

Planning and Environment Act 1987

Panel Report

Mildura Planning Scheme Amendment C95 Deakin Avenue Urban Design Guidelines

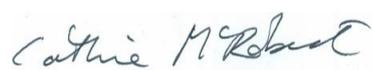
21 June 2018

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the Act

Mildura Planning Scheme Amendment C95

21 June 2018



Cathie McRobert, Chair

Contents

	Page
1 Introduction.....	1
1.1 The Amendment.....	1
1.2 Background to the proposal.....	5
1.3 Planning context.....	5
1.4 Summary of issues raised in submissions.....	8
1.5 Issues dealt with in this report.....	9
1.6 Limitations.....	9
2 The issues	10
2.1 Should a maximum gross leasable floor area apply in the C1Z?.....	10
2.2 The planning framework for the City Gate Activity Centre.....	13
2.3 Discouraging fast food outlets	16
2.4 Are advertising controls too onerous?.....	17
2.5 The form and drafting of the Amendment.....	19
2.6 Discussion	21
Appendix A Panel preferred version of Clause 21.10-2 and Consolidated DDO	

List of Figures

Figure 1	Precincts along Deakin Avenue (which align with proposed DDOs)	1
Figure 2	Extract from Fifteenth & Deakin Structure Plan July 2012	15

List of Abbreviations

B5Z	Business 5 Zone
C1Z	Commercial 1 Zone
DDO	Design and Development Overlays
DEDJTR	Department of Economic Development, Jobs, Transport and Resources
DELWP	Department of Environment, Land, Water and Planning
EPA	Environment Protection Authority
GRZ	General Residential Zone
MSS	Municipal Strategic Statement
PPN59	Planning Practice Note 59 The Role of Mandatory Provisions in Planning Schemes, June 2015
Urban Design Guidelines	Deakin Avenue Urban Design Guidelines, 2016

Overview

Amendment summary

The Amendment	Mildura Planning Scheme Amendment C95
Brief description	The Amendment seeks to implement the recommendations of the Deakin Avenue Urban Design Guidelines, 2016 (the Urban Design Guidelines) and one recommendation of the Mildura Planning Scheme Review 2014. It proposes to update the local planning policy framework, change Design and Development Overlays (DDOs) along Deakin Avenue and specify a maximum leasable floor area requirement to lots fronting Deakin Avenue in the Commercial 1 Zone (C1Z) Schedule.
Planning Authority	Mildura Rural City Council
Authorisation	Authorisation A03658, 16 October 2017
Exhibition	10 November to 18 December 2017
Submissions	Number of Submissions: 7 Opposed: 2 <ul style="list-style-type: none"> - Country Fire Authority (CFA) D14 - Environment Protection Authority (EPA) NW Region - Goulburn Murray Water - Department of Environment, Land, Water and Planning (DELWP) - Department of Economic Development, Jobs, Transport and Resources (DEDJTR) - Vicinity Centres PM Pty Ltd (Vicinity) (objection) - Donald Gibson (objection)

Panel process

The Panel	Cathie McRobert, Chair
Directions Hearing	26 April 2018, Mildura
Panel Hearing	21 and 22 May 2018, Planning Panels Victoria
Site inspections	Unaccompanied, 26 April 2018
Appearances	Mildura Rural City Council represented by Ammar Habasch who called expert evidence from Kristen Wilkes of Ethos Urban in Urban Design and Planning Vicinity Centres represented by Paul Chiappi of Counsel who called expert evidence from Brendan Rogers of Urbis in Planning Donald Gibson
Citation	Mildura PSA C95 [2018] PPV
Date of this Report	21 June 2018

Executive summary

(i) Summary

Mildura Planning Scheme Amendment C95 (the Amendment) applies to Deakin Avenue, which is an impressive boulevard entrance to Mildura that extends from the CBD to the rural edge of the city. The Amendment seeks to implement the recommendations of the Urban Design Guidelines and a recommendation of the Mildura Planning Scheme Review 2014 by:

- updating the Local Planning Policy Framework (LPPF)
- changing DDOs along Deakin Avenue
- specifying 80 square metres as the maximum leasable floor area for lots fronting Deakin Avenue in the C1Z Schedule.

Changes to the exhibited Amendment that were supported by Council resolved the issues raised by DELWP, DEDJTR and a significant concern raised by Vicinity. The unresolved issues in the two objecting submissions relate to, in summary:

- the proposed maximum leasable floor area of shop of 80 square metres in the C1Z that was formally in the B5Z
- the intention to discourage fast food outlets along Deakin Avenue
- the overlap and inconsistency of existing and proposed overlays and MSS directions affecting the Mildura Central site, including failing to recognise City Gate's role as a sub-regional centre
- restrictive Category 3 signage controls applied to commercially zoned land
- the complexity and repetition of the proposed MSS and DDOs.

Established planning policy and extensive strategy planning work over many years provide strong strategic justification for protecting and enhancing Deakin Avenue as an impressive boulevard entrance to Mildura. While the Urban Design Guidelines are a strong document to guide development along Deakin Avenue, the Panel has significant concerns that its implementation through extensive MSS text and six new DDOs result in an unnecessarily complex, detailed, repetitive planning framework.

The Panel concludes:

- The guidance in the proposed DDOs to manage advertising along the boulevard is broadly appropriate but the proposed Category 3 advertising category and some requirements would impose excessive limits in activity centres.
- The proposed maximum 80 square metre leasable floor area for shop in former B5Z land is appropriate to allow consideration of potential impacts of larger shop proposals in Deakin Avenue on retailing in the preferred activity centre locations.
- The Amendment references to retailing are open to an interpretation that is inconsistent with recognition of City Gate as a sub-regional activity centre and the Mildura Central site for core retailing.
- The proposed DDO provisions relating to built form and car parking for the Mildura Central site are broadly consistent with those that currently apply under DDO12.
- The cumbersome structure of the proposed planning framework creates significant challenges to understand the planning intent for the City Gate precinct and invited debate about the guidance that would apply.

- The six pages of additional MSS content relating to Deakin Avenue is excessive and should be edited. A redrafted single DDO along the length of Deakin Avenue would be more user friendly.
- Overlapping DDOs in the City Gate Activity Centre (and probably the City Core Precinct) add unnecessary complexity and potential for unintended consequences or ambiguity. It would be better to exclude these two activity centres from the proposed DDO(s) and incorporate further guidance relating to interfaces with Deakin Avenue in the existing DDO3 and DDO12 that apply to those activity centres.
- All DDO mandatory requirements should be discretionary.

(ii) Recommendations

Based on the reasons set out in this Report, the Panel recommends that Mildura Planning Scheme Amendment C95 be adopted as exhibited subject to the following:

1. **Incorporate the post-exhibition changes that are supported by Council (set out in Chapter 2.1 of this report) in the proposed Design and Development Overlay, unless inconsistent with other Panel recommendations.**
2. **Delete Design and Development Overlay references to retailing that are ambiguous or inconsistent with policy and strategies elsewhere in the planning scheme.**
3. **Add a requirement in the Design and Development Overlay that refers to the preferred presentation of buildings:**
"Buildings should:
 - *be articulated*
 - *avoid large, bulky forms and facades*
 - *reinforce, where appropriate, a fine grain presentation that reflects the lot subdivision pattern of each precinct along Deakin Avenue."*
4. **Delete reference to the advertising category pursuant to Clause 52.05 from the Design and Development Overlay and revise advertising requirements to recognise the reasonable signage requirements in land zoned for commercial purposes.**
5. **Edit proposed Clause 21.10-2 to achieve more succinct guidance as illustrated in Appendix A.**
6. **Consolidate and edit the six proposed Design and Development Overlay schedules into a single schedule that applies along the length of Deakin Avenue (that is an updated DDO1) as illustrated in Appendix A.**
7. **Exclude land within the Fifteenth & Deakin Structure Plan Area and Mildura Central Business District Design and Development Overlays (DDO3 and DDO12) from the overlays proposed by the Amendment and, if necessary, augment the existing overlays that apply to those activity centres to incorporate further guidance relating to interfaces with Deakin Avenue.**
8. **Update proposed Precinct maps to more accurately reflect the depth of precincts and exclude land within Design and Development Overlay schedules 3 and 12.**
9. **Review the title of City Gate Precinct.**

1 Introduction

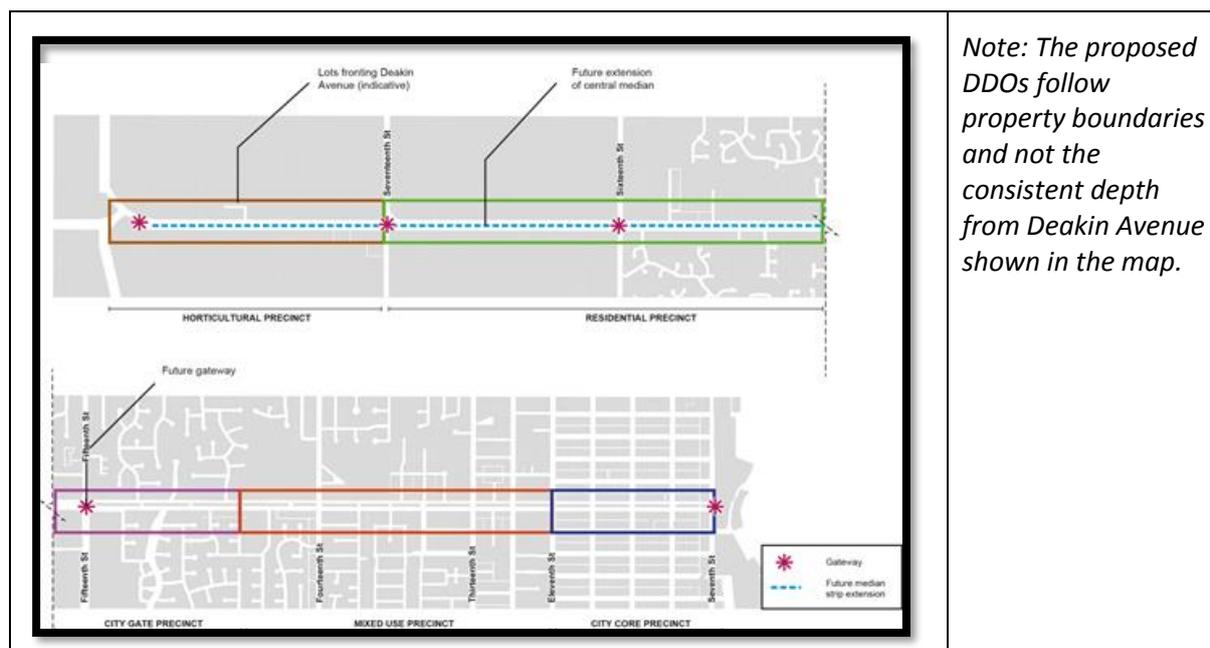
1.1 The Amendment

(i) Amendment description

The Amendment proposes to:

- update Clauses 21.02, 21.03, 21.07, 21.10 and 22.01 of the LPPF. The new Clause 21.10-2 Deakin Avenue addresses the image, built form, land use, precincts, landscaping, lighting and safety, and access and movement along the Avenue
- delete the existing DDO1 and insert a new overarching DDO15 to apply to all lots fronting Deakin Avenue from the Sturt Highway to Seventh Street and insert new DDOs 16, 17, 18, 19 and 20 to apply sequentially to lots fronting Deakin Avenue (shown conceptually in Figure 1)
- remove lots fronting Deakin Avenue from the existing DDO3
- amend the C1Z Schedule to insert an 80 square metre maximum leasable floor area requirement to all lots fronting Deakin Avenue.

Figure 1 Precincts along Deakin Avenue (which align with proposed DDOs) Source: Exhibited Clause 21.10-2



Features of the DDOs include:

- A permit is not required for works within the GRZ if the works are ancillary to a dwelling and within the identified height and setback requirements.
- DDO15, which applies along the length of Deakin Avenue:
 - requires an applicant to prepare an Urban Context Report and Design Response.
 - applies Clause 52.05 advertising sign Category 3 High Amenity Area along Deakin Avenue (including in the C1Z).
 - requires a permit to construct a fence of any height within the front setback.

- DDOs 16-20 provide mandatory requirements related to building height (only DDOs 16, 19 and 20), setbacks and subdivision (DDO16) that cannot be varied with a permit. Mandatory building heights for residential uses are consistent with the zone in all cases except in the Horticulture precinct (DDO16) where a low-scale (no more than 2 storeys) and minimum subdivision size of 2,000 square metres apply to avoid any further growth of this land and maintain the preferred rural character.
- Building design requirements are predominantly outlined in DDO20 City Core (in addition to the overall guidelines at DDO15) and refer to enhancing and protecting heritage buildings and improving the pedestrian environment where buildings are required to be built to the front boundary. The design of building facades is to increase visual surveillance, light spillage and to create a welcoming pedestrian environment. Kerb-side dining is promoted, as is improving continuous shade through awnings and structures.
- Requirements relating to respecting and repurposing historic buildings/facades are in addition to HO provisions.
- Landscaping requirements, especially the retention/planting of large canopy trees, apply for aesthetic values and environmental cooling effects. Requirements are discretionary and vary with DDOs to accord with the precinct character and streetscape.
- For all DDOs, except for DDO16 (Horticultural Precinct), requirements for access arrangements along the Avenue are to avoid any carparking within the front setback and to provide rear car parking wherever possible.
- DDO18 and DDO20 identify strategic opportunity sites that have extra requirements. These sites are generally either large vacant sites or are located on prominent corners that should be carefully designed:
 - DDO18 key sites are permitted to be built one storey higher than the remainder of the precinct with a minimum 2 metre setback. High quality architecture that creates an iconic landmark is required at the Fifteenth Street intersection gateway site.
 - DDO20 key vacant sites will be assessed for contemporary expressions of the region through creative and innovative architectural forms.

(ii) Post-exhibition changes supported by Council

Council responded to the submissions received from DELWP, DEDJTR and Vicinity Centres by resolving to support the following changes to the exhibited Amendment:

- Remove reference to the planting of vines, olive trees and citrus trees from DDO16.
- Include an additional dot point in DDO3 under 'Cycling' that says – *'Support the implementation of the Deakin Avenue Urban Design Guidelines – Principle 6 Access and Movement'*.
- Amend DDOs 16 and 17 to include a requirement that considers road safety and tree policies - *'Ensure the placement of tree plantings, hard landscaping areas and access crossings have regard to road safety infrastructure and any applicable tree policy in the road reserve'*.

- Amend DDO18 Key opportunity sites requirements, dot point 3 – *‘Create an iconic landmark at the Fifteenth Street intersection with high quality architecture, where applicable, and having regard to truck movements.’*
- Review proposed DDO15 and DDO18 maps to reduce the portion of the Mildura Central site that fronts the Avenue to be in-line with existing adjacent lots and not the entire Mildura Central site.
- In DDO15, remove Decision Guideline regarding overshadowing.
- Provide greater clarity to accurately reflect the Urban Design Guidelines’ objectives to enhance the ‘fine grain’ presentation of buildings to Deakin Avenue by:
 - adding an objective in DDO15 that refers to the preferred fine grain presentation of buildings, e.g. *‘To maintain the fine grain presentation of buildings reflecting the regular standard lot subdivision pattern of each precinct along Deakin Avenue, through building articulation and avoiding large, bulky forms and facades’*.
 - amending a strategy within the Mildura MSS Clause 21.10-2 (dot point 5 under Land Use) that seeks to avoid large bulky goods and ‘big box’ retail on the Avenue, by clarifying that fine-grain built form is encouraged to enhance the image of the Avenue.
 - including the City Gate Precinct’s land use objectives that were not translated clearly into the MSS.
- Exclude all C1Z land that was not previously zoned Business 5 Zone (B5Z) (prior to the reformed Commercial Zones in 2013) including the Mildura Central site, from the 80 square metres leasable floor space requirement in the Schedule to the C1Z.

In addition, Council proposed to correct a typographical error in the exhibited DDO20 to accurately translate the Urban Design Guidelines maximum height of 16 metres along Deakin Avenue between Seventh Street and Tenth Street. This height provides a consistent storey height of 4 metres in the six DDOs proposed by the Amendment.

Recommendation

- 1. Incorporate the post-exhibition changes that are supported by Council (set out in Chapter 2.1 of this report) in the proposed Design and Development Overlay, unless inconsistent with other Panel recommendations.**

(iii) The subject land

Deakin Avenue provides the key traffic route into, and through, Mildura from the Sturt Highway and links to the Calder Highway at Fifteenth Street. It extends from rural land in the south-west to Mildura’s CBD in the north-east. Between Seventh and Fifteenth Streets, Deakin Avenue is a grand boulevard, with the approximately 60 metre wide road reserve comprising a dual carriageway with an extensive landscaped median strip of approximately 20 metres in width. West of Fifteenth Street, the carriageway changes to a narrower profile with two-way traffic.

Commercial land is located in pockets along Deakin Avenue, including Mildura’s primary activity centre in the CBD, the sub-regional City Gate Activity Centre at the intersection of Deakin Avenue and Fifteenth Street, and lower order shops and mixed uses. The wider

surrounds are generally characterised by residential land, with the area transitioning to farming land in the south-west near Sixteenth Street.

(iv) Authorisation of the Amendment

Authorisation of the Amendment resulted in significant changes.

Planisphere Pty Ltd (now Ethos Urban) prepared Amendment C95 documentation, including one consolidated DDO1 as recommended by the adopted Urban Design Guidelines. However, after the preparation of the draft Amendment documentation, the new Ministerial Direction on The Form and Content of Planning Schemes came into effect.

In October 2017 the Minister for Planning authorised the preparation of the Amendment subject to a range of conditions.

After liaison with officers of DELWP, the Amendment documentation was revised prior to exhibition as follows:

- That the Explanatory Report was amended to: more fully explain which element of the Planning Scheme Review is being implemented and the deletion of DDO3 from land along Deakin Avenue (in the Mildura CBD); clarify the extent to which budget accommodation is proposed to be discouraged; and complete mapping references.
- The originally proposed DDO1 was reconfigured into six DDO schedules comprising DDO15 along the length of Deakin Avenue and DDO16, 17, 18, 19 and 20 applied to the five sequential Urban Design Guidelines precincts along Deakin Avenue.
- The proposed DDO schedule(s) were revised to:
 - Avoid overlap and repetition where possible. For instance, permit triggers, signage controls and decision guidelines were only specified in the DDO15 and the controls surrounding key opportunity sites were minimised as the general design controls were deemed to be sufficient to achieve the desired objectives.
 - The length of the DDO schedules was reduced by relocating design objectives to the MSS and retaining implementation measures in the DDO schedules.
 - References to land uses, such as agriculture and dwellings, were relocated to the MSS as the DDO cannot be used to control land use.
 - The proposed DDOs adopted a less prescriptive and more facilitative approach by allowing development that is consistent with the overlay objectives without a planning permit. For example, in the General Residential Zone (GRZ), all buildings and works not visible from Deakin Avenue, works normal to a Dwelling in addition to other types of minor development.
 - References to some matters that usually do not require planning approval was deleted from the DDOs, such as to *“incorporate sustainable drainage systems to be used in place of constructed channel, integrated with a water retention basin”* others, such as public realm planting and car parking were retained.
 - Examples of greening the street were included under design requirement in DDO15 including *“Consider vertical gardens and roof top gardens to provide insulation, environmental cooling and greenery”*.
 - Advertising sign requirements were relocated to 2.0 under ‘Building and works’ in the DDO15.

- Additional decision guidelines were included in DDO15 to guide the discretion and assist statutory assessment. However, at the suggestion DELWP, the decision guideline relating to proposals being in accordance with the Urban Design Guidelines was deleted on the basis that compliance with the DDO requirements indicates those guidelines are satisfied.

Council maintained that the permit trigger for front fences along Deakin Avenue is appropriate and, references to heritage issues in the proposed DDOs should be retained, rather than relying on the HO.

1.2 Background to the proposal

The importance of Deakin Avenue has been recognised in the existing planning scheme and Council strategic planning program for at least two decades:

- DDO1, which applies along Deakin Avenue, and DDO3 Mildura City Heart were introduced in 1999 as part of the new format Mildura Planning Scheme.
- In July 2006 Council adopted the Final Deakin Avenue Master Plan 2006.
- In June 2007 Council resolved to prepare the Urban Design Guidelines and a revised policy framework to assist in considering future development applications along Deakin Avenue.
- May 2015 preparation of the Urban Design Guidelines commenced. After an extensive public consultation process Council resolved to adopt the Urban Design Guidelines and prepare an Amendment to implement them in August 2016.

1.3 Planning context

Council provided a response to the Strategic Assessment Guidelines as part of the Explanatory Report. The Panel has reviewed Council's response and the policy context of the Amendment and has made a brief appraisal of the relevant zone and overlay controls and other relevant planning strategies.

(i) State and local planning policy

State and local planning policy Council submitted that the Amendment supports the following Clauses in the State Planning Policy Framework (SPPF):

- Clause 11 Settlement identifies Mildura as a key regional centre where growth, while Clause 17 Economic Development encourages planning that contributes to the economic well-being of communities and the State. The vision and strategic framework proposed by the Amendment will enhance the grandeur, sense of arrival and image of Mildura's premier street, Deakin Avenue. It supports the future growth and economic development of Mildura by identifying appropriate locations and design guidelines for future housing and commercial diversity and intensification. Proposed design requirements covering the built form, landscaping, access and movement, lighting and safety responds to the Avenue's unique character and will contribute to a strong and consistent image.
- Clause 15 Built Environment and Heritage. Public realm improvements are a central focus of the Amendment, particularly those which reflect and enhance the local heritage and history of Mildura. The Amendment sets out clear directions that

respond to the Avenue's unique character, with specific guidance relating to opportunity sites and significant corner sites.

- Clause 16 Housing objectives and policies include to ensure that housing needs are met, and the location of residential developments has access to community services and infrastructure. The Amendment provide certainty about the type and design of housing along the Avenue and support housing diversity objectives by facilitating alternative housing typologies.
- Clause 18 Transport. The Amendment acknowledges the important role of Deakin Avenue in accommodating through vehicle traffic, and objectives and actions for each precinct seek to improve access and movement along the Avenue. In addition, there is a suite of objectives and actions to improve the pedestrian and bicycle connections.

Council submitted that the Amendment supports the following local planning objectives:

- Clauses 21.02 Key Influences and Issues, 21.03 Vision and Strategic Framework and Clause 21.07 Built Environment and Heritage recognise Deakin Avenue as an impressive boulevard entrance to the Mildura. The Amendment reinforces the Avenue's grandeur with development and land uses that are sensitive to the local conditions and enhance visual amenity. The protection and enhancement of the built environment and heritage along Deakin Avenue is a central focus of the Amendment. The proposed objectives and design guidelines promote development that reflects local values, including low-rise building scale, appropriate setbacks and muted colours and finishes. The identification of precincts along the Avenue will cluster appropriate land uses to better define the function of the Avenue.
- Clause 21.08 Economic Development reinforces the economic role and importance of retailing at the intersection of Deakin Avenue and Fifteenth Street. The Amendment identifies the lots fronting the intersection as key opportunity sites, with additional guidance to ensure that development enhances the importance of this gateway into the City and provided appropriate interfaces with the intersection.
- Clause 21.09 Transport and Infrastructure. The Amendment is consistent with the aims of this Clause by seeking to improve vehicle access and movement along the Avenue, the potential for to public transport and promoting active transport.
- Clause 21.10 Local Areas. The new local areas policy for Deakin Avenue provides clarity and policy definition around the core aspects of the Guidelines relating to the vision and key supporting objectives, local character and the image of Mildura, built form, land use, landscaping, pedestrians and cyclists safety, and vehicle access and movement.
- Clause 22.01 Budget Accommodation outlines the policy for budget accommodation, (hostels, backpackers' lodges, motels and group accommodation) and directs the location of this accommodation toward the Mildura CBD. The Amendment proposes minor policy changes to discourage budget accommodation along Deakin Avenue.

(ii) The Urban Design Guidelines

Council commissioned the Urban Design Guidelines in response to pressures along Deakin Avenue that have resulted in uncharacteristic built form, segregation and conflict of land use activities, traffic congestion and a decaying public realm.

The Urban Design Guidelines set out a strategic vision for Deakin Avenue through six key themes: image of Mildura, built form, landscaping, land use, lighting and safety and access and movement. Key objectives and design guidelines for each theme are reflected in the five precincts along the Avenue. The Urban Design Guidelines aim to ensure that development:

- contributes to the Avenue's unique character and a strong sense of place
- is located and designed to achieve high quality built form outcomes
- provides a highly functional and attractive public realm.

The study area incorporated all land and built form fronting Deakin Avenue, up to and including the road verge. It did not include the centre median strip or the road pavement, although reference was made to suggestions and interrelationships with these areas. The Urban Design Guidelines reflected on the transition along nearly 8km of the Avenue, adopting five precincts from horticultural and irrigated landscapes at the city's edge to its core on the Murray River (see Figure 1).

The content of the Urban Design Guidelines was translated into six separate DDO schedules and a revised MSS.

(iii) Zones and Overlays

The zoning of land along the Avenue reflects the transition through the five precincts and predominantly include:

- Farming Zone in the Horticultural Precinct with some GRZ1 lots
- GRZ1 in the Residential Precinct, with some Farming Zone identified for long term growth (which is not the subject of this Amendment)
- A mix of GRZ1, Public Use Zones and Commercial 1 and 2 Zones in the City Gate Precinct, with most commercial land centred around the Mildura Central retail area
- Public Use Zone and GRZ in the Mixed Use precinct, along with some smaller lot C1Z
- Commercial Zones in the City Core precinct.

Overlays of particular relevance that apply in the area affected by the Amendment include:

- DDO1 Deakin Avenue, which applies along the length of the boulevard
- DDO3 Mildura Central Business District which applies to the CBD, including along Deakin Avenue between Seventh and Eleventh Streets
- DDO12 Fifteenth & Deakin Structure Plan Area which implements the structure plan and design guidelines for the City Gate Activity Centre, including along Deakin Avenue in the vicinity of Fifteenth Street
- The HO, including the Deakin Avenue precinct HO308 which applies between Eleventh and seventh Streets and HO201 which applies to the road reserve between Seventh and Fifteenth Streets.

(iv) Other planning scheme provisions

Clause 52.03 Advertising Signs sets out controls relating to signs based on the sensitivity of categories of zones.

Clauses 54, 55 and 56 set out state-wide residential development provisions for single houses, more than one house on a lot and subdivision in residential zones. These provisions provide

objectives and standards for the siting of development and address matters that include amenity and neighbourhood character.

(v) Ministerial Directions and Practice Notes

Council submitted that the Amendment meets the relevant requirements of:

- Ministerial Direction 11 (Strategic Assessment of Amendments)
- Ministerial Direction on the Form and Content of Planning Schemes under section 7(5) of the Act.

The Panel has referred to the following Planning Practice notes in considering issues raised:

- Planning Practice Note 1 Applying the Heritage Overlay, January 2018 (PPN1)
- Planning Practice Note 4 Writing a Municipal Strategic Statement, June 2015 (PPN4)
- Planning Practice Note 59 The Role of Mandatory Provisions in Planning Schemes, June 2015 (PPN59).

(vi) Discussion and conclusion

There is extensive policy support already in the planning scheme to protect and enhance Deakin Avenue as an impressive boulevard entrance to Mildura with recognised heritage values. This is translated to an existing HO and DDO1, which the Amendment proposes to update and strengthen.

In addition, Mildura's two largest activity Centres have established planning frameworks, which have been implemented through policy in the MSS and DDOs.

The Panel concludes that:

- The Amendment is supported by and implements, the relevant State and local policy.
- Established planning policy and extensive strategy planning work over many years provide strong strategic justification for protecting and enhancing Deakin Avenue as an impressive boulevard entrance to Mildura.
- Specific issues raised in submissions relating, in particular, to the implications of the Amendment for City Gate Activity Centre and the form and drafting of the Amendment are discussed in the following chapters.

1.4 Summary of issues raised in submissions

(i) Agencies and government departments

(ii) Objecting submissions

Some of the concerns raised by Vicinity Centres were addressed by the changes supported by Council to: reduce the extent of DDO affecting the Mildura Central site; to only apply the 80 square metre maximum leasable floor area to C1Z land that was formally in the B5Z; and to remove the decision guideline relating to overshadowing the median addressed.

The unresolved issues in the two objecting submissions relate to, in summary:

- the proposed reduction in the allowable leasable floor area of shop/restaurant to 80 square metres
- the intention to limit fast food along Deakin Avenue

- the overlap and inconsistency of existing and proposed overlays and MSS directions affecting the Mildura Central site. This includes directions relating to retail uses in the Amendment being at odds with existing policy and failing to recognise the role of the City Gate Precinct as a sub-regional centre.
- restrictive Category 3 signage controls being inappropriate for commercially zoned land.
- the complexity and repetition of the proposed MSS and DDOs.

1.5 Issues dealt with in this report

The Panel has been selective in referring to the more relevant or determinative material in the Report. All written submissions made in response to the exhibition of the Amendment, observations from its site visit, and submissions, evidence and other material presented during the Hearing 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:

- Should a maximum gross leasable floor area apply in the C1Z?
- The planning framework for the City Gate Activity Centre
- Discouraging fast food outlets
- Are advertising controls too onerous?
- The form and drafting of the Amendment.

1.6 Limitations

The Panel consideration has focussed on submissions made about the exhibited Amendment, which had a particular focus on two land holdings, and has not undertaken a comprehensive evaluation of all of the provisions of the Amendment or all precincts. Consideration of issues relating to the form of the Amendment and interactions with other parts of the planning scheme raised potential implications of the Amendment for areas that were not the subject of submissions. The Panel has made some observations about these broader effects of the Amendment.

2 The issues

2.1 Should a maximum gross leasable floor area apply in the C1Z?

The exhibited Amendment proposed to amend the C1Z Schedule to insert an 80 square metre maximum leasable floor area to all lots fronting Deakin Avenue. The effect is that a permit is required where a proposal for shop exceeds the maximum floorspace, whereas shop is currently an as of right use in the C1Z irrespective of its size. After considering submissions, Council supported a change to exclude all C1Z land that was not previously zoned B5Z¹ from the 80 square metres maximum leasable floor space provision.

(i) The issue

- Should an 80 square metres leasable floor area limit apply to the parts of C1Z that were formally part of the B5Z?

(ii) Evidence and submissions

Vicinity (the owner of Mildura Central shopping Centre) and Donald Gibson (the owner of a drive-through restaurant and take away food premises in the Mixed Use precinct) opposed the proposed change to the C1Z schedule.

As changes supported by Council would exclude the Mildura Central site from the limit, Vicinity did not pursue this aspect of its objection².

The Panel has summarised Mr Gibson's concerns in relation to the proposed 80 square metres limit for an as-of-right shop as follows:

- The Amendment should be readvertised with clear reference to the reduced opportunity for shop. The consultative process leading up to the Amendment and the exhibition documentation did not adequately reflect the importance of the proposed change.
- The change attempts to negate purpose of the C1Z and the intent of Amendment VC100. The increased "hurdles" for what is currently an as of right use will reduce the development potential of affected properties.
- There is little point to the change as there will be discretion to grant a permit for shop proposals that exceed 80 square metres leasable floor area.
- The change will make little difference to realising the objective of concentration of the retail core as the area is already well developed with retail businesses – the "horse has bolted".
- Council's proposition that existing use rights will assist owners of existing shops where the floor area exceeds 80 square metres fails to recognise the risk that rebuilding may not be permitted if more than 50% of the building is destroyed.

¹ Prior to the consolidation of Business Zones to new commercial zones by VC100 Deakin Avenue accommodated a stretch of B5Z land from Fifteenth Street to Thirteenth Street and to the north of Hunter Street.

² Nevertheless, Vicinity noted that, while Council's approach appears to treat the variation as limiting each shop on a lot to 80 square metres, the C1Z refers to the floor area for all shops and the maximum applies to total floorspace for an area.

- There is no analysis or evidence in support of the 80 square metres limit. The Urban Design Guidelines did not address the issue, alignment with limits in residential zones was not substantiated, and the Planning Scheme Review made some reference to two preferred core retail locations but not a floor area limit.

Council submitted that a maximum leasable floor area is required to counter the unintended implications of Amendment VC100 which applied the C1Z to all B5Z and this permitted supermarket and ‘core’ retailing uses. Council argued in support of this change:

2.2.7. *The Mildura Planning Scheme Review 2014 recommended capping of Shop floor area for former B5Z lots fronting Deakin Avenue which will ensure that retail activity and development is not drawn away from core retail areas, whilst still allowing for fine grain and smaller format retail land uses.*

2.2.8. *The nominated 80sqm limit on leasable floor area for shops is derived from the limit on ‘convenience shop’ which had been universally applied in the former Residential Zone (R1Z) prior to introducing the new residential zones in 2013 (now General Residential Zone GRZ1).*

2.2.9. *The limit to leasable floor area within the C1Z was not a recommendation of the Guidelines, as land use cannot be controlled through a DDO. Rather the Guidelines are concerned with the form of development. However, the design objectives and built form outcomes sought in the guidelines document is consistent with the introduced limit.*

...

2.2.11. *An 80sqm limit on leasable floor area would assist in achieving a fine grain presentation of the Avenue by avoiding bulky single occupation buildings in the future ...*

(iii) Discussion

The Panel considers the reference in the Amendment explanatory report to a maximum leasable floor area in the C1Z was appropriate to inform those who may be affected of the proposed change. Under “*Why is the Amendment required?*” it stated that the Amendment seeks to modify the existing schedule of the C1Z to insert an 80 square metres maximum floor space requirement for lots fronting Deakin Avenue and the basis for the proposed change briefly described. The Explanatory Report also referred to this change under “*Does the Amendment make proper use of the Victoria Planning Provisions?*”.

In 2013 VC100 introduced new commercial zones, which consolidated the former business zones across the State. The C1Z comprised the former Business 1, 2 and 5 zones. The overall aim was to:

... provide greater flexibility and growth opportunities for Victoria’s commercial and business centres, responding to changing retail, commercial and housing

markets by allowing for a wider range of uses to support mixed use employment³.

However, the Panel does not accept that specifying a leasable floor area limit is contrary to the intended purpose and operation of the C1Z. In recognition of different circumstances in regional Victoria, the C1Z provides for the size of as of right shop use to be limited through the zone schedule in regional areas but not metropolitan Melbourne. This allows consideration of the circumstances in particular regional locations.

The proposed floor area limit implements a Planning Scheme Review recommendation:

*Vary the C1Z schedule to include an 80sqm leasable floor area limit for shops in the area along Deakin Avenue previously zoned B5Z **where shops were prohibited** (emphasis added).*

The rationale presented for this recommendation included:

- the potential for the new C1Z to dilute the concentration of activities in Mildura CBD and the City Gate Activity Centre is contrary to the existing strategic framework policy
- the Fifteenth Street Structure Plan 2010 policy to:
 - discourage ribbon retail development in the Deakin Avenue B5Z
 - consolidate core retail activities to the north-eastern side of Fifteenth Street between Deakin and San Mateo Avenue
- *“As it is not possible to prohibit a discretionary use, an 80sqm limit is recommended. This would provide for small scale shops and is consistent with the provisions of the Residential 1 Zone and Neighbourhood Residential Zone which limit the size of convenience shops.”*

As verified at the Hearing, the former B5Z did not prohibit all shops, with a convenience shop being a discretionary use in this zone, subject to a mandatory floor area limit of 240 square metres. The effect of the proposed 80 square metres limit is to reduce the opportunity for as of right shops but there is discretion to consider proposals of any size and this provides greater flexibility than applied before the new Commercial zones were introduced in 2013.

The Panel is satisfied that the Mildura planning scheme⁴ establishes strong policy support for consolidating retail activity in activity centres. The proposed leasable floor area limit establishes the discretion to consider shop proposals that could undermine that retail hierarchy.

The Panel notes that the Draft Mildura Retail Review 2018⁵ maintains support of centres in the established retail hierarchy and endorsed the proposed 80 square metres, noting:

In addition, supermarket development is not desired for C1Z land located along Deakin Avenue between Thirteenth Street and Fifteenth Street.

With regard to submissions relating to existing use rights, even if more than 50% of an existing shop building is destroyed, there will be discretion to consider applications to redevelop a shop of more than 80 square metres. Further, it is noted that the existing convenience

³ VC100 Explanatory Report.

⁴ For example, Clauses 11.03, 21.08-3.

⁵ Draft Mildura Retail Strategy Review 2018 Essential Economics Pty Ltd in conjunction with Tract.

restaurant on the Gibson property is within the land use category of food and drink premises (rather than shop), which remains a discretionary use in the C1Z.

(iv) Conclusion

The Panel concludes:

- The proposed 80 square metres leasable floor area limit for shop in former B5Z land is appropriate to allow consideration of potential impacts of larger shop proposals in Deakin Avenue on retailing in the preferred activity centre locations.

2.2 The planning framework for the City Gate Activity Centre

(i) The issue

- Does the Amendment contribute to a consistent planning framework for the City Gate Activity Centre?

(ii) Evidence and submissions

Vicinity and Mr Rogers' views about the structure and drafting of the Amendment are discussed in Chapter 4.

Vicinity did not take issue with the aspirations for good urban design or translating them into the planning scheme. However, Vicinity expressed concerns about the prospect of conflicting controls and guidance arising from the overlap of proposed MSS directions and overlays (DDO15 and DDO18), combined with the existing DDO12 and MSS directions applicable to the Mildura Central site. Vicinity submitted, in summary, that:

- A number of the proposed provisions, which have not been justified, are inconsistent with the existing recognition in the planning scheme⁶ of City Gate as a sub-regional activity centre. In particular, it was submitted:

... as an example, "Direct land uses that require higher built forms, or retail activity to the city centre" appears to direct retail activity to the city centre. It is at odds with existing policy set out in Clause 21.10 for the (existing) City Gate Precinct. Rather than restate it to allow for the role of the sub-regional centre, it would be better to delete it. The same applies to the other land use directions."

- The drafting of the proposed DDOs largely ignores the fact that DDO12 already sets out design and development considerations for the activity centre. The overlap between the proposed, DDOs 15 and 18 (covering the Deakin Avenue frontage of the Mildura Central site to about the depth of the adjoining lot) with existing DDO12 (covering the whole of the activity centre) will invite debate about conflicting objectives and design guidelines. For example, DDOs15 and 18 encourage car parking at the rear of premises and this is in direct conflict with DDO12 which encourages the majority of car parking to be located at the front of buildings.
- Objectives and design requirements set out in DDOs15 and 18 restate aspects presently set out in DDO12. There is no practical benefit in setting out different or

⁶ For example, Clauses 21.08 and 21.10 and DDO12.

restated objectives in the individual DDOs. A better approach would be to incorporate into DDO12 the key aspects of the urban design guidelines that relate to the Deakin Avenue frontage of the activity centre.

- The proposed Category 3 advertising controls are inappropriate (see discussion in Chapter 2.4).

Evidence from Mr Rogers expressed the view that the proposed MSS Clause 21.10-2, DDO15 and DDO18 do not appropriately recognise the importance and function of Mildura Central and the City Gate Activity Centre. While Council support for limiting the extent of the DDOs to the Deakin Avenue frontage is an improvement, Mr Rogers maintained the view that the relationship and interaction between the three DDOs that would apply to Mildura Central have not been thoroughly considered and result in inconsistencies in policy objectives, particularly for Mildura Central and its role as the retail core of the City Gate Activity Centre.

While DDOs15 and 18 seek to avoid car parking within the frontage with car parking and access to be provided to the rear, Mr Rogers highlighted that the existing DDO12 states:

The majority of required car parking bays should be encouraged to be located at the front of the building, between the building and the road, to increase passive surveillance, safety and convenience (refer to the Indicative Car Parking Layout as detailed in the Fifteenth & Deakin Structure Plan (July 2012)).

Vicinity and Mr Rogers argued there should be a pragmatic approach to balancing the requirements of a large retail centre with urban design aspirations for Deakin Avenue that recognises the extensive car parking within the frontage of the Mildura Central site, the substantially set back built form from Deakin Avenue and Fifteenth Street and the importance of car parking to the operation of a large scale commercial centre.

Vicinity tabled a permit application that is about to be lodged to develop additional car parking (approximately 30 spaces) on lots fronting Deakin Avenue (currently occupied by houses) to illustrate the effect of the changes proposed by the Amendment. Ms Wilkes responded to questions that this type of proposal is likely to be a discordant element in Deakin Avenue, even with potential landscaping.

Council submitted that interpretation of objectives to direct retail activity to the CBD at first instance should be read in this context that policy supports the Mildura CBD to remaining the Regional Centre followed by the Fifteenth Street Retail Precinct as the sub-regional centre.

Although the multiple DDOs would apply to the Mildura Central land, Council did not see a conflict between DDO12 and the proposed DDOs15 and 18. Council submitted:

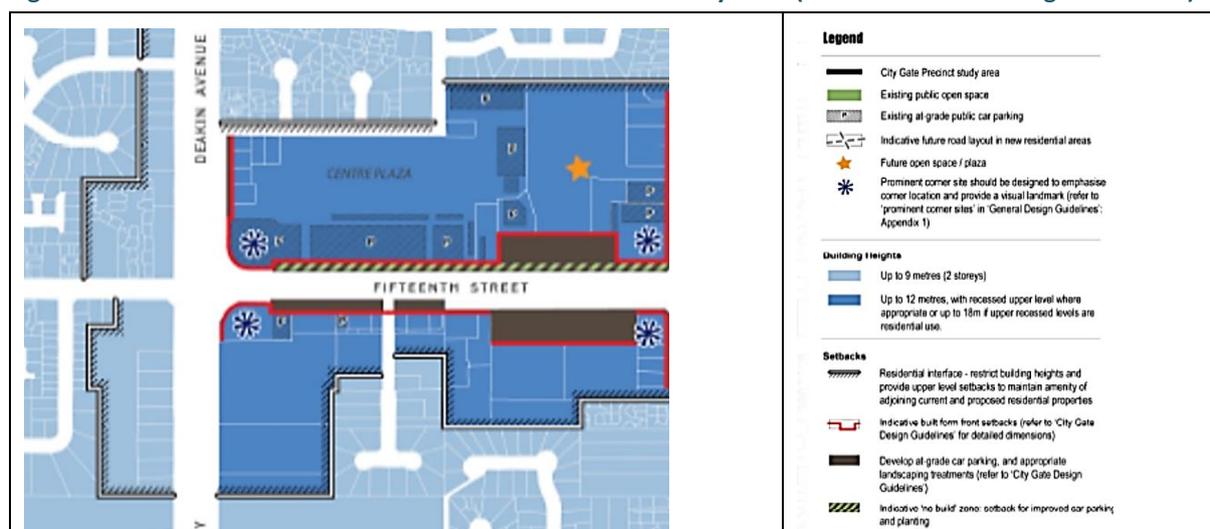
- The DDOs serve different functions and are all based on extensive strategic work.
- Merging DDOs is considered *“inconsistent with the approach taken by the department for a more specific, lighter version stand alone controls”*.
- The DDO12 heights and setbacks are retained and prevail over the proposed DDOs.

It was Council and Ms Wilkes view that the DDO12 support for parking between buildings and the frontage should be interpreted as relating to the frontage to Fifteenth Street. This is due to the linear orientation of the DDO along Fifteenth Street coupled with its call for a prominent corner building on corner of Deakin Avenue and Fifteenth Street. Council highlighted that:

- the Structure Plan referred to in DDO12 indicates building setbacks from street frontages are consistent with the guidance proposed by the Amendment (see Figure 2) and would not accommodate parking in a front setback.
- DDO12 qualifies the encouragement of car parking at the front of the building with the statement:

Large areas of grade level car parking should be avoided at prominent corner sites (as identified in the Buildings Maps in the Fifteenth & Deakin Structure Plan (July 2012)).

Figure 2 Extract from Fifteenth & Deakin Structure Plan July 2012 (Source: Council closing submission)



(iii) Discussion

The Panel agrees with submissions from Vicinity and evidence from Mr Rogers that proposed requirement “*Direct land uses that require higher built forms, or retail activity to the city centre*” fails to recognise the role of the City Gate as a sub-regional activity centre and the designated opportunity sites as locations where, in the context of Mildura, higher built forms are to be supported.

The Panel also questions the consistency of references to supporting “*the secondary retail function of the area without detracting from the central role of the City Core*” and discouraging “*large format retail*”.

The City Gate Structure Plan (Clause 21.10-1 Figure 4) identifies land fronting Deakin Avenue at the intersection of Fifteenth Street as “*City Gate retail core*” where large format retail, such as supermarkets and discount department stores, are supported. The Panel considers other parts of the planning scheme provide the strategic guidance relating retail use and the proposed DDO provisions introduce unnecessary ambiguity.

The Panel considers the inconsistency between existing and proposed guidance regarding the location of car parking was overstated by Vicinity and Mr Rogers. By referring to the Structure Plan referred to in DDO12, it becomes apparent there is an aspiration for activation of the centre frontages, with buildings on the City Gate retail core much closer to the street frontages than the existing buildings; and parking between buildings and the street is identified further

to the east along Fifteenth Street, not along Deakin Avenue or near the intersection of Deakin Avenue and Fifteenth Street. The debate that occurred on this issue illustrates a disadvantage of an unduly complex planning framework with multiple sources of guidance, which is exacerbated where understanding a control was dependant on a document that are outside the planning scheme (such as the structure plan).

As indicated at the Hearing, it is not the Panel's role to assess the merits of a future planning permit application, however, it did serve to illustrate the pressures that the Urban Design Framework and the Amendment are seeking to manage.

(iv) Conclusions

The Panel concludes:

- The Amendment references to retailing are open to an interpretation that is inconsistent with established policy, strategies and DDO12 which recognise City Gate as a sub-regional activity centre and identifies the Mildura Central site for core retailing.
- The proposed DDO provisions relating to built form and car parking for the part of the Mildura Central site that is now proposed to be subject to DDO15 and DDO18 are broadly consistent with those that currently apply under DDO12.
- The cumbersome structure of the proposed planning framework and the associated drafting implications create significant challenges to understand the planning intent for the City Gate precinct and invited debate about the guidance that would apply.

(v) Recommendation

The Panel recommends:

- 2. Delete Design and Development Overlay references to retailing that are ambiguous or inconsistent with policy and strategies elsewhere in the planning scheme.**

2.3 Discouraging fast food outlets

(i) The issue

- Do fast food outlets (and some other businesses) have poor built form outcomes that should be discouraged?

(ii) Evidence and submissions

Mr Gibson submitted there is no justification for the assertion that fast food outlets (and some other businesses) have poor built form outcomes – in fact, it was his view that fast food outlets are high quality buildings.

Council supported Ms Wilkes' view that the Urban Design Guidelines seek to avoid land uses that interrupt the streetscape due to their typically poor built form outcomes. Examples referred to were fast food outlets, service stations, car sales yards, industrial/manufacturing uses and big box retail outlets and warehouses. Ms Wilkes noted that:

- uses such as large format retail or drive-through premises would be acceptable in other parts of Mildura.

- the Urban Design Guidelines' intent to avoid bulky retail uses and other commercial uses that may present as a large format to the Deakin Avenue has not come across strongly. She recommended the addition of an objective to encourage land uses that support the 'fine grain' characteristics and subdivision patterns of the Avenue.

(iii) Discussion

The Panel appreciates that the typical form of the various uses referred to by Council and Ms Wilkes commonly involve features, such as extensive hard surfaced areas, multiple crossovers, and prominent signage, that do not align well with the urban design outcomes sought for Deakin Avenue. Discretion would remain available to consider proposals for these uses in the context of the relevant DDO objectives and requirements.

The Panel considers 'fine grain' built form and subdivision characteristics are established and should be reinforced along much of Deakin Avenue. It is noted that in the City Gate Activity Centre structure planning urban design objectives and the Urban Design Guidelines both indicate an intent to develop an iconic landmark at the Fifteenth Street intersection gateway site with a greater focus on high quality architecture and building articulation than fine grain built form and subdivision.

(iv) Conclusion

The Panel concludes:

- It is appropriate to discourage land uses such as fast food outlets, service stations, car sales yards, industrial/manufacturing uses and big box retail outlets and warehouses along Deakin Avenue as the typical form of these uses could undermine urban design objectives for this important boulevard.

(v) Recommendation

The Panel recommends:

- 3. Add a requirement in the Design and Development Overlay that refers to the preferred presentation of buildings:**

'Buildings should:

- *be articulated*
- *avoid large, bulky forms and facades*
- *reinforce, where appropriate, a fine grain presentation that reflects the lot subdivision pattern of each precinct along Deakin Avenue.'*

2.4 Are advertising controls too onerous?

DDO15 proposes to apply Category 3 advertising controls pursuant to Clause 52.05 along the length of Deakin Avenue. A Category 3 control requires a permit for a business identification sign, promotion sign and internally illuminated sign a permit. Promotion sign is limited to 3 square metres and is otherwise prohibited. In addition, DDO15 specifies the following requirements along the length of Deakin Avenue:

- *Restrict the number of signs to one sign per development. Development which contains multiple premises should consolidate signage into a single directory board.'*
- *Large sky signs, panel signs and promotional signs are discouraged.*
- *Standalone signs should be low profile and located within the landscaped front setback with an area not larger than 2sqm and not higher than 1.8m (standalone signs are discouraged within the residential zones).*
- *Encourage signage to be integrated with the building form of the development but must not be painted on the walls or windows of the building.*
- *Discourage the use of flashing or animated signs or the use of coloured neon lighting.*

(i) The issue

- Are the proposed restrictive advertising controls appropriate along the length of Deakin Avenue?

(ii) Evidence and submissions

Vicinity submitted that it is not appropriate for DDO15 to apply Category 3 ('high amenity areas') advertising controls to a sub-regional activity centre, rather than Category 1 ('minimum limitation') controls⁷ that otherwise apply to C1Z land under Clause 52.05.

Mr Rogers considered that unduly onerous DDO15 requirements seeks to unreasonably restrict advertising signage for the retail core of the second main retail centre for Mildura. He considered it is entirely inappropriate to require a permit for any business identification sign where land is within a commercial zone and restricting signage to one sign per development to be patently inappropriate constraint on a shopping centre. Further, the mandatory restriction on the painting of walls or windows does not allow the necessary flexibility for signage within a large site such as Mildura Central, which could comfortably accommodate such signage (if appropriately located) without unreasonable amenity impacts. Mr Rogers noted that GRZ land fronting Deakin Avenue is already subject to the provisions of Category 3.

Mr Gibson challenged requirement in DDO19 to avoid setbacks dominated by car park signage does not fit with retail use and needs to be softened (DDO19) and submitted that DDO15 should recognise the need for trade mark badging.

Ms Wilkes and Council maintained that the proposed discretionary signage provisions implement the Deakin Avenue Urban Design Guidelines signage objectives. Council believes that Deakin Avenue is of a high visual amenity and most suited for Category 3 controls. Council submitted:

Council does not consider signage requirements onerous. Plenty of opportunities are available for commercial properties in the retail core to erect

⁷ Under Clause 52.05, business identification sign, promotion sign and internally illuminated sign are section 1 uses for which no permit is required (subject to meeting the condition specified for the first two signs).

commercial signage to the frontage of Fifteenth Street having regard to DDO12 controls.

Ms Wilkes considered the additional signage requirements recognise the importance and high amenity values along Deakin Avenue, especially as a mixed-use strip that includes residential and community uses. She expressed the view that, as the controls reflect the intentions of the existing DDO12 requirements, the proposed Category 3 signage requirements would not impose greater restrictions than what is already applies to the Mildura Central site.

(iii) Discussion

The Panel considers the guidance provided in the proposed DDOs to avoid visual clutter and minimise the presence of signage in the boulevard is broadly appropriate and should inform the consideration of permit applications. It is noted that DDO1 and DDO12 both currently communicate a clear intention to minimise signage.

However, the proposed Category 3 advertising category would impose excessive limits in retail centres and particularly a sub-regional centre such as City Gate. Likewise, the Panel considers requirements such one sign per development, limiting standalone signs to an area not larger than 2 square metres and not higher than 1.8 metres, and a mandatory restriction on the painting of walls or windows are excessively restrictive in commercial zones.

The Panel notes that the default Category 3 advertising control applies where the land is in a residential zone and specific reference to the control in the DDO(s) is not necessary.

(iv) Conclusion

The Panel concludes:

- The guidance in the proposed DDOs to manage the presence of advertising along the boulevard is broadly appropriate to inform the consideration of permit applications but the proposed Category 3 advertising category and some requirements would impose excessive limits in retail centres and particularly a sub-regional centre.

(v) Recommendation

The Panel recommends:

- 4. Delete reference to the advertising category pursuant to Clause 52.05 from the Design and Development Overlay and revise advertising requirements to recognise the reasonable signage requirements in land zoned for commercial purposes.**

2.5 The form and drafting of the Amendment

(i) Submissions and evidence

Vicinity adopted Mr Rogers evidence which advocated substantial restructuring and editing to simplify the planning framework, with a particular focus on the implications for the Mildura Central site.

The experts had different views on the proposed changes to the MSS:

- Ms Wilkes expressed the view:

Overall, the objectives included in the MSS are pitched at a high level aimed to support Council in its public works and in implementing detailed applications through the DDOs. I support this level of detail and the proposed MSS provisions.

- Mr Rogers considered the extent of policy detail too extensive to be contained in the MSS and consideration should be given to the need for a local policy.

Vicinity and Mr Rogers highlighted that proposed Clause 21.10-2 sets out six key objectives followed by over 50 paragraphs which are grouped under headings but are not identified as policy, objectives, strategies or guidelines. Vicinity submitted:

- 7. The proposed Clause would benefit from some reworking to identify objectives, strategies and statements of policy. The five precincts are named but not explained. Rather than the schematic plan at figure 10, consideration should be given to a plan that sets out the precincts.*
- 8. As the Clause seeks to set out a comprehensive statement of issues, policy, objectives and guidelines for Deakin Avenue, it would be better put as a local policy. This would accord with practice note 8 which puts the purpose of local policy as providing guidance for the exercise of discretion under a zone, overlay or particular provision.*

In addition to editing to remove repetition of very detailed provisions to achieve much more strategic, concise guidance in Clause 21.10, Vicinity and Mr Rogers advocated a major restructure of the suite of proposed DDOs.

Mr Rogers noted that the existing DDO1 addresses built form along Deakin Avenue but cross referencing excludes Mildura Central from the overlay in recognition that the site warrants different built form objectives to other land fronting the Avenue. Rather than adding two new additional overlays to the site (DDO15 and DDO18), he advocated recognising the more recent strategic work by updating the existing DDO1 and DDO12. This would reduce repetition, avoid the need for cross referring between DDOs and clumsy “exclusions” of land in DDO12 from DDO18 requirements. Apparently conflicting provisions should be reconciled. He suggested that DDO12 include the complementary objectives in proposed DDOs15 and 18 that relate to the Mildura Central opportunity site.

Mr Rogers recommended the following changes to DDOs:

- Remove DDO15 and DDO18 from the Mildura Central Site and include two of the proposed DDO18 objectives that are specific to key opportunity sites in DDO12:

Create an iconic landmark at the Fifteenth Street intersection with high quality architecture, where applicable.

Enhance and respect the important role of the Fifteenth Street intersection as a key gateway site by orientating development to front both Deakin Avenue and Fifteenth Street, with key architectural features orientated towards the intersection.

- Include relevant precinct-specific objectives and design requirements in an updated DDO1 or a consolidated DDO15 and delete the precinct specific DDOs.
- DDO1/15 revised to:

- incorporate simplified DDO18 (and other precinct base DDO) provisions as ‘areas’
- simplify wording throughout
- delete reference to mandatory requirements
- delete reference to other DDO schedules (i.e. 16-20)
- Delete onerous signage requirements from the Mildura Central site and the change in category for advertising signs.

Council and Ms Wilkes submitted that, although the multiple DDOs resulting from the Amendment authorisation process involved some repetition, cross-referencing of DDOs was used to minimise duplication. Council responded to recommendations put by Vicinity and Mr Rogers as follows:

- 4. Council does not see a conflict between DDO12 and the proposed DDO15 and DDO18. Each of the DDOs serves overlapping however different function and are all based on extensive strategic work. Merging the two is considered inconsistent with the approach taken by the department for a more specific, lighter version standalone controls. The heights and setbacks envisaged in DDO12 have been retained to prevail over the proposed DDO schedules as part of C95.*

Vicinity challenged the proposed use of mandatory requirements, submitting that there are no exceptional circumstances that warrant a mandatory control and no built form modelling or other analysis demonstrates that a desired outcome can only be achieved through a mandatory requirement.

Vicinity advocated a range of drafting improvements, including:

- application requirements of other DDOs and other parts of the scheme should not be referenced.
- mandatory requirements should be grouped and expressly identified to avoid other requirements wrongly being construed as mandatory.
- consistent terminology should be used to avoid inevitable confusion, for example, the City Gate Precinct in the Amendment is different to the much larger City Gate Precinct Structure Plan area in Clauses 21.03 and 21.10-2 and DDO12.

In response to queries from the Panel, Council maintained that references to heritage issues in the proposed DDOs should be retained, rather than relying on the HO because:

- the objectives to encourage the restoration of heritage facades and repurpose historic buildings derived from the Urban Design Guidelines go beyond the control of the HO.
- no guiding controls currently apply to a range of historic buildings that are considered contributory to the heritage value of Deakin Avenue but not covered by the HO.

2.6 Discussion

Changes to the MSS

The Panel agrees with submissions and evidence that the addition of six pages of MSS content relating to Deakin Avenue is excessive. There is scope to edit the proposed Clause 21.10-2

Deakin Avenue in line with guidance in Planning Practice Note 4 Writing a Municipal Strategic Statement to achieve a much more concise document by:

- using more succinct drafting and avoiding repetition.
- deleting or relocating detail that does not fulfil a strategic role but tends more towards development requirements that are more appropriately addressed through either policy or a control, such as a DDO. For example, three dot points relating to tree species.
- deleting various provisions that are not achieved through the planning scheme, such as road works, the maintenance of highway lighting, reference to traffic lights that allow for safe crossing within one green-light cycle.

While the map showing the location of precincts along the avenue is useful, it indicates that the precincts apply for a consistent depth along Deakin Avenue and should be corrected to reflect the actual delineation of the precincts. This includes the agreed reduction of the depth of the City Gate Precinct to exclude most of the Vicinity site.

It is noted that, like other parts of the local areas Clause, the proposed Clause 21.10-2 does not adopt the recommended structure of objectives that are linked directing in the text to supporting strategies. The discipline of that structure may have produced a more focused Clause but the Panel has not attempted to restructure the Clause to adhere to that structure. This should be considered in the next review of the planning scheme.

The Panel is conscious that it did not hear submissions relating to all precincts. However, a redrafted version of Clause 21.10-2 is provided for consideration in Appendix A to illustrate the scope of change that is recommended. Given the extent of these revisions, Council should review this version for unintended implications.

(i) An integrated planning framework

The Planning Scheme should be seen as an integrated framework. It is not necessary to repeat content in local area MSS provisions and DDOs that are addressed elsewhere in the planning scheme. The Amendment is underpinned by strategic work relating to urban design for a specific area and the changes in the proposed MSS/DDO should maintain that focus.

A prime example of unnecessary repetition is that many of the requirements in the proposed DDOs/MSS duplicate elements the recently introduced Clause 22.03 (Healthy and sustainable neighbourhood design). That policy provides detailed guidance on a range of matters such as environmentally sustainable design, resilience to respond to climate change, landscape and water sensitive urban design, universal access and safe, minimising hard paved areas, safety and walkability- there is no need to duplicate these policies.

Similarly, heritage places, which are recognised in the planning scheme as significant after satisfying accepted criteria and processes, are managed through the HO and supporting recognition in the MSS and DDO3. Clause 21.10 already addresses heritage values as follows:

Within the Deakin Avenue area (HO308):

- *Conserve and enhance the visual prominence of the following features:*
 - *The churches and related buildings within the area;*
 - *The scheduled corner buildings within the area; and*

- *The public buildings as envisaged in the Chaffey Plan for the Mildura Irrigation Colony;*
- *Protect and preserve the original plantings within the landscaped plantations in Deakin Avenue;*
- *Retain and make prominent all evidence of nineteenth century building activity and especially the red brick architecture which is typical of this period; and*
- *Preserve the architecture of the 1920's which makes a significant contribution to this area's built form by retaining all scheduled and unscheduled buildings and works representative of this period.*

The methodology set out in Planning Practice Note 1 - Applying the Heritage Overlay maintains the integrity of heritage provisions in planning schemes, whereas the unspecified heritage buildings referred to in the Amendment have not been rigorously assessed and the associated requirements have not been justified. Council's reference to "*contributory*" buildings would be relevant if those places had been assessed as part of a precinct but the Panel is not aware of any proposal to extend the Deakin Avenue Precinct, which would be the appropriate way to recognise these places if they satisfy the appropriate level of significance.

As already discussed, proposed statements relating to retailing can misrepresent or create tensions with the more comprehensive retail and activity centre policy.

The Panel has recommended revision of those aspects of the Amendment.

(ii) Multiple DDOs

The Panel appreciates that the splitting of the single DDO originally proposed by Council occurred as a result of the Amendment authorisation process (see Chapter 1.1(iv)) and that the Ministerial Direction - *The Form and Content of Planning Schemes* specifies the form of schedules to the DDO with a maximum of five design objectives.

The authorisation process sought to reduce repetition, however the Panel believes that the outcome has been to increase repetition and provide a complex framework of overlapping MSS and DDOs provisions. This poses challenges to discern the intended policy guidance and increases the potential for conflicting or at least ambiguous provisions, particularly in areas where more comprehensive planning frameworks are in place to manage activity centre development, such as at City Gate (and probably the CBD).

The City Gate Precinct, which was the subject of planning evidence and detailed submissions, illustrated the problems created. That sub-regional activity centre has been the subject of strategic planning and a comprehensive planning framework (notably through DDO12 but also relevant MSS provisions such as activity centre policy). As DDO12 land is excluded from the proposed building heights and setbacks, the guidance provided by the DDO18 for that land is:

- quite generic
- largely duplicates guidance in DDO12 relating to building articulation, second storey balconies that front the Avenue, rear access, and avoiding front fences, parking and hard surface within front setback to the Avenue.

The Panel sees little point in adding two new overlays to this land and considers it would be better to exclude the DDO12 land from the DDO(s) proposed by the Amendment and insert any necessary additional content specifically dealing with reinforcing Deakin Avenue as a grand boulevard into DDO12.

Although submissions were not made relating the City Core precinct, the Panel suspects that it would be better to augment the existing planning framework for the CBD activity centre by incorporating additional guidance relating to Deakin Avenue, if necessary, in DDO3 Mildura Central Business District.

In both activity centres, the MSS would provide the overarching strategy for Deakin Avenue to provide the necessary recognition of a coherent approach along the length of the boulevard.

A redrafted version of a consolidated DDO, with five broader design objectives, illustrates the potential to satisfy the Ministerial direction and reduce repetition. The Panel notes that broader strategic objective for the Precincts are included in the MSS and do not need to be repeated in the DDO(s). Appendix A is provided for consideration to illustrate the scope of change that is recommended. The Panel is conscious that it did not hear submissions relating to all precincts and, given the extent of revisions, Council should review this version for unintended implications.

(iii) Mandatory DDO requirements

The DDO head Clause states:

A permit may be granted to construct a building or construct or carry out works which are not in accordance with any requirement in a schedule to this overlay, unless the schedule specifies otherwise

Submissions and evidence from Ms Wilkes suggest that height and setback requirements in the proposed precinct specific DDOs were intended to be mandatory where the word “*must*” is used, although that statement although the necessary statement “*A permit cannot be granted to vary the requirement*” was not associated with the requirements.

The Panel has not been in a position to evaluate the specific merits of all of the proposed mandatory provisions in all precincts but highlights that:

- The Amendment would change discretionary building heights under DDO3 Mildura Central Business District to mandatory heights and introduces a new mandatory no front setback area on the southern side of Deakin Avenue for part of the block between Tenth and Eleventh Streets.
- Default mandatory building heights (11 metres and three storeys) already apply in the GRZ. The zone schedule provides a mechanism to vary that standard where justified, however, the need to reduce the number of storeys and to require upper level setbacks has not been presented.
- The particular purpose and implications of the proposed mandatory side boundary setbacks was not apparent.

PPN59 highlights that Victorian Planning schemes are predominantly performance based with mandatory provisions being the exception. The Practice Note states that “*Even where*

exceptional circumstances are identified, mandatory height and setback controls should only be applied where they are absolutely necessary to achieve the built form objectives... Accordingly, it would need to be shown that the “discretionary controls could result in an unacceptable built form outcome”. PPN59 provides criteria to test whether mandatory provisions may be appropriate in planning schemes.

Ms Wilkes acknowledged in response to questions from the Panel that minor departures from the mandatory heights or side setbacks could be acceptable. The Panel was not presented with analysis that supports mandatory building heights, boundary setbacks and upper level setbacks controls as necessary or that departures from the prescribed requirements would be highly likely to have unacceptable built form outcomes.

(iv) Conclusions

The Panel concludes:

- The six pages of additional MSS content relating to Deakin Avenue is excessive. It should be edited to achieve much more succinct guidance by avoiding repetition and deleting (or relocating) detail that does not fulfil a strategic role, provisions that are not achieved through the planning scheme, and policy that is addressed elsewhere in the planning scheme.
- A redrafted single DDO that applies along the length of Deakin Avenue would be more user friendly and would reduce the need for repetition and removes the need for cross referencing.
- Overlapping DDOs in the City Gate Activity Centre (and probably the City Core Precinct) add unnecessary complexity and potential for unintended consequences or ambiguity. It would be better to exclude these two activity centres from the DDO(s) proposed by the Amendment and, if necessary, augment the exiting DDOs that apply to those activity centres to incorporate further guidance relating to interfaces with Deakin Avenue.
- The criteria for mandatory controls are not met and all DDO requirements should be discretionary.

(v) Recommendations

The Panel recommends:

- 5. Edit proposed Clause 21.10-2 to achieve more succinct guidance as illustrated in Appendix A.**
- 6. Consolidate and edit the six proposed Design and Development Overlay schedules into a single schedule that applies along the length of Deakin Avenue (that is an updated DDO1) as illustrated in Appendix A.**
- 7. Exclude land within the Fifteenth & Deakin Structure Plan Area and Mildura Central Business District Design and Development Overlays (DDO3 and DDO12) from the overlays proposed by the Amendment and, if necessary, augment the existing overlays that apply to those activity centres to incorporate further guidance relating to interfaces with Deakin Avenue.**

- 8. Update proposed Precinct maps to more accurately reflect the depth of precincts and exclude land within Design and Development Overlay schedules 3 and 12.**
- 9. Review the title of City Gate Precinct.**

Appendix A Panel preferred version of Clause 21.10-2 and Consolidated DDO

The Panel is conscious that it did not hear submissions relating to all precincts. However, a redrafted version of Clause 21.10-2 and a consolidated DDO are provided for consideration to illustrate the scope of change that is recommended. Given the extent of these revisions, changes are not tracked and Council should review this version for unintended implications.

21.10-2 Deakin Avenue

The Deakin Avenue Urban Design Guidelines 2016 underpin the vision to guide future planning, design and development of land fronting Deakin Avenue.

Vision

Deakin Avenue is Mildura's premier avenue: a gallery showcasing our history, diversity and vitality. Deakin Avenue provides a grand boulevard entrance to Mildura that appears as a 'desert oasis' and reflects the transition along its length from horticultural land, through residential, mixed use and the city centre to the Murray River environs.

The key objectives that underpin the vision are:

- To ensure high quality development with lush landscaping reinforces the premier status of the Avenue and the transition from the city centre to rural edge of Mildura.
- To achieve environmentally sustainable development that improves resilience to climate change, promotes active transport and enhances safety for all.
- To improve transport options, and in particular walking, cycling and public transport.

Consistent with the overall vision, five precincts are identified along Deakin Avenue based principally on their activities and primary land uses including the Horticultural Edge Precinct, Residential Precinct, City Gate Precinct, Mixed Use Precinct and City Core Precinct.

Strategies

Land Use

- Increase residential, tourist accommodation and mixed use developments and other uses compatible with residential uses (such as schools, medical centres, churches and community centres).
- Achieve street activation in commercial zones through uses that involve interact with pedestrians, such as shop fronts, small scale offices, on-street dining and trading, and long open hours.
- Direct retail uses and higher built forms to activity centres.
- Site commercial land uses to respectfully interface with sensitive land uses such as open space, dwellings, community uses and churches.
- Avoid land uses that interrupt the streetscape due to their typically poor built form outcomes, large advertising signage or focus on vehicular access and movement such as: fast food outlets, service stations, car sales yards, industrial and manufacturing uses and big box retail outlets and warehouses.
- Within the Horticultural Edge Precinct:
 - Retain existing farming opportunities and support farming as the primary land use
 - Discourage the development of more than one dwelling on a lot and residential buildings.
- Within the Residential Precinct:
 - Provide traditional density residential allotments with moderate front setbacks and rear access wherever possible.
 - Support community facilities, such as existing schools and community buildings between Fifteenth and Sixteenth Streets.
- Within the City Gate Precinct (*rename precinct*):
 - Encourage residential uses, including well-designed apartments, units and holiday accommodation.
 - Encourage mixed use commercial/residential developments.
 - Support the sub-regional retail function of the City Gate Activity Centre.

- Encourage commercial or civic opportunities fronting the Fifteenth Street intersection at key opportunity sites.
- Discourage bulky goods retail and other ‘big box’ retail on Deakin Avenue.
- Within the Mixed Use Precinct:
 - Encourage a diverse range of uses that contribute to a lively, vibrant and active precinct with a community focus.
- Within the City Core Precinct:
 - Encourage commercial uses that interact with and spill onto the street, including cafes and restaurants with kerb-side dining.
 - Maintain the strong civic presence.
 - Encourage shop-top housing and upper level commercial uses to create more ‘eyes on the street’ at all times of day/night, pedestrian traffic.
 - Discourage large format retail.
 - Revitalise laneways (such as Gallagher Lane and Midgley Lane) as active and exciting pedestrian links by fronting buildings and/or spilling uses out into the lanes.

Built Form

- Ensure the design and siting of development improves the built form and character of the streetscape.
- Reflect the transition from rural to inner city along the length of Deakin Avenue and the colour palette of the surrounding desert landscape and existing heritage buildings in the Avenue.
- Ensure new buildings front and address the Avenue and incorporate windows/doors/balconies increasing opportunities for visual surveillance.
- Encourage fine-grain built form to enhance the image of the Avenue.
- Enhance the image of Mildura through:
 - consistently themed and high quality community infrastructure and facilities, such as seating, shade structures, bus stops, drinking fountains and lighting.
 - street art and installations along the length of the Avenue, particularly at key entrance points.
- Ensure signs do not compromise the visual amenity or streetscape image of Mildura.

Landscaping

- Enhance the ‘desert oasis’ feel and ‘boulevard’ style of the Avenue within both the public and private realms for the entire length of the Avenue through canopy shade trees and green nature strips and medians.

Access and Movement

- Provide vehicular access (including car parking and loading facilities) from the rear of sites wherever possible, restrict new vehicular crossings and take account of truck movement requirements.
- Provide safe, well lit pedestrian and bicycle paths, community infrastructure, (such as bus stops, shade structures, toilet blocks) and avoid areas of concealment, blank walls and vacant sites.

Implementation

- Apply the Design and Development Overlay Schedule 1 to all land and development fronting Deakin Avenue.

- Require proposed use and development along Deakin Avenue to be consistent with the Deakin Avenue Urban Design Guidelines.

Reference documents

- Deakin Avenue Urban Design Guidelines, 2016

Figure 10: Mildura Deakin Avenue

INSERT PRECINCT MAP - CORRECT BOUNDARY DELINEATION

SCHEDULE 1 TO THE DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO1**.

DEAKIN AVENUE

The Deakin Avenue Urban Design Guidelines (2016) establish the basis for the design and development provisions along the avenue. Additional guidance is provided regarding the design of development along Deakin Avenue frontages of the City Gate Activity Centre in DDO12 and the Mildura CBD in DDO3.

1.0 Design objectives

To reinforce the Avenue as a prestigious boulevard with a lush ‘desert oasis’ appearance that celebrates Mildura’s history and transitions along its length from rural to inner city.

To encourage high quality development that enhances the boulevard style and image of the Avenue, particularly at key opportunity sites.

To support development that is appropriate to the role and preferred character of each of the functional precincts along the Avenue.

To minimise disruptions to traffic flow and create a pleasant and safe environment for pedestrians and cyclists.

2.0 Buildings and works

Permit Requirements

A permit is not required for construction or extension of the following within a General Residential Zone provided it does not exceed the building heights and setback requirements and is consistent with the design objectives outlined in this schedule:

- Works normal to a dwelling.
- Any buildings and works not visible from Deakin Avenue.
- An open-sided verandah within the rear setback.
- A deck with a finished floor level of not more than 800mm above natural ground level.
- A domestic swimming pool or spa and associated mechanical equipment or safety fencing.

A permit is required for:

- A fence of any height within the front setback.
- A permit may be granted for buildings and works that do not accord with all of the requirements of this schedule provided the proposal complies with the design objectives listed and the built form outcomes are designed to the satisfaction of the responsible authority.

3.0 Design Guidelines

Built form

- Buildings should provide active frontages, weather protection and interesting articulation
- Buildings should:
 - be articulated by incorporating features such as windows, awnings, sun shading devices, pergolas, or a recognisable setback to the upper storey(s).
 - reinforce, where appropriate, a fine grain presentation that reflects the lot subdivision pattern of each precinct along Deakin Avenue.
 - Integrate verandahs on all new buildings where no front setbacks apply, and large eaves and entrance canopies to all buildings.
 - avoid large, bulky forms and facades with large areas of blank and the excessive use of bold and primary colours on walls that would detract from the quality the streetscape image.
- Setbacks should not be dominated by hard surfaces, car parking structures, signage or other visual clutter.
- Re-purpose historic buildings in ways that increase the interaction of users on the street with the building.
- Development adjoining heritage buildings should respect the height, form, setbacks of the heritage building.

- Incorporate feature lighting to highlight historic and key civic buildings, significant trees and art installations/ structures.
- Minimise fences except where necessary to delineate front and side street boundaries and with low or permeable fencing, or vegetation.
- Demonstrate that Environmentally Sustainable Design (ESD) principles are applied in the design and construction of buildings.

Landscaping

- Incorporate lush landscaping and large native canopy trees that provide shade on public and private land at rates shown in Table 3 to this schedule.
- Consider vertical gardens and roof top gardens to provide insulation, environmental cooling and greenery.
- Use permeable landscaping treatments such as lawn and grasses in place of hard surfaces where possible.
- Use plant and tree species that are low maintenance, resilient and drought resistant where possible.
- Provide landscape breaks within car parks.

Safe, activated streets

- Improve safety through visual surveillance and create a sense of address by placing windows and doors to face the street, providing appropriate lighting and avoiding blank walls, planting that creates areas of concealment and vacant sites, especially on shared paths and near gathering spaces.

Parking and Access

- Provide vehicular access (including car parking and loading facilities) from the rear of all sites wherever possible, and minimise new vehicular crossings:
 - In Precinct 1 incorporate single width crossovers to the Avenue
 - In Precinct 3 Restrict vehicle crossovers to one per frontage.
- Avoid visually dominant car parking, garages and hard surfaces, including concrete, by locating car parking to the rear buildings and locating garages at least 1 metre behind the facade of dwellings.
- Ensure the placement of trees, hard landscaping areas and access crossings have regard to road safety infrastructure and any applicable tree policy in the road reserve.

Advertising signage

- In addition to the requirements of the zone, the following guidelines are to be achieved:
 - Provide high quality and non-dominant business signage that fits within the desired character of Deakin Avenue and does not create visual clutter due signs of excessive size, text or bold colours.
 - Signage should be integrated with the building form of the development but should not be painted on the walls or windows of the building.
 - Encourage consolidation of signage into a single directory board where development contains multiple premises.
 - Encourage smaller signs located on buildings rather than within front setbacks.
 - Standalone signs are discouraged in existing or future residential zoned land and should be low profile and located within the landscaped front setback in other zones.
 - Large sky signs, panel signs, promotional signs, flashing or animated signs and the use of coloured neon lighting are discouraged.

Key opportunity sites

Key opportunity sites identified in Map 3 and 5 should:

- Retain and enhance the large historic sites and wide setbacks, especially when they contribute to Mildura's historic fabric.
- Create an iconic landmark at the Fifteenth Street intersection with high quality architecture, where applicable and having regard to truck movements.
- Enhance and respect the important role of the Fifteenth Street intersection as a key gateway site by orientating development to front both Deakin Avenue and Fifteenth Street, with key architectural features orientated towards the intersection.
- Incorporate contemporary expressions of the region through creative and innovative architectural forms.

Precinct Specific Requirements

Table 1 Precinct Guidelines

Precinct	Design Guidelines
Horticultural Edge	<p>Maintain the wide, open feel to the precinct.</p> <p>Enhance the precinct by planting indigenous vegetation or plants that highlight Mildura's horticultural and viticulture pursuits.</p> <p>Avoid hardscapes such as large areas of paving and/or concrete within the front setbacks</p>
Residential	<p>Maintain high quality green verges, with sealed road shoulders, formal car parking that encourages increased community use.</p> <p>Create long open views into the proposed sports reserve.</p> <p>Present a single frontage to the Avenue for units and other medium density sites.</p> <p>Avoid access points and car parking along the Avenue near the Sixteenth Street intersection and adjacent proposed open space. Vehicular access should instead be provided from Sixteenth Street or from rear residential streets.</p> <p>Construct upstand kerb and channel, as it exists on the north of Fifteenth Street, throughout the precinct to Seventeenth Street.</p>
City Gate	<p>New development, including key development sites, should address the Avenue and express the local vernacular.</p> <p>To encourage consistent street setbacks for well maintained gardens. Encourage uses that complement the secondary retail function of the area.</p> <p>Enhance the key development sites adjacent to the intersection identified in Figure 3 to accommodate contemporary architecture and public artwork.</p> <p>Incorporate second storey balconies that front the Avenue.</p>
Mixed Use	<p>Development should provide a transition between uses with large setbacks (e.g. church sites) and the Avenue.</p> <p>Development should maintain view lines into and from Henderson Park, provide sensitive interfaces and a strong and formal edge to the Park.</p> <p>Large historic sites and wide setbacks that contribute to Mildura's historic fabric should be retained and enhanced.</p>

- Setback buildings from the front and side boundaries to respond to the desired character of the various sections along the Avenue. Building heights and setbacks should comply with requirements set out in Table 2 to this schedule. (*Consider whether a map would also be useful.*)

Table 2 Precinct heights and setbacks

Precinct	Height	Min setback from street	Min Setback (façade)	Min side setback
Horticultural Edge	9m/2 storeys	15m (any street frontage)	3m above one storey	
Residential	9m/2 storeys	6 - 10m of any front boundary	3m above one storey	1m (one side)
City Gate	9m/2 storeys (except key opportunity sites)	5m (any street frontage)		1m (one side)

City Gate Opportunity	12m/3 storeys	2m		
Mixed Use	12m/3 storeys	5m (any street frontage)	1m above 9m	0m for lots identified in Figure 1, buildings should be built to the front boundary with no setbacks.

Table 3 Precinct landscaping requirements

Precinct	Front setback	Rear setback
Horticultural Edge	Encourage large indigenous canopy trees	2 large indigenous canopy trees that reach a mature height above the roof line of the building
Residential	At least 1 canopy tree	1 large native canopy tree that reaches a mature height of at least 10 m.
City Gate	At least 1 canopy tree along with low level vegetation. Enhance streetscape by planting medium to large canopy trees.	
Mixed Use	Low level vegetation and soft landscaping in all setbacks. Encourage planting of large canopy trees between buildings where space permits. Incorporate vertical gardens and planter boxes where buildings are built to the boundary and/or blank walls exist.	

4.0 Application Requirements

In addition to other information required to be submitted with a planning application, applications must be accompanied by the following plans and reports, as appropriate, to the satisfaction of the responsible authority:

- An urban context report and design response. The urban context report and design response must show how the development achieves:
 - The Design Objectives of this Schedule and for the relevant precinct;
 - The Height and Setback Requirements for the relevant precinct; and
 - The Design Guidelines applicable to the relevant precinct.
- Within the City Gate and Mixed Use precincts, three dimensional diagrams or visualisation showing the proposed building in the context of the surrounding buildings.

5.0 Decision guidelines

The following decision guidelines apply to an application for a permit under Clause 43.02, in addition to those specified in Clause 43.02 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- Whether the proposal meets the stated design objectives of this Schedule
- The height, scale and massing of the proposed development and impact on surrounding development.
- The provision of landscaping, spacing and permeable areas.
- Whether there is likely to be any adverse overshadowing impacts on the landscaped median from any development.
- Connections between the Avenue and the Murray River.
- The impact and enhancement of the heritage qualities of the boulevard.
- The access and safety requirements of pedestrians and cyclists.
- The contribution to creating high quality pedestrian environments and the provision of shade.
- The impact of car parking, vehicular movements and access.

- Whether the development incorporates ecologically sustainable design principles.

INSERT PRECINCT MAPS if detail in addition to Clause 21.10-2 map is required.