- Clunes is roughly halfway between Ballarat and Maryborough, but arguably more oriented to the bigger town, Ballarat. It is 31 kms to Maryborough and 32 kms from central Ballarat, however it is only 28 kms from Wendouree Village, which is a sub-regional centre in Ballarat that again provides a Kmart DDS.

- Lexton is included. It is 36 kms from Maryborough and 41 kms from Wendouree Village, but arguably it is more oriented to Ballarat, because Ballarat is a substantially larger centre and given the minimal additional distance required to travel (5km).

2.25. This can explain why Mr Haratsis ended up calculating much larger escape spending figures.

Population Existing and Forecast

2.26. All three experts agree that this market is experiencing “very minor” population growth. Table 3 forecasts population growth across the trade area of just 0.1%-0.2% per annum over the next 15 years. The only difference in total population is because of the larger trade area identified by Mr Haratsis.

Socio-Demographic Profile

2.27. Whereas the socio-demographic profile statistics provided in Table 4 are agreed, Mr Haratsis suggests there are average per capita income levels in the primary and secondary trade areas (-17.6% and -19.2% respectively) which are below the regional Victorian average. This is relevant to expenditure levels.

Retail Expenditure Pool

2.28. Both Mr Haratsis and Mr Quick have used the *MarketInfo* model to derive retail expenditure per capita. However, in Table 5 Mr Haratsis displays per capita spending figures by tenant type, e.g. supermarket, newsagent and chemist. *MarketInfo* data is not provided in this form. *MarketInfo* provides spending on particular types of goods, not spending at particular tenants. Therefore, that data has been manipulated in some unexplained way in order to come up with the per capita estimates as shown in Table 5. There is not enough background information provided in the report to decide whether this is appropriate.

2.29. Also the per capita spending figures for each of the tenant types does not add to the total at the bottom of Table 5.

2.30. Probably the most important point to note from Table 5 is that the main trade area per capita spending level is supposedly 4.58% above the regional Victoria expenditure level per capita. This is incongruous given that the per capita income level in the trade area is 17.6% below average, as detailed in Table 4.

2.31. While expenditure is not entirely directly related to income, I am instructed by Mr Quick that is the major influence. He would expect a low income level to translate to a low expenditure level, not the other way around. In Mr Quick's report he estimated retail expenditure to be about 5.4% below the non-metropolitan Victorian average. Tasman Dally's report is consistent with Mr Quick in this respect.

Real Growth in Retail Expenditure

2.32. Mr Quick agrees with this assessment.

Expenditure Forecast

2.33. In Table 7 Mr Haratsis suggests that the spending market served by Maryborough is significantly larger than Mr Quick's forecast market. This is a result of two key differences:

- Mr Haratsis has defined a larger trade area, and therefore the population level is higher; and
- his per capita expenditure level is above the non-metropolitan average.

2.34. The result of these two factors is to sugggest a total retail spending market of just on $190 million, compared to Mr Quick's estimate of about $138 million.

This is a major difference that influences the results and conclusions drawn from the analysis.

Competitive Framework

2.35. There are a number of issues and omissions in Table 8. These include:

- The table does not list the floor space of IGA, although it is conceded the total is 34,000 sq.m (consistent with the Council's Planning Scheme).
- In some of the larger towns listed, Mr Haratsis has included other retail space in those towns and in others, just the major tenants like the supermarket and DDS (e.g. Maldon, Castlemaine and Bendigo only have majors listed, whereas Wendouree in Ballarat has specialty space listed). Further to this, some of the other major tenants seem to have been omitted, such as Myer in Bendigo and Ballarat, and the DDS in Wendouree Village.
- The size of the Maxi IGA in Castlemaine is underestimated at 1,000 sq.m. I am instructed by Mr Quick that that store is quite sizeable at around 3,000 sq.m.
- The table seems to ignore some of the smaller towns and the retail floorspace provided in those towns. Towns such as Avoca, Talbot and Dunolly all have provision of retail floorspace, while some also provide small supermarkets. While Mr Haratsis takes into account the population within those towns in the trade area he ignores the retail floorspace that those facilities provide which also cater to residents in the trade area. These towns would be capturing some of the supposed "escape spending" he refers to.
- Overall, it is submitted there is too much focus in the analysis on Bendigo and Ballarat.
- According to Table 8, there is 70,000 sq.m of supermarkets in Bendigo, compared to just over 30,000 sq.m of supermarket space in Ballarat, which is the larger city. I am instructed the figure for Bendigo is wrong. There is

only around 30,000 sq.m of supermarket space in Bendigo. This influences the results in Table 9.

Market Potential

Supermarket Potential

2.36. In the last paragraph on page 15, Mr Haratsis claims there is a very large amount of escape spending from supermarkets and this is because there is an under-supply of supermarket floors pace in Maryborough currently. Where as this is at odds with the supermarket floor space benchmarks included in Mr Quick's report.

2.37. Table 9 includes what Mr Quick considers to be the critical analysis in Mr Haratsis' report, however it is seriously flawed. In summary it is submitted:

- The supermarket expenditure market identified by Mr Haratsis is too large, which results in an overestimation of the level of extant escape spending.

- The analysis ignores the turnover currently generated by other retailers in the Maryborough region which also compete for a share of the same market as supermarkets (e.g. fresh food retailers). The table only looks at spending escaping from supermarkets.

- The analysis implies that the impact of the new development will be felt by retailers in Ballarat and Bendigo, but that other retailers in Maryborough will not be impacted upon at all:

  - The turnover of the existing Maryborough supermarkets is stated to be $51 million

  - Once the new Coles supermarket opens, combined turnover will grow to $77.9 million

  - The difference between those two numbers is $26.9 million (which is exactly the amount Mr Haratsis projects the Coles supermarket will turnover).

It therefore implies that Safeway and IGA will not be impacted at all, nor will Maldon, which it is submitted is an unreasonable assumption.

2.38. On the basis of the figures provided in Table 9, it is Mr Quick's evidence that the impact on Maryborough supermarkets will be around -31% if the accepted methodology of a pro-rata market share approach is applied (ie: existing stores will be negatively impacted upon by the market share gain of the new centre), not 0%.

DDS Potential

2.39. Similar criticisms can made of the discount department store (DDS) having regard to table 10:

- The escape expenditure in Table 10 is misleading. All this analysis shows is that trade area residents spend around $17 million at DDS's and that only $2.3 million is spent at Maryborough (at the 1,000 sq.m Target Country store). No consideration is given to any other shops in Maryborough and all the other shops in the region that provide similar products to a DDS, such as apparel or home wares.

- The 66% at the top right of the table implies that 34% of the turnover of the Target Country store is coming from beyond the trade area, which is hard to believe (in particular given Mr Quick's view that the trade area is too large as it is).

- For some reason, the proportion of business from beyond the trade area decreases to 24% following development. Where as one would expect it to increase as a result of a new Kmart DDS adding floor space within Maryborough.

- The number at the bottom right of Table 10 curiously indicates that the amount of money directed to DDSs by Maryborough trade residents will not change as a result of adding this store right in the middle of the trade area.

- Again, the analysis indicates that there is no impact on retailers within Maryborough as a result of this development. The turnover at the Target Country store is assumed to remain the same.

2.40. The conclusion drawn by Mr Haratsis from this analysis is that there is a high level of escape spending currently and that the CBA as a whole will be strengthened. It is assumed that there is no impact on existing retailers which is not accepted as realistic by Mr Quick.

Economic Impact Assessment

2.41. Mr Quick accepts the broad description of the methodology is appropriate, but there is no consideration of any impacts on other existing retailers within Maryborough. Whereas the numbers in Table 12 suggest that there must be some impact:

- The total forecast turn over for the centre is $42.2mil
- The change in turn over is $33.6mil. Therefore an $8.8mil impact is unexplained (which must be on existing retailers)
- In addition Mr Quick is of the opinion the $33.6mil turnover implies that existing retailers are generating a turn over of $93.3mil ($2,745/sqm) which is an unsustainably low

Net Community Benefit

2.42. Mr Quick accepts there will be employment gains as a result of this development but does not accept Mr Haratsis's suggestion that employment losses in other businesses within Maryborough are unlikely (top of page 23) If there are significant impacts on existing retailers such as the supermarkets, there will be employment losses in Maryborough. The employment gains are over-stated.

2.43. The comments in relation to access to convenience goods and services and providing a more competitive framework are over stated given that there are already two large supermarkets in the town.

Conclusions

2.44. The conclusions drawn by Mr Haratsis are inappropriate, largely due to the overestimation of escape expenditure and the fact that impacts on existing Maryborough retailers are completely ignored.

URBAN DESIGN/URBAN DESIGN RESPONSE ISSUES

2.45. As a preliminary matter, my instructions are that my client endorses Mr Milner's recommendation at Clause 4.2.24 :-

- The provision of a pedestrian link to be created at the interface between the proposal and adjoining land (linking core and railway); and
- Construction of a footpath on one side of the cross streets so that the linkages to the retail core are given effect to this proposal.

2.46. This being said, it is submitted his Urban Design assessment at Part 4 should not be accepted in preference to Ms Opperman's Urban Design evidence at Part 5.3 of her report.

2.47. Ms Opperman sets out the relevant planning policy including Clause 19 which is simply not addressed by Mr Milner.

2.48. It is submitted the "Activity Centre Design Guidelines" (DSE, January 2005) (**provided**) "large stores" objectives, are specifically relevant:-

- Objective 6.1 which seeks to improve pedestrian amenity and the design suggestion at Clause 6.1.5 which seeks to locate car parks in a way that maintains high quality pedestrian connections between large stores and the rest of the Activity Centre.
- Objective 6.2 which seeks to ensure large stores address streets with active frontages and the design suggestion at Clause 6.2.1 which seeks to bring visual activity to the street edges and the design suggestion at Clause 6.2.2 which seeks to limit blank walls, car parks or service space from facing streets and public spaces.

- Objective 6.4 which seeks to integrate the built form of large stores and their surrounding neighbourhoods and the design suggestion at Clause 6.4.1 which seeks to integrate large store frontages with the prevailing rhythm and scale of existing frontages along associated streets and to articulate buildings particularly adjacent to existing residential areas.

2.49. For ease of convenience the recommendations of Ms Opperman relating to the design response (paragraph 5.3 of her report) are summarised as follows:-

- The Burke Street elevation provides no design relief, architectural variation or setback to break up the bulk of the façade, contrary to the ACD Guidelines.

- The Burns Street elevation is similarly treated.

- The location of the loading area adjacent to the employment and learning centre is a poor design response having regard to safety and acoustic treatments will need to be incorporated.

- The proposal provides insufficient on site car parking. The reliance on 144 on street spaces is unreasonable and indicative of an overdevelopment of the site. It represents the privatisation of the surrounding public realm.

2.50. In this respect the Panel is referred to *Wattle Laboratories Pty Ltd v Cardinia Shire Council* [2007] VCAT 520 (**provided**). In this case Senior Member Baird, in considering an application to develop a corner site in the Pakenham principal activity centre for a two storey buildings comprising offices and nine shops said in respect to the fairness of utilising a substantial number of on street car parking in circumstances where other nearby land was ripe for future development, said at paragraph 12 :-

> *"On this material, at peak shopping times, the proposal would considerably add to an already high parking demand and potentially utilise a substantial amount of currently vacant public car parking in the immediate area. Even though that would not occur all the time throughout a day, I have a significant concern about the equity of this*

outcome and scale of its impacts. That is particularly in terms of other development that has provided long and short term parking on site. I am also influenced by the potential for parking is displaced and infiltrate residential areas further north along James Street, an outcome Mr Turnbull agreed was not desirable.

2.51. At paragraph 13 Member Baird quoted with approval Member Keany's observations in *Leonara Group (Pakenham) Pty Ltd v Cardinia Shire Council* [2005] VCAT 385 (**provided**) :-

> *"... but a decision to have (as submitted) <u>an office building with less than half its parking on site</u>* flies in the face of Council's recent strategic planning and it is at odds will orderly and proper planning. Council. ... while there may be empirical evidence to support the case especially in James and Stephenson, as I have noted, <u>this is likely to be a short term outcome which the applicant will benefit from to the detriment of other users and subsequent developers*</u>. Approval of the development will mean that there is forever a site not sharing its burden of car parking responsibility and this will impose an inheritance of under supply throughout the central area."*
>
> *[*Emphasis added]*

2.52. Mr Robertson's evidence is that the consequence of not providing almost half of this development's car parking demand on site is that the parking demand generated by the proposed development will spread further along the adjacent road network as indicated in the Development Plan. This will be inconvenient for shoppers (pushing shopping trolleys) and will not represent an equitable utilisation of potential on-street car parking having regard to other nearby land users.

TRAFFIC/PARKING IMPACTS OF THE PROPOSED AMENDMENT

On street parking

It is submitted that the angle parking in Burke and Burns Street is inappropriate.

2.53. The proposal is to supplement onsite parking through the establishment of angle parking in Burke Street and Burns Street as follows:

- Burns Street 87 x 60 degree spaces
- Burke Street 57 x 45 degree spaces

2.54. Parking in Burns Street at 60 degrees is shown as being provided by 4.7 metre deep bays on each side with a central "aisle" of 6.7 metres. A total width of 16.1 metres between kerbs is hence provided.

2.55. Burns Street currently has a 12.1 metres wide road pavement set within a 19.3 metre wide reservation. Accordingly, to accommodate parking as proposed, 2.0 metre of widening is required on each side, removing all nature strips and leaving a 1.6 metre wide footpath on each side.

2.56. The design of the car spaces and accessway appears to have been prepared having regard to Clause 52.06-3 of the Planning Scheme. This clause sets out dimension of parking bays and aisles for onsite parking which specifies a 4.9 metres wide aisle and 4.9 metre deep bay for 60 degree parking.

2.57. It is submitted that this design standard is not appropriate for a public road carrying in the order of 1,000 vehicles per day and that the design should accord to the Australian Standard AS 2890.5-1993 Parking Facilities Part 5: On Street Parking.

2.58. The layout and minimum roadway width for 60 degree angle parking is shown in Figure 2.4 of the Standard (**provided**).

2.59. Allowing for a 600mm overhang of the kerb at the front, the depth of the bay should be 5.1 metres if bays are 2.6 metres wide to prevent parking vehicle protruding into the traffic lane.