecting the role and standing of other proximate centres is a justification for the proposed control particularly when the retail hierarchy and development plan process has placed boundaries upon the role of the centre and its developable area for retail services.
88. If a cap and the need for a permit for retail use was necessary, its strategic justification should be drawn from the range of floorspaces seen as describing a NAC in the retail hierarchy.
89. On this basis a cap of 15,000 square metres would be an appropriate figure. Such a threshold would also be able to account for any additional population growth that might arise from the review of the structure plan in 2021.

6.0 Conclusion

90. The Retail Strategy and planning scheme Amendment C393 have not strategically justified the proposed retail cap and permit trigger for retail floorspace over 7,650 square metres.

91. For the reasons detailed in this report I recommend that no cap be applied or if one is to be applied it should be 15,000 square metres.

Robert Milner

October 2019

Attachment 1 – Relevant considerations

- Greater Geelong Planning Scheme
- Amendment C393 Greater Geelong Planning Scheme
- Greater Geelong Retail Strategy 2016-2036
- Panel Report C346 Greater Geelong Planning Scheme
- Ocean Grove Structure Plan 2011 and 2016
- C21 Regional Growth Plan 2013
- The Kingston Downs NAC & Industrial Estate Development Plan 2016
- Permits for the use and development of KDNAC
- Bellarine Peninsula – Distinctive Areas and Landscapes Program
- Minutes – Geelong City Council 27th November 2018
- Submissions to C393 lodged on behalf of Shell Road Developments Pty Ltd.

Attachment 2 – Witness Statement

EXPERT WITNESS STATEMENT

The following outlines the information requirements for expert evidence as set out in the Victorian Civil & Administrative Tribunal Practice Note PNVCAT 2 - Expert Evidence under s158 of the *Victorian Civil and Administrative Tribunal Act 1998*:

a. Name and address of the expert

Robert Milner, Principal of David Lock Associates. David Lock Associates is located at Level 2 166 Albert Road, South Melbourne.

b. Expert's qualifications and experience

Robert Milner has an honours diploma in Town and Country Planning from Liverpool Polytechnic. He is a Life Fellow of the Planning Institute of Australia and a Fellow of the Victorian Planning and Environmental Law Association.

Relevant experience includes:

- 8 years as a planner in local government undertaking statutory and strategic work;
- 31 years experience in private practice with various planning and property related consultancies;
- State and National President of the Royal Australian Planning Institute; and
- A member of the Local Government and Planning Advisory Council.

Robert Milner is recognised as a leader and expert in the field of urban and regional planning. He has given evidence before the Victorian Civil and Administrative Tribunal, Planning Panels Victoria, and the Supreme Court on many occasions.

A Curriculum Vitae is included at Attachment 3 to this report.

c. Expert's expertise to make the report

Robert Milner has a broad range of expertise in planning and development matters enabling him to comment on a wide spectrum of urban and rural, statutory and strategic planning issues and processes.

d. Private or business relationship between the expert and the party for whom the report is prepared

Other than a business relationship for the purpose of preparing the report, Robert Milner has no relationship with the parties.

e. Instructions that define the scope of the report

Robert Milner has been requested by Minter Ellison to prepare town planning evidence on behalf of their clients, Shell Road Developments Pty Ltd.

f. The facts, matters and all assumptions upon which the report proceeds

There are no facts, matters or assumptions upon which the report relies other than those explicitly stated in the report.

g. Documents and other materials the expert has been instructed to consider or take into account in preparing his or her report and the literature or other material used in making the report

Robert Milner has not made any assumptions other than those that are made explicit in the report.

h. A statement summarising the opinion of the expert; any provisional opinions that are not fully researched for any reason; any questions falling outside the expert's expertise; and whether the report is incomplete or inaccurate in any respect.

A summary of Robert Milner's opinion is set out in the body of the report. There are no provisional opinions contained within the report.

Robert Milner has not been asked any questions which fall outside of his area of expertise.

The report is complete.

i. Signed declaration

I have made all the enquiries that I believe are desirable and appropriate and that no matters of significance, which I regard as relevant, have to my knowledge been withheld from the Tribunal.



Robert Milner

September 2019

Attachment 3 – Curriculum vitae

ROBERT MILNER – Curriculum vitae

Qualifications and Positions

- Director 10 Consulting Group Pty Ltd and The Milner Group Pty Ltd.
- Diploma in Town and Country Planning (First Class Honours) Liverpool Polytechnic.
- Life Fellow Planning Institute of Australia.
- Fellow of the Victoria Planning and Environmental Law Association.
- Former State and National President of the Planning Institute of Australia.
- Member, Planning and Local Government Advisory Council (1994 – 1999).
- Deputy Chairman, Future Farming Expert Advisory Group (2009).

Employment History

2019 – Current	Principal David Lock Associates (Australia) Pty Ltd
2010 – Current	Director 10 Consulting Group Pty Ltd.
1999 – 2010	General Manager – Planning, CPG Australia Pty Ltd (Formerly the Coomes Consulting Group).
1994 – 1999	Director, Rob Milner Planning Pty Ltd and Savage Milner. 1991 -
1994	Project Director, Collie Planning and Development.
1988 – 1991	General Manager, Town Planning, Jones Lang Wootton. 1980 -
1988	City Planner - City of Box Hill.
1977 – 1980	Planner, Perrott Lyon Mathieson, Architects and Planners. 1976 –
1977	Planner, Kirklees Metropolitan Borough Council (UK).

Career Overview

Rob Milner is a respected strategic and statutory planner.

He is a recognised leader of the planning profession in Victoria.

He has had a high profile career spanning more than 40 years with extended periods of experience working for local government and in private practice.

He is the sole Director of 10 Consulting Group, a small consultancy offering the highest level of advice and service to clients wanting the benefit of his considerable experience, knowledge and understanding of planning in Victoria.

He is regularly retained to provide expert evidence to courts, panels and tribunals on the broadest range of land use and development planning issues.

He is able to evaluate and form a robust opinion on complex matters quickly and has a capacity to manage a considerable body of work in an efficient and timely manner.

He has a reputation for integrity, objectivity, an original style of evidence and for providing clear and fearless advice to proponents and objectors; the responsible authority; claimants and government agencies.

Particular expertise is in complex and controversial projects, gaming matters, acquisitions and restrictive covenants.

He is an acknowledged advocate and negotiator and is regularly engaged in development approval and rezoning projects where process and relationships need to be carefully nurtured to ensure a viable and timely outcome.

His ability to communicate effectively among a broad range of stakeholders means that he is regularly engaged to facilitate workshops, conferences, consultation and other situations where leadership and engagement of groups is required.

His clients have included many State government agencies (including planning, community development, justice, roads, growth areas and regional development), municipalities throughout Victoria, as well as a broad range of corporate and other private sector interests.

He has committed to 'giving back' to a profession that has provided him with a rewarding career. As well as contributing to the development of the Planning Institute of Australia he has acted over the last two decades in the capacity of mentor for many younger planners.

He regularly attends and gives papers at professional development forums.

Areas of Expertise and Experience

Strategic studies, policy development and statutory implementation

Robert Milner is widely acknowledged for his capacity to take a strategic perspective to urban and regional planning challenges and provide direction and leadership that is responsive and creative in a more detailed statutory context.

He also has extensive experience in assembling and managing consultant teams to undertake strategic plans and projects.

In 1994 he led the planning consultancy that recommended the model for the Victorian Planning Provisions.

In 2009 he served as the Deputy Chairman on the Future Farming Expert Advisory Group reporting to the Minister for Planning.

Most recently he has been retained by DELWP to review, research and prepare an issues and options paper for Ministerial consideration on the green wedge planning provisions.

Expert evidence and advocacy

Robert Milner is regularly called upon to provide expert evidence and reports to clients, courts, Independent Panels and VCAT. He has acted in this capacity and as an advocate throughout his career.

In a Supreme Court of Victoria – Court of Appeal matter of 2016¹ his evidence was singled out for being “*rational, detailed and credible.*”

He is often retained to provide the strategic perspective to planning disputes. He is equally capable in commenting on matters of urban design, and compliance with planning policy and provisions. Recent major cases have included:

- Melbourne Metropolitan Rail Project
- Fishermans Bend Urban Renewal Area;
- Westernport Freeway;
- Building controls for the Central City and Southbank;
- The redevelopment of the Victoria Market;
- Widening of Punt Road;
- The further development of Flemington Racecourse;
- Development over Ormond Station;
- Waterfront Place, at Station Pier.

¹ *Winky Pop Pty Ltd & Anor v Mobil Refining Australia Pty Ltd & Anor* S AP1 2015 0084

Legislative and planning scheme reviews and amendments

Robert Milner has extensive experience in planning scheme reviews, amendments to planning schemes and projects that redefine the planning provisions.

Recent relevant projects have included:

- Major Hazard Facilities Advisory Committee (evidence);
- Activity Centre Zone construction and application in Footscray, Doncaster, Knox and Sunshine
- Tramway infrastructure and the VPP's;
- Higher density living adjacent to tramway corridors;
- Liquor licensing legislation and planning provisions;
- Gaming (EGM) policy and provisions for Councils;
- Review of the Farming and Green Wedge zones for their economic implications

Gaming policy and applications

Robert Milner has been responsible for local planning policy on gaming in many metropolitan and regional based planning schemes.

That experience has been complemented by the preparation and presentation of expert evidence before Tribunals and Panels on particular policies or applications for approval.

Restrictive Covenants

Robert Milner is regularly retained to provide reports expressing his opinion on the merits of the removal or variation of covenants, from a planners and beneficiaries perspective. This work often requires application of the provisions of the Property Law Act, but also includes applications for planning permit or amendments to planning schemes under the provisions of the Planning and Environment Act.

Acquisition and compensation

Acquiring authorities or claimants regularly retain Robert Milner to provide reports and give evidence on the planning context to property valuation for land that is to be publicly acquired. This requires judgement about the planning context in the absence of the purpose of the proposal.

Relevant recent projects have included:

- Bypasses of Geelong, Craigieburn, Kilmore and Drysdale;
- The Outer Metropolitan Route;
- The Regional Rail Link;
- The Melbourne Metropolitan Rail Project;
- Mornington Peninsula Link;
- The Western Port Highway;
- East-West Link.
- New station at Mernda.

Organisation audits and process reviews

Robert Milner has a long association with the conduct reviews of planning documents, teams and processes, particularly in a local government environment.

Trained as a LARP facilitator in 1990 as part of a Commonwealth government initiative, his experience in this manner of work commenced with the development of planning and building specifications for tenders as part of compulsory competitive tendering process and the coaching of bid teams.

He has developed a specialisation in reviews and advancing recommendations to State and local government, on the audit of planning schemes, the performance of planning teams and development approvals processes.

In the last 20 years he has worked with the majority of metropolitan councils and many regional municipalities.

He prepared the model audit process for the Department of Sustainability and Environment in 2003 and provided a facilitated program for the Department of Planning and Community Development on how it processes planning scheme amendments.

He has also undertaken this type of work in New South Wales and South Australia.

His most recent work has included a major contributor to the VicSmart program and longer term thinking for the Smart Planning reform program.