

Planning and Environment Act 1987

Panel Report

Mildura Planning Scheme Amendment C100 Part 2 Sixteenth Street Greenway Interface

21 June 2018

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Panel Report pursuant to section 25 of the Act

21 June 2018



Cathie McRobert, Chair

Contents

	Page
1 Introduction.....	2
1.1 The Amendment.....	2
1.2 The subject land	3
1.3 Planning context.....	5
1.4 Ministerial Directions and Practice Notes.....	7
1.5 Discussion	8
1.6 Summary of issues.....	8
2 The issues	10
2.1 Is a Design and Development Overlay needed?	10
2.2 Should greater development flexibility be retained?	12
2.3 Are DDO requirements too onerous?	13

Appendix A Panel preferred version of DDO14

List of Tables

Table 1	Agencies and government department submissions.....	8
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List of Figures

Figure 1	Location of proposed DDO14	2
Figure 2	Sixteenth Street looking southeast from Riverside Avenue	4
Figure 3	Sixteenth Street looking northwest from Ontario Avenue	4
Figure 4	Sixteenth Street looking southeast from Ontario Avenue.....	4
Figure 5	Existing development within the affected area	4
Figure 6	Greenway concept	7
Figure 7	Sixteenth Street Greenway concept, Mildura South (Sixteenth & Deakin West) Development Plan	11

List of Abbreviations

DDO14	Schedule 14 to the Design and Development Overlay
DELWP	Department of Environment, Land, Water and Planning
GRZ	General Residential Zone
PPN59	Planning Practice Note 59 The Role of Mandatory Provisions in Planning Schemes, June 2015.
UGZ1	Urban Growth Zone

Overview

Amendment summary

The Amendment

Brief description	The Amendment proposes to facilitate the implementation of the Mildura South Strategic Framework Plan 2007 and the Mildura South Precinct Structure Plan, 2014 and the Mildura South (Sixteenth & Deakin West) Development Plan, 2014.
Subject land	The Amendment applies to land on the southern side of Sixteenth Street, Mildura between Deakin and Riverside Avenues (except for land in Urban Growth Zone (UGZ1), Public Use Zone (PUZ1) and 623 Deakin Avenue.
Planning Authority	Mildura Rural City Council
Authorisation	Authorisation A03658, 31 October 2017
Exhibition	10 November to 18 December 2017
Submissions	Number of Submissions: 6 Opposed: 1 <ol style="list-style-type: none"> 1 Country Fire Authority (CFA) 2 Environment Protection Authority Victoria 3 Goulburn Murray Water 4 Department of Economic Development, Jobs, Transport and Resources (DEDJTR) 5 Freeman & Freeman (Objection) 6 Department of Environment, Land, Water and Planning (DELWP)

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 2016
Appearances	Mildura Rural City Council represented by Ammar Habasch, who called expert evidence from Jane Keddie of Hansen Partnership in Urban Design and Planning <i>Michael Freeman requested to be heard but did not attend the Hearing.</i>
Date of this Report	21 June 2018

Executive summary

(i) Summary

(the Amendment) proposes to implement the Sixteenth Street Greenway by making changes to the Municipal Strategic Statement and applying DDO14 to residential land on the southern side of Sixteenth Street between Deakin and Riverside Avenues.

Extensive strategic planning over many years has established the proposed Greenway along Sixteenth Street as central to defining the identity and character of Mildura South Growth Area; achieving a high amenity, landscaped connection between the existing and future parts of Mildura South; and promoting active transport.

The one objecting written submission to the Amendment argued that the proposed DDO is not required, is *“going too far”* and the development potential of land fronting Sixteenth Street should be maintained.

The Panel concludes:

- The Amendment is supported by and implements State and local policy and extensive strategic planning to diversify housing options and create a Greenway as a critical element of the vision for the Mildura South Growth Area.
- The introduction of DDO14 is justified to advance planning objectives for the Sixteen Street Greenway by:
 - enabling the evaluation of proposals, including for single houses, through the planning permit process
 - providing explicit guidance about the design and form that future development should take.
- The proposed DDO14 are appropriate to implement established policies and strategies to develop Sixteenth Street as a Greenway. This includes the loss of flexibility due to mandatory requirements to ensure that features that are critical to the success of the Greenway, particularly the management of access to properties, are implemented.
- Grouping of requirements and some further editing would improve the drafting of DDO14.

(ii) Recommendation

Based on the reasons set out in this Report, the Panel recommends that Mildura Planning Scheme Amendment C100 Part 2 be adopted as exhibited subject to the following:

- 1. Improve the drafting of Design and Development Overlay Schedule 14 by the grouping of requirements and some further editing as shown in Appendix A.**

1 Introduction

1.1 The Amendment

The Amendment facilitates the implementation of the Mildura South Strategic Framework Plan, 2007 and the Mildura South Precinct Structure Plan, 2014 and the Mildura South (Sixteenth & Deakin West) Development Plan, 2014. It proposes to:

- include reference to the Sixteenth Street Greenway in Clause 21.03 (Vision and Strategic Framework) and Clause 21.10 (Local Areas)
- apply a new Schedule 14 to Clause 43.02 Design and Development Overlay (DDO14) to residential land on the southern side of Sixteenth Street between Deakin and Riverside Avenues, excluding land zoned Public Use Zone (PUZ1), UGZ and Council owned land adjacent to Deakin Avenue which is the site of a future open space / wetland. (see Figure 1).

Figure 1 Location of proposed DDO14 (Source: Keddie evidence)



DDO14 triggers a permit for “Buildings and works” that interface with Sixteenth Street and for the subdivision of land. DDO14 includes a combination of mandatory and discretionary requirements for:

- smaller front and side setbacks to facilitate ‘townhouse’ style development and increase engagement with the street
- passive surveillance of Sixteenth Street (i.e. balconies)
- a fence to Sixteenth Street **must** not be over 1 metre in height
- direct pedestrian access **must** be provided to dwelling entries from Sixteenth Street
- garages or driveways **must** not be provided to the Sixteenth Street frontage
- any vehicle access, garages and on-site car parking **must** be provided to the to the rear, with any on-site car parking screened from Sixteenth Street.

Prior to the Hearing Council proposed some minor editing to improve readability.

(i) Amendment authorisation

In response to Council’s request for authorisation to the Amendment, DELWP advised that further consideration should be given to whether the broad objectives can be more appropriately achieved by other means, such as the development plan or a new schedule to the General Residential Zone (GRZ).

A revised version of DDO14 (26 October 2017 version) responded to points raised by DELWP by simplifying the provisions. This included removing:

- requirements for a design response and landscape plan for applications for buildings and works
- objectives to discourage the development of standard detached dwellings and to provide a quality design response
- permit triggers for a fence
- all of the design requirements relating to building colours and materials, service infrastructure and specific building typologies.

Council's response to concerns raised by DELWP included:

- DPO1 triggers a permit for the subdivision of the land and any permit issued must be generally in accordance with the development plan.
- A DDO is necessary to achieve the Structure Plan Vision for a Greenway along Sixteenth Street, including rear access and Greenway interface objectives, as:
 - subdivision permits have already been issued for most of the land subject to the Amendment
 - the development of a single dwelling on lots in excess of 500sqm does not generally require a permit in the GRZ.
- Council would prefer to keep the DDO on the frontage of land identified for public open space as the location of the open space could change if the development plan is amended in the future.
- The proposed DDO14 content was reflected in the extensive land owner and community consultation throughout the preparation process of the Mildura South Precinct Structure Plan, 2014 and the Mildura South (Sixteenth & Deakin West) Development Plan, 2014.

Splitting the Amendment - Part 1 and Part 2

After considering submissions, Council resolved (28 March 2018) to split Amendment C100:

- Part 1, which related to the rezoning of Council owned land on Deakin Avenue Mildura from Farming Zone to the Public Park and Recreation Zone did not result in any objecting submissions and is being advanced separately.
- Part 2 relates to the proposed application of DDO14 to Sixteenth Street, as this was the only aspect of the exhibited Amendment that resulted in submissions.

At the same meeting Council resolved to adopt Part 1 and refer submissions relating to Part 2 of the Amendment to a Panel.

1.2 The subject land

Sixteenth Street forms the boundary between the existing Mildura South residential areas (which is largely developed) and the Mildura South Growth Area (between Sixteenth and Seventeenth Streets), which is to accommodate the majority of Mildura's short to medium term growth. The land is zoned for residential purposes and has an approved Development Plan. A major sporting complex is proposed on the south-eastern side of Deakin Avenue and UGZ land is identified as the site of a future activity centre.

Figure 2 Sixteenth Street looking southeast from Riverside Avenue



Figure 3 Sixteenth Street looking northwest from Ontario Avenue



Figure 4 Sixteenth Street looking southeast from Ontario Avenue



Five dwellings have been constructed fronting the southern side of Sixteenth Street. One is outside the proposed amendment area and one is associated with the ongoing horticultural use north of Walnut Avenue (on the corner). The three other dwellings are to the south-east of Walnut Avenue and are the subject of the objecting submission.

Figure 5 Existing development within the affected area



Planning permits have issued subdivisions, including at 635-667 Deakin Avenue and at 173 Sixteenth Street, Mildura where a road adjoining the rear of lots adjoining Sixteenth Street can provide vehicle access.

Development to the north of Sixteenth Street is exclusively single storey detached dwellings and has occurred in a relatively ad-hoc manner, with no overarching Development Plan. Land to the south remains relatively undeveloped with scattered agricultural uses generally having ceased, although a few blocks remain in use for horticulture (grapes).

Features of the 1.9km Sixteenth Street corridor between Riverside and Deakin Avenues include:

- connections from Sixteenth Street to the broader urban areas, including paths to schools and wetlands to the north, and a bus route runs along Sixteenth Street
- it is bisected by a series of 'avenues' (Deakin, Walnut, Ontario and Riverside)
- a roundabout at the intersection of Walnut Avenue and the 30 metre road reserve is to be reconfigured as land is developed.

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 briefly notes the relevant zones, overlays and planning strategies.

(i) Planning policy

Council and expert evidence indicated that the Amendment will assist in achieving planning policy objectives by encouraging medium density development to diversify housing options and promoting 'healthy living' through neighbourhood design that supports safe, efficient, active transport. The following clauses in the State and Local Planning Policy Frameworks were identified as particularly relevant:

State Planning Policy Framework

- **Clause 11** identifies Mildura as a regional centre for growth and investment. Objectives include ensuring the orderly development of residential land and increasing residential densities close to activity centres. The Amendment supports this Clause through increased residential density near a future activity centre.
- **Clause 15.07** seeks to create urban spaces that are safe, functional and have a sense of place and cultural identity. Urban design and architectural outcomes are to contribute positively to the urban character and enhance the public realm. The Amendment responds to the development plan long term vision for Sixteenth Street as a Greenway that will become the focal point for the local community and assist with creating a 'neighbourhood' and associated 'sense of place'.
- **Clause 18** supports the development of integrated sustainable transport networks that access to social and economic opportunities. The Amendment will support Sixteenth Street's designation as a pedestrian and cycling prioritised environment.

Local Planning Policy Framework

- **Clause 21.04-3** aims to provide a diversity of housing, medium density housing options, to meet the needs of Mildura's changing demographics .
- **Clause 21.07-4** New Residential Development includes:
 - An objective to ensure that the design of neighbourhood and new dwellings responds to Mildura's climate and the impacts of climate change. Neighbourhood design to promote the use of active transport and public transport over private vehicles is encouraged.
 - An objective is to provide best practice urban design for 'healthy living'. Supporting Strategy 8.1 requires that the design of new residential areas facilitates attractive, safe and legible connections for pedestrians and cyclists between key

areas of activity and within neighbourhoods. Strategy 8.4 is directly relevant to the Amendment, stating:

Require new residential neighbourhoods to incorporate Greenways or linear parks to connect key areas of activity and encourage active transport and incidental exercise.

- Clause 21.04-2 specifically foreshadows the preparation of a masterplan for the Sixteenth Street Greenway, including landscape guidelines.
- Clause 21.10-1 Main Urban Areas objectives of particular relevance are:

Encourage shorter term residential development at Mildura South in line with the Mildura South (Sixteenth and Deakin West) Development Plan.

Implement longer term development in Mildura South in line with the Mildura South Urban Design Plan Precinct Structure Plan, 2014 Incorporated Document¹.

The Mildura South Strategic Framework Plan, Mildura South Urban Design Plan Precinct Structure Plan and Mildura South (Sixteenth and Deakin West) Development Plan and the Mildura Housing and Settlement Strategy are relevant Clause 21.10 Reference Documents.

(ii) Strategic planning work

Council and evidence from Ms Keddie emphasised that the Amendment is the outcome of many years of strategic planning work which establishes the Greenway along Sixteenth Street linking key facilities as central to the vision for this growth area:

- **2003:** The Mildura Irymple Residential Land Strategy identified the Mildura South area as one of three residential growth areas and recommended the rezoning of 108 hectares of land to the south of Sixteenth Street. Amendment C28 confirmed the need for additional areas of residential land and, amongst other things, applied Development Plan Overlay (Schedule 1) (DPO1) to greenfield land south of Sixteenth Street between Deakin and Ontario Avenues.
- **2007:** The Mildura South Strategic Framework Plan identified two communities, one on either side of Deakin Avenue. Each has a neighbourhood or local activity centre adjacent to Sixteenth Street, which would include open space, play areas, community facilities, and medium density housing.
- **2011:** Review of the Strategic Framework Plan resulted in a draft Mildura South Precinct Structure Plan.
- **2013:** The Mildura South Recreation Assessment confirmed the location of the future sporting facilities on the south side of the Deakin Avenue/Sixteenth Street junction.
- **2014:** The Mildura South PSP supported the preparation of a streetscape masterplan for the Sixteenth Street Greenway. The Mildura South Development Plan identified Sixteenth Street as a 'green spine' with a high level of amenity to facilitate safe pedestrian and cyclist movement between key places and activities. Higher intensity development along the street will be a key part of the neighbourhood's character.

¹ It is noted that the *Mildura South Urban Design Plan Precinct Structure Plan, 2014 Incorporated Document* is not included at Clause 81.

- **2016:** Amendment C75 incorporated the Mildura South PSP in the Mildura Planning Scheme. It rezoned land at 624–682 Deakin Avenue to facilitate the development of the Mildura South sporting complex and the Neighbourhood Activity Centre.
- **2017:** Hansen Partnership prepared a Greenway Master Plan for Sixteenth Street west of Deakin Avenue (see Figure 7) and planning tools to guide development along the southern side of the Street.

Figure 6 Greenway concept



(iii) Zones and overlays

The land is zoned GRZ1 (see Figure 1), which includes no modification to standard requirements. In the GRZ a planning permit is required for subdivision, development of more than one dwelling on a lot and for a dwelling on a lot of less than 500 square metres. If the lot is greater than 500 square metres a building permit would be required but not a planning permit if the relevant standards are met. The planning scheme establishes objectives and standards for the development of single houses (Clause 54), more than one dwelling on a lot (Clause 55) and subdivision (Clause 56).

The following overlays apply to the land:

- Salinity Management Overlay - identifies the land as being of moderate risk
- DPO1 - A Development Plan was adopted for this area by Council in 2014
- DDO8: Mildura Airport - Obstacle Height Area 1
- Development Contributions Plan Overlay relate to 'Infrastructure Works'.

1.4 Ministerial Directions and Practice Notes

Ministerial Directions

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
- Ministerial Direction No. 15 Planning Scheme Amendment Process under Section 12(2)(a) of the Act.

Planning Practice Notes

Council submitted that the Amendment is consistent with:

- Planning Practice Note 46 (PPN46) Strategic Assessment Guidelines, June 2015

- Planning Practice Note 59 (PPN59) The Role of Mandatory Provisions in Planning Schemes, June 2015.

1.5 Discussion

As Council and evidence from Ms Keddie emphasised, numerous planning documents provide consistent policy support for the Mildura South Growth Area strategic vision which involves the creation of a Greenway along Sixteenth Street. Extensive community consultation informed the strategic planning for this growth area. The Panel accepts that strategic planning over many years has established the Greenway along Sixteenth Street as central to defining the identity and character of Mildura South Growth Area; achieving a high amenity, landscaped connection between the existing and future parts of Mildura South; and promoting active transport.

The Panel concludes that:

- The Amendment is supported by, and implements, the relevant sections of the State and local policy and extensive strategic planning over many years to diversify housing options and create a Greenway as a critical element of the vision for the Mildura South Growth Area.
- The Amendment is well founded and strategically justified. It should proceed, subject to addressing the issues raised in the submission which are discussed in the following chapter.

1.6 Summary of issues

The five submissions from agencies and government departments did not object to or seek changes to the Amendment and none of these submitters requested to be heard by the Panel. The matters raised in these submissions and Council's response are set out in Table 1. These submissions are not addressed further as there does not appear to be any outstanding unresolved issues.

Table 1 Agencies and government department submissions

Sub No.	Issues raised by agencies and government departments	Council response
1	Country Fire Authority D14 - Need to consider interface issues in relation to bushfire and buildings. Roads need to consider emergency vehicle access. Maintenance of interface and buffers as urban development continues.	The DDO will apply as land transitions to urban uses and no grassland interface is likely to be retained, given primary current use for viticulture. The DDO does not apply to the roadway.
3	Goulburn Murray Water - Requests a 5m exclusion zone around the Lake Ranfurly East – Rising Main Pipeline.	The Amendment does not affect land within 5m of the asset.
4	Department of Economic Development, Jobs, Transport and Resources - Supports amendment. Welcomes any opportunity to advance proposed by-pass route.	Noted

2, 6 Environment Protection Authority Victoria, DELWP - No concerns.

The written objection to the Amendment related to the following issues:

- the Amendment is not required and current strategic documents do not identify the need for a DDO
- the proposed DDO is “going too far”
- the development potential of land fronting Sixteenth Street should be maintained.

Council did not support changes to the Amendment as a result of the objecting submission.

As the submitter did not attend the Hearing, the Panel has had to interpret the intent of the brief submission and has not had the benefit of amplification of specific concerns relating to the three properties in question.

The Panel considered 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. This Report deals with the issues under the following headings:

- Is a Design and Development Overlay needed?
- Should greater development flexibility be retained?
- Are DDO requirements too onerous?

2 The issues

2.1 Is a Design and Development Overlay needed?

(i) Evidence and submissions

Freeman and Freeman submitted that the existing documents do not identify the need for a DDO and the Amendment is not required.

Council and Ms Keddie highlighted that land was rezoned to GRZ1 before detailed planning of the area was undertaken. As such, single dwellings within the area are 'as of right' and this limits the capacity to influence the form of development.

Council emphasised that the creation of a safe and uninterrupted bike and pedestrian paths along the southern side of Sixteenth Street is a key concept of the Masterplan. Further a planning mechanism is required to prevent/ minimise intrusions on the pedestrian and cycle experience along this important corridor. Council noted that the land is already zoned GRZ1, the development plan has been approved and subdivision permits allow subdivision that is consistent with the type of development envisaged along this stretch of Sixteenth Street. Council submitted:

However, the use and development of a single dwelling generally does not trigger a planning permit under the General Residential Zone especially in Mildura's context where residential lots can be in excess of 500sqm. As such, matters of rear access and addressing the frontage to Sixteenth Street will be left to arbitrary development decisions.

4.7. The new DDO Schedule (DDO14) therefore will be essential to ensure that there is a permit trigger for development to ensure it visually addresses the Sixteenth Street Greenway and to prevent the establishment of vehicle crossovers along this frontage to facilitate a protected bicycle path in the Greenway corridor. It will further provide Council with a clear set of design requirements to facilitate assessment of planning applications in this area. The amendment as such will bring about Community and Council's expectations and achieve best practice planning after years of studies for the area prepared alongside with the community.

(ii) Discussion

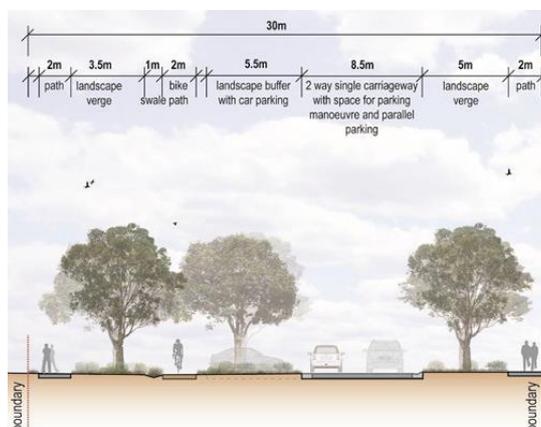
As already discussed, the Greenway along Sixteenth Street has been central to planning for this Growth Area and is directly supported by policy in the Mildura Planning Scheme.

The Development Plan provides clear direction for the development of lots fronting the southern side of the 16th Street Greenway including:

- a) *To promote attractive, informal village streetscapes that emphasise dominance of native and exotic canopy vegetation and understorey planting.*

- b) *To reinforce and create vegetation dominated views of private allotments when viewed from the street.*
- c) *To encourage landscaped front setbacks that offer a sense of openness from the street rather than solid fencing.*
- d) *To ensure that signage, lighting and street infrastructure do not dominate the streetscape and visual clutter is minimised.*
- e) *To ensure that access is provided to the rear to minimise intrusions on the pedestrian and cycle experience along this important corridor.*
- f) *To increase passive surveillance of the Greenway, i.e. through the incorporation of upper level balconies or habitable rooms.*

Figure 7 Sixteenth Street Greenway concept, Mildura South (Sixteenth & Deakin West) Development Plan



The Panel sees rear (or side) vehicle access as critical to realising the Greenway objectives, in terms of both promoting safe active transport and achieving a landscaped streetscape that is not disrupted or dominated by garages and driveways for cars. While it would have been possible at the subdivision stage to ensure that new lots did not gain access to Sixteenth Street, an explicit requirement to that effect does not appear to have been included in the permits that have issued to date. Further, DDO14 will manage proposals for existing lots fronting Sixteenth Street to ensure the implementation of the vision for the area is not compromised in the interim period before development for urban purposes. The guidance provided in DDO14 relating to passive surveillance and development setbacks and garages/carparking is also consistent with Development Plan objectives.

In these circumstances, the Panel considers the introduction of DDO14, with the associated permit trigger and development provisions, will enable evaluation of proposals through the planning permit process to advance planning objectives for the Sixteen Street Greenway.

The Panel concludes:

- The introduction of DDO14 is justified to advance planning objectives for the Sixteen Street Greenway by:
 - enabling evaluation of proposals, including for single houses, through the planning permit process

- providing explicit guidance about the design and form that future development should take.

2.2 Should greater development flexibility be retained?

(i) Evidence and submissions

Freeman and Freeman submitted that there are existing single dwelling developments fronting Sixteenth Street and the subdivision opportunities of those properties should retain flexibility, which the DDO is removing.

Council responded:

The single dwellings referred to in this submission are contrary to the strategic objectives identified for Sixteenth Street, particularly relation to their provision of crossovers, typology and engagement with the street. The proposed control will allow Council to provide clearer direction to future applicants to ensure that these objectives are prioritised and that development is in keeping with the Mildura South Framework Plan, Mildura South Precinct Structure Plan and Mildura South (Sixteenth & Deakin West) Development Plan, all of which form part of the Mildura Planning Scheme.

Ms Keddie noted that the integration of medium density development along this corridor has been clearly articulated in policy since 2007 and, as the DDO is based on the content of the Development Plan, it does not unreasonably change any expectations in relation to what may occur on the land in question. Although Ms Keddie had not seen any specific plans for further subdivision of the balance of the three properties, she expressed the view that:

- DDO14 would not prevent the future development of the land.
- A suitable interface between any development on adjoining land (in keeping with the proposed controls) and these existing dwellings is achievable.
- The proposed controls are worded to allow an appropriate response at the boundary between existing single dwellings and future medium density forms, noting that side setbacks are likely to be required to ensure that the amenity of these existing dwellings is not compromised.
- There is sufficient room to accommodate rear access to the land or a new local street to facilitate rear access in line with the proposed control.

(ii) Discussion

The Panel considers it is appropriate to evaluate development proposals along the southern side of Sixteenth Street in terms of planning policy to create a Greenway and this extends to the integration of new development with existing houses. The Panel did not have the benefit of further submissions regarding specific concern relating to the three properties referred to in the objecting written submission and accepts the expert evidence that a development solution in line with the Greenway objectives is achievable.

DDO14 proposes a combination of mandatory and discretionary requirements, which are all in line with the policy and Development Plan provisions for this locality.

The following mandatory requirements that cannot be varied with a permit are proposed:

- a fence fronting Sixteenth Street must not exceed 1metre in height
- garages or driveways must not be provided to the Sixteenth Street frontage
- any vehicle access to on-site car parking must be provided to the rear to avoid crossovers to Sixteenth Street
- any on-site car parking must be provided to the rear of lots and screened from Sixteenth Street
- direct pedestrian access must be provided to dwelling entries must be provided from Sixteenth Street
- subdivisions must provide rear vehicular access for any lot fronting Sixteenth Street.

The Panel is conscious that Victorian Planning Schemes are predominantly performance based which involves maintaining discretion to accommodate variation, innovation, or unforeseen circumstances. As set out in PPN59 the removal of flexibility through mandatory requirements should have very strong justification; a mandatory provision will only be considered in circumstances where it can be clearly demonstrated it has a sound strategic basis, it is necessary to achieve desired outcomes, and that it will be appropriate in the vast majority of cases.

The Panel considers the proposed mandatory requirements in DDO14 satisfy the criteria in PPN59, although grouping requirements and some further editing (as shown in Appendix A) would improve the drafting.

The Panel concludes:

- The proposed DDO14 requirements in the exhibited Amendment are appropriate to implement established policies and strategies to develop Sixteenth Street as a Greenway. This includes the loss of flexibility due to mandatory requirements to ensure that features that are critical to the success of the Greenway are implemented.
- Grouping of requirements and some further editing (as shown in Appendix A) would improve the drafting of DDO14.

(iii) Recommendation

The Panel recommends:

- 1. Improve the drafting of Design and Development Overlay Schedule 14 by grouping of requirements and some further editing as shown in Appendix A.**

2.3 Are DDO requirements too onerous?

(i) Evidence and submissions

Freeman and Freeman submitted that applying the DDO to residential land is *“going too far”* but did not indicate specific requirements that were of particular concern.

Submissions from Council and evidence from Ms Keddie at the hearing explained why each requirement is deemed necessary to achieve Greenway objectives. Council noted that rear access occurs in older parts of central Mildura and that changes during the authorisation process has removed requirements or added flexibility.

(ii) Discussion

The written submission did not articulate specific concerns.

At the Hearing the Panel queried whether medium density in a growth area is likely to be accepted by the market in Mildura. Nevertheless, the Panel is satisfied that Greenway has strong strategic support and the proposed development requirements have been crafted to implement the key objectives for the corridor. The emphasis on car access from the rear of Sixteenth Street lots is important to realise both active transport and landscaped character objectives and provides a better strategy to meet the Greenway objectives than other options, such as access from the front of lots via a service road.

The Panel concludes:

- The proposed development requirements have been crafted to implement the key objectives for the corridor.

Appendix A Panel preferred version of DDO14

[Tracked Added](#)

~~Tracked Deleted~~

Note that, in the interests of readability, not all relocated text is shown.

SCHEDULE 14 TO CLAUSE 43.02 DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO14**.

SIXTEENTH STREET GREENWAY INTERFACE

1.0 Design objectives

~~--/20--~~
C100

To ~~protect and enhance~~ ensure that built form and streetscape interfaces ~~are responsive to~~ [support](#) the Sixteenth Street Greenway role as a prioritised pedestrian and cycling street.

To encourage medium density housing in the form of appropriately designed apartment buildings, townhouses or terrace houses.

To encourage landscaping that enhances the dominance of vegetation and a sense of openness to the street.

2.0 Buildings and works

~~--/20--~~
C100

Permit requirements

A permit is not required to construct or carry out ~~works of~~ the following:

- Works on lots which do not front or adjoin Sixteenth Street.
- [A](#) fence to Sixteenth Street of 1metre or less in height.

A permit cannot be granted to:

- Vary any mandatory requirements in this schedule.
- Construct a fence ~~to~~ fronting Sixteenth Street that exceeds 1metre in height.

Buildings and works requirements

The following ~~buildings and works~~ requirements apply to an application to construct a building or construct or carry out works:

Mandatory requirements

[A permit may not be granted to construct a building or construct or carry out works which are not in accordance with the following requirements:](#)

- [Any garages, car parking and vehicle](#) access to on-site car parking must be provided to the rear of [lots](#).
- [Any on-site car parking](#) must be ~~provided to the rear of lots and~~ screened from Sixteenth Street.
- Direct pedestrian access from Sixteenth Street [must be provided](#) to dwelling entries ~~must be provided~~.

[Buildings and works should satisfy the following requirements:](#)

- Front setbacks to Sixteenth Street should be between 1 [metre](#) and 3 [metres](#).
- Properties should be built ~~onto~~ [side boundaries](#) with no ~~side~~ setbacks, to allow for maximum use of the land. If a side setback is deemed necessary, only one should be ~~allowed~~ [provided](#), with a minimum [setback](#) of 1 [metre](#).

- Buildings should address the Sixteenth Street frontage.
- Frontages to Sixteenth Street should be open ~~in profile~~, with low or no front fences preferred.
- Habitable rooms and/or upper level balconies fronting Sixteenth Street should be incorporated to increase passive surveillance of the Greenway.
- Upper level development above garages at the rear ~~which includes~~ with balconies or habitable room windows is encouraged to increase passive surveillance.
- Garages ~~to the rear~~ should consolidate with adjoining properties where possible, to create a break between development.
- Where possible, existing crossovers to Sixteenth Street should be removed ~~and public on-street car parking spaces reinstated~~.

3.0 Subdivision

--/--/20--
C100

A permit to subdivide land must meet the following requirements:

- Provision of rear vehicular access for any lot fronting Sixteenth Street.

4.0 Advertising signs

--/--/20--
C100

None specified.

5.0 Decision guidelines

--/--/20--
C100

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:

- The impact on pedestrian connectivity, safety and amenity along Sixteenth Street.
- The contribution the proposed development makes to the diversification of housing stock in Mildura.
- The responsiveness to the vision for Sixteenth Street outlined in the Mildura South (Sixteenth and Deakin West) Development Plan, 2014.
- The contribution the building makes to the public realm along Sixteenth Street, including the level of activation and surveillance.