



Mildura Rural City Council

MILDURA PLANNING SCHEME

AMENDMENT C95

IMPLEMENTATION OF THE DEAKIN AVENUE URBAN DESIGN GUIDELINES

PLANNING AUTHORITY SUBMISSION - PART A

Panel Hearing Date: 21 & 22 May 2018

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AMENDMENT SUMMARY

The Amendment	Mildura Planning Scheme Amendment C95
Area Affected	All lots with frontage onto Deakin Avenue, Mildura located between Seventh Street and the Sturt Highway.
Purpose of Amendment	The Amendment seeks to implement the recommendations of the <i>Deakin Avenue Urban Design Guidelines, 2016</i> and one recommendation of the <i>Mildura Planning Scheme Review, 2014</i> .
The Proponent	Mildura Rural City Council
The Planning Authority	Mildura Rural City Council
Authorisation	16 October 2017
Exhibition Period	10 November 2017 to 18 December 2017
Number of Submissions	7 Submissions
Council Response to Submissions	28 March 2018
Panel Hearing	21-22 May 2018

1. INTRODUCTION

- 1.1. Mildura Rural City Council has prepared Amendment C95 to the Mildura Planning Scheme. The Amendment seeks to implement the recommendations of the *Deakin Avenue Urban Design Guidelines, 2016* and one recommendation of the *Mildura Planning Scheme Review, 2014*.
- 1.2. The Amendment applies to all lots with frontage onto Deakin Avenue, Mildura located between Seventh Street and the Sturt Highway.
- 1.3. The Amendment is required to implement the key objectives and design guidelines identified in the Deakin Avenue Urban Design Guidelines. The Amendment will ensure that future development respects and enhances the local character and provide certainty for land use and development outcomes. Furthermore it will facilitate future development and public realm improvements that reflect community values and aspirations.
- 1.4. Additionally, the Amendment is required to counter the unintended implications of Amendment VC100 on the retail centres of Mildura. Amendment C95 will ensure that Commercial 1 Zone land along Deakin Avenue is customised to restrict major retail development out of nominated centres.
- 1.5. Amendment C95 therefore, proposes to make minor amendments to the Municipal Strategic Statement as well as existing zone and overlay schedules.

2. AMENDMENT BACKGROUND

- 2.1. Deakin Avenue is Mildura's premier boulevard, extending from the rural surrounds of the Mildura Airport to the built up areas of the Central Business District (CBD). Over time there have been a number of influences and pressures that have resulted in uncharacteristic built form, segregation and conflict of land use activities, traffic congestion and decaying public realm.
- 2.2. Upon the introduction of the new format planning schemes in 1999, Schedule 1 to the Design and Development Overlay (DDO1) – Deakin Avenue was introduced to the Mildura Planning Scheme with numerous design objectives to ensure new development and extensions to existing development improve the built form and character of the streetscape by the implementation of appropriate design and siting controls.
- 2.3. The new format Mildura Planning Scheme also included the introduction of Schedule 3 to the Design and Development Overlay (DDO3) to the Mildura CBD area based on *The Mildura City Heart Redevelopment Strategy 1996*. Area affected by DDO3 includes land with frontage to Deakin Avenue, Seventh Street to Eleventh Street.

- 2.4. In June 2007, Council resolved to allocate the funds necessary to prepare urban design guidelines together with a revised local policy framework for Deakin Avenue, and to implement its recommendations in the Mildura Planning Scheme. However, this piece of work was not been prepared until 2015.
- 2.5. In December 2007, Council adopted the Mildura CBD Plan comprising preparation of a Structure Plan and a review of the 1999 *Mildura Urban Design Framework*. The plan sets the directions for the CBD structure plan along with urban design framework which identifies and implements urban design initiatives and makes recommendations for future actions to occur. Later in 2012, Amendment C64 to the Mildura Planning Scheme implemented the Mildura *CDB Plan 2007* and introduced a replacement Schedule 3 of the Design and Development Overlay control (Mildura CBD) based on this study.
- 2.6. In August 2010, Council adopted the *Fifteenth & Deakin Structure Plan*. The plans provides for an integrated long term Vision and accompanying Structure Plan and Urban Design Framework to guide the major changes to land use, built form, and public spaces for future subdivision, development and use. The *Fifteenth & Deakin Structure Plan 2010* was informed by a review of the *Mildura Retail Strategy* which has also been prepared as part of the project.
- 2.7. In 2011, Amendment C67 proposed to implement both the findings of the 2010 Retail Strategy, the *Irymple Structure Plan* and *Fifteenth and Deakin Structure Plan* into the Mildura Planning Scheme. Design and Development Overlay – Schedule 12 which covers parts of Deakin Avenue was applied via Amendment C67.
- 2.8. Planning zones in Victoria were reformed in 2013. The reforms resulted in three amended residential zones, two new commercial zones and three amended industrial zones which were introduced into the Victoria Planning Provisions and planning schemes by Amendment VC100, gazetted on 15 July 2013.
- 2.9. In alignment, the Council Plan 2013-2017 was adopted by Council on 27 June 2013 and consequently a full review of the Mildura Planning Scheme had to be conducted and provided to the Minister for Planning by 30 June 2014.
- 2.10. Prior to Amendment VC100, Deakin Avenue accommodated a stretch of Business 5 Zoned (B5Z) land from Fifteenth Street in the south to Thirteenth Street in the north. This precinct accommodates a variety of uses, including numerous motels. Land to the north of Hunter Street and Deakin Avenue was also in the B5Z. This land along Deakin Avenue is now in the C1Z. The land use zone now permits supermarket and ‘core’ retailing along Deakin Avenue.
- 2.11. Late 2013, Council appointed Planisphere Pty Ltd (now Ethos Urban) to undertake a review of the Mildura Planning Scheme. The review included undertaking assessment and analysis of the implications for existing policy and provisions of the Mildura Planning Scheme in light of the recent reforms to the Planning Zones and provide a detailed updated policy framework and recommendations for an amendment to the planning scheme.

- 2.12. *The Mildura Planning Scheme Review (2014)* recommended the inclusion of an 80m² cap on 'shop' uses in C1Z land along Deakin Avenue on land formerly zoned B5Z. The purpose of this restriction was to limit major retail development in this locality that may compete or undermine retail activity in nominated centres. The Draft Retail Strategy 2018 (currently underway) supports the introduction of a cap on 'shop' floorspace as recommended in the Mildura Planning Scheme Review (2014).
- 2.13. In May 2015, Council commissioned the Deakin Avenue Urban Design Guidelines project to develop a clear framework that will guide future land use and built form along the Avenue. The project was undertaken in three stages with opportunities for consultation at each key milestone.
- 2.14. The guidelines document was adopted by Council in August 2016 along with the resolution to prepare an amendment to the Mildura Planning Scheme to implement the recommendations of the *Deakin Avenue Urban Design Guidelines 2016*.
- 2.15. The guidelines document set out a clear vision for the Avenue, established through six key themes namely:
- a) Image of Mildura
 - b) Built form
 - c) Landscaping
 - d) Land use
 - e) Lighting and Safety
 - f) Access and movement.
- 2.16. Each of these themes is supported by key objectives and design guidelines which have also been reflected throughout five precincts along the Avenue including: Horticultural Edge, Residential, City Gate, Mixed Use and City Core.
- 2.17. The *Deakin Avenue Urban Design Guidelines 2016*, in chapter 5, provides an implementation strategy for going forward, including measures to implement the document's recommendations in the Mildura Planning Scheme. These measures include a range of amendments to the Municipal Strategic Statement (MSS) as well as zone and overlay schedules.
- 2.18. In March 2017, Council engaged Planisphere Pty Ltd (now Ethos Urban) to facilitate the preparation of a Planning Scheme Amendment to include both; the recommendations of the *Deakin Avenue Urban Design Guidelines (Guidelines)* as adopted by Council in August 2016; and also to implement pertinent items from the Mildura Planning Scheme Review 2014.
- 2.19. Ethos Urban (previously Planisphere Pty Ltd) then drafted the amendment documentation including proposing the following changes to the Mildura Planning Scheme:
- a) Modifying the Municipal Strategic Statement (MSS) by updating Clause 21.02, Clause 21.07 and Clause 21.10 to include reference *Deakin Avenue Urban Design Guidelines, 2016* and updates to maps.

- b) Modifying the Local Planning Policy Framework by updating Clause 22.01 to discourage budget accommodation within the City Core along Deakin Avenue.
- c) Modifying the existing boundary of DDO1 to apply only to lots fronting Deakin Avenue and extend its application from Seventh Street to the junction of Deakin Avenue and the Sturt Highway.
- d) Replacing existing Design and Development Overlay, Schedule 1 with a new Schedule 1 that generally applies to lots fronting Deakin Avenue between Seventh and Fifteenth Streets.
- e) Modifying the existing DDO3 boundary and the map contained within the Schedule to remove lots fronting Deakin Avenue.
- f) Modifying the existing C1Z Schedule to insert maximum leasable floor area requirement to all lots fronting Deakin Avenue.

2.20. In April 2017, the new Ministerial Direction on The Form and Content of Planning Schemes issued under section 7(5) of the Planning and Environment Act 1987. This direction came into effect after Ethos Urban (previously Planisphere Pty Ltd) prepared the draft documentation of Amendment C95.

2.21. In September 2017, Council sought authorisation from the Minister for Planning to prepare Amendment C95 to the Mildura Planning Scheme. The Amendment seeks to implement the recommendations of the *Deakin Avenue Urban Design Guidelines, 2016* and one recommendation of the *Mildura Planning Scheme Review, 2014* relating to capping the allowable shop floorspace area on land formerly zoned B5Z.

2.22. The Minister for Planning, in October 2017, authorised the preparation of the Mildura Planning Scheme Amendment C95 - Authorisation A03658, subject to a range of conditions.

2.23. In response to these conditions and prior to the Amendment Public exhibition period, Mildura Rural City Council officers have reconfigured the originally proposed Amendment documentation. The authorisation conditions and Council's response to those conditions prior to the Amendment exhibition period are detailed below:

a) That the explanatory report be amended to:

- **Explain which element of the 2014 planning scheme review is being implemented by the proposed amendment;**
Council's response: Clarification added to the report under questions '*What the amendment does*' and '*Why is the Amendment required*'.
- **Explain more fully why the DD03 is being deleted from land along Deakin Avenue in the Mildura CBD and how this is consistent with strategic planning for the CBD (including the *Mildura CBD Plan, 2007*, the *Mildura CBD Precincts Plan at Clause 21.10-1* and the *Deakin Avenue Master Plan, 2006*);**
Council's response: Clarification added to the report under question '*Why is the Amendment required*'.

- **Revise the wording under ‘*what the amendment does*’, to clarify the extent to which budget accommodation is proposed to be discouraged; and**

Council’s response: Clarification added to the report under question ‘*What the amendment does?*’ to discourage Budget Accommodation from locating along the whole length of Deakin Avenue.

- **Include complete mapping references in the table at Attachment A.**

Council’s response: Mapping references table completed as required.

- b) The council consider applying separate Design and Development Overlay (DDO) schedule for each precinct identified within the proposed DDO1 schedule, and an additional DDO schedule to apply to the whole of Deakin Avenue.**

Council’s response: the originally proposed Design and Development Overlay (DDO1) has been reconfigured into six DDO schedules in the following manner:

- DDO15 applies to the whole length of Deakin Avenue.
- DDO16, 17, 18, 19 and 20 apply to five sequential sections along Deakin Avenue to match the precincts identified in the Deakin Avenue Urban Design Guidelines, 2016.

- c) That the proposed DDO schedule(s) be reviewed to:**

- **Avoid overlap and repetition where possible;**

Council’s response: Careful consideration has been given in examining the proposed controls to avoid overlap and repetition. The reconfiguration of the originally proposed DDO1 into six separate schedules was effective to achieve this objective. For instance, permit triggers, signage controls and decision guidelines are now only specified in the DDO15 which applies to the whole of Avenue. Content in each of the DDO schedules has been minimised accordingly. In addition, the controls surrounding key opportunity sites have been minimised as the general design controls deemed to be sufficient to achieve the desired objectives.

- **Reduce the length of the DDO schedule(s) by relocating design objectives to the Municipal Strategic Statement and retaining implementation measures in the DDO schedule(s);**

Council’s response: Significant reduction to the length of DDO schedules is achieved throughout the reconfiguration process of the originally proposed DDO1. Matters of repetition, overlap and text reduction were attentively considered in the process. For example objectives that refer to extending the formal Avenue to the bend near the airport, and other objectives relating to land uses such as agriculture and dwelling have all been relocated to the MSS including Clause 21.10.

- **Delete references to land uses such as agriculture and dwellings (as the DDO cannot be used to control land use);**

Council’s response: Agreed. As indicated above, objectives surrounding land use have been relocated to the MSS. For instance, within the Horticultural Edge Precinct, objectives relating to ensuring farming be the primary land use within the precinct and other objectives that discourage multi dwelling development have been relocated to Clause 21.10 under land use.

- **Consider whether there is adequate justification for and the need for the proposed high level of mandatory control under the proposed DDO schedule (eg a permit would be required for any fence within the front setback along Deakin Avenue, potentially including side paling fences and rural type fencing), and the possible impact on council resources of any expected increase in the number of permit applications;**

Council's response: Guiding fences along Mildura's premier avenue is an integral element of the *Deakin Avenue Urban Design Guidelines, 2016* to achieve a range of objectives including eye on the street, active frontages, quality design outcomes and interaction between the public and private realm. In addition, fences fronting a Road Zone, Category 1 (similar to Deakin Avenue) can be built up to a height of 2m pursuant to Standard A20 in Clause 54.06-2 of the Mildura Planning Scheme which is an outcome Council is trying to avoid. Finally, the existing DDO1 in the Mildura Planning Scheme currently requires a permit for a fence in the front setback, it is therefore deemed appropriate to keep such a permit trigger which will not result in any increase in the number of permit applications.

- **Consider whether the proposed DDO schedule(s) could adopt a less prescriptive and more facilitative approach by allowing development without a planning permit that is consistent with the objectives of the schedule(s);**

Council's response: Agreed. A range of developments is exempted from a planning permit under the new proposed DDO schedules. This includes, in the General Residential Zone, all buildings and works that not visible from Deakin Avenue, works normal to a Dwelling in addition to other types of minor development.

- **Consider whether references to heritage issues could be deleted from the proposed DDO schedule(s) because they are adequately addressed by the Heritage Overlay;**

Council's response: The existing Heritage Overlay (HO) which applies to some elements/buildings along Deakin Avenue, in some respects, is restricted to addressing matters such as paint control when considering the redevelopment of those buildings. The objectives of encouraging the restoration of heritage facades and the repurposing of historic buildings along the avenue are derived from the *Deakin Avenue Urban Design Guidelines, 2016* and these objectives go beyond the control of the HO. In addition, a range of historic buildings, that are considered contributory to the heritage value of Deakin Avenue, are not covered by the HO and as such no guiding controls currently apply to those buildings.

- **Consider whether references to matters such as kerbing, drainage and public realm planting and landscaping can be deleted from the proposed DDO schedule(s), given that these matters usually do not require planning approval;**

Council's response: Agreed, some references to the above matters have been removed from the proposed DDO schedules. For instance, the requirement relating to "*incorporate sustainable drainage systems to be used in place of constructed channel, integrated with a water retention basin*" has been deleted.

- **Ensure that objectives are implemented by clearly defined measures (eg provide examples of measures for ‘greening’ the streets, such as roof gardens or green walls); and**

Council’s response: Examples of greening the street have been included under design requirement in DDO15 including “*Consider vertical gardens and roof top gardens to provide insulation, environmental cooling and greenery*”.

- **Consider the need for additional decision guidelines to guide discretion, particularly if the DDO1 is amended to reduce the level of mandatory control.**

Council’s response: Agreed. Further to the significant reduction made to the new set of DDO schedules, decision guidelines are now considered appropriate and therefore included under DDO15, to guide the discretion and assist statutory assessment.

- d) That the requirements for advertising signage (in bullet point form under 4.0 of the proposed DDO schedule) be relocated to 2.0 under ‘Building and works’;**

Council’s response: Changes made accordingly. Advertising sign requirements have been relocated to 2.0 under ‘Building and works’ in the overall DDO15 schedule.

- e) That council consider whether the decision guideline ‘*Whether the proposal is in accordance with the Deakin Avenue Urban Design Guidelines 2016*’ is superfluous (if compliance with the DDO requirements indicates that a proposal is in accordance with the urban design guidelines);**

Council’s response: Agreed, the subject decision guideline has been deleted.

- f) That Council liaise with the department to determine the final form of the proposed DDO schedule(s) prior to exhibition of the amendment; and**

Council’s response: Liaison with DELWP has been achieved as demonstrated through numerous constructive discussions with Mr Matthew Cameron, Senior Regional Planners at DELWP local office in Mildura.

- g) That notice of the amendment is given to VicRoads (in addition to any other agencies that council may notify).**

Council’s response: VicRoads, along with all other Government agencies which may be affected by the amendment, will be directly notified as part of the Exhibition notice.

2.24. The Department of Environment, Land, Water and Planning (DELWP) accepted Council’s response and placed the updated documents on public exhibition accordingly.

2.25. The Amendment then was placed on public exhibition from 10 November 2017 to 18 December 2017. Any person who may be affected by the amendment was given the opportunity to provide a written submission to Council about the amendment.

3. CHRONOLOGY OF EVENTS

The following studies and milestones are of relevance to the background of Amendment C95.

DATE	EVENT	DETAILS
22 December 1999	DDO1 – Deakin Avenue	New format of Mildura Planning Scheme introduced Schedule 1 to the Design And Development Overlay (DDO1) – Deakin Avenue introduced in to the Mildura Planning Scheme.
22 December 1999	DDO3 – Mildura City Heart	New format of Mildura Planning Scheme introduced Schedule 3 to the Design And Development Overlay (DDO1) – Mildura City Heart introduced in to the Mildura Planning Scheme.
27 July 2006	Deakin Avenue MasterPlan	Council adopted the Final Deakin Avenue Master Plan 2006
7 June 2007	Deakin Ave UDG Mandate	Council resolved that urban design guidelines together with a revised policy framework be prepared to assist Council in considering future development applications along Deakin Avenue.
13 December 2007	Mildura CBD Plan – DDO3 basis	Council Adopted the Mildura CBD Plan 2007 and agreed to initiate an amendment to the Mildura Planning Scheme to implements its recommendations.
26 August 2010	15 th & Deakin Structure Plan – DDO12 basis	Adoption of Fifteenth & Deakin Structure Plan 2010 and Mildura Retail Strategy 2010
16 MAY 2013	DDO12 - 15 th & Deakin Structure Plan	Gazettal of Amendment C67 which implemented the recommendations of the Fifteenth & Deakin Structure Plan (July 2012) in the Mildura Planning Scheme and applied the Design and Development Overlay – Schedule 12 to land within the structure plan area.
27 June 2013	Council Plan 2013-17	Council Plan 2013-2017 was adopted by Council on 27 June 2013 and consequently a full review of the Mildura Planning Scheme was required
15 July 2013	VC100 – Zone reforms	Amendment VC100 was published in the Victorian Government Gazette
26 June 2014	Mildura PS review	Council resolved to adopt the Mildura Planning Scheme Review
1 August 2014	Mildura Sth DP	Mildura South (16 th & Deakin West) Development Plan adopted
1 September 2014	Mildura Sth PSP	Mildura South Precinct Structure Plan adopted

25 May 2015	Deakin Ave UDG – Commencement	Further to formal tendering process, Planisphere Pty Ltd (now Ethos Urban) were successfully commissioned for the preparation of Urban Design Guidelines for Mildura's iconic boulevard, Deakin Avenue.
26 November 2015	Deakin Ave UDG – Process	Council resolved to adopt the Strategic Vision and Objectives Paper November 2015 and the Key Issues Report July 2015
25 August 2016	Deakin Ave UDG – Final	Council resolved to adopt the Deakin Avenue Urban Design Guidelines.
25 August 2016	C95 - Mandate	Council resolved to agree to prepare an amendment to the Mildura Planning Scheme to implement the recommendations of the Deakin Avenue Urban Design Guidelines 2016.
22 September 2016	C75 - Gazettal	Gazettal of Mildura Planning Scheme Amendment C75 - Mildura South Precinct Structure Plan as incorporated document
13 March 2017	C95 – Draft Documentation	Council engaged Planisphere Pty Ltd (now Ethos Urban) to prepare Amendment C95 documentation including one consolidated DDO1 as recommended by the adopted Deakin Avenue Urban Design Guidelines 2016
9 April 2017	New MD on Form & Content of PS	The new Ministerial Direction on The Form and Content of Planning Schemes issued under section 7(5) of the Planning and Environment Act 1987
28 September 2017	C95 - Authorisation	Authorisation request sent to the Minister for Planning
16 October 2017	C95 - Authorisation	Minister for Planning authorised the preparation of the Mildura Planning Scheme Amendment C95 subject to numerous conditions - Authorisation A03658
November 2017	C95 – Response to Authorisation Conditions	Council Officers responded to authorisation conditions and reconfigured the originally proposed Design and Development Overlay (DDO1) into six DDO schedules DDO15 - 20
10 November to 18 December 2017	C95 – Exhibition	Public Exhibition of the Amendment & Receipt of Submissions
5 February 2018	C95 – Late Submission	One late submission was received (Submission No.7)
27 February 2018	C95 – Response to Submissions	Mildura Planning Scheme Amendment C95 Public Exhibition Summary February 2018 report prepared by Ethos Urban
28 March 2018	C95 – Response to Submissions	Council confirmed the response to the submissions received to Amendment C95 and formally requested to appoint an Independent Panel.
26 April 2018	C95 – Panel Directions	Amendment C95 Panel Directions Hearing was held in Mildura
21 May 2018	C95 – Panel Hearing	Amendment C95 Panel Hearing to be conducted in Melbourne

4. STRATEGIC CONTEXT AND ASSESSMENT

- 4.1. Amendment C95 implements the recommendations of the *Deakin Avenue Urban Design Guidelines, 2016*. Specifically it seeks to:
- a) Amend the Municipal Strategic Statement by updating Clause 21.02, Clause 21.03, Clause 21.07 and Clause 21.10 to include reference Deakin Avenue Urban Design Guidelines, 2016 and updates to maps.
 - b) Amend the Local Planning Policy Framework by updating Clause 22.01 to discourage budget accommodation from locating on Deakin Avenue.
 - c) Delete the existing Design and Development Overlay, Schedule 1
 - d) Insert a new Design and Development Overlay, Schedule 15 to apply to all lots fronting Deakin Avenue from the junction of Deakin Avenue and the Sturt Highway to Seventh Street.
 - e) Insert a new Design and Development Overlay, Schedule 16, 17, 18, 19 & 20 to apply sequentially to lots fronting Deakin Avenue from the junction of Deakin Avenue and the Sturt Highway to Seventh Street.
 - f) Amend the existing DDO3 boundary and the map contained within the Schedule to remove lots fronting Deakin Avenue.
- 4.2. Amendment C95 also implements one recommendation of the *Mildura Planning Scheme Review, 2014*. Specifically it seeks to:
- a) Amend the existing C1Z Schedule to insert maximum leasable floor area requirement to all lots fronting Deakin Avenue.
- 4.3. Deakin Avenue is Mildura's premier boulevard, extending from the rural surrounds of the Mildura Airport to the built up areas of the CBD (as also reflected in the direction of the 2006 Deakin Avenue MasterPlan) Over time there have been a number of influences and pressures that have resulted in uncharacteristic built form, segregation and conflict of land use activities, traffic congestion and decaying public realm.
- 4.4. In recognition of these issues, Council commissioned the *Deakin Avenue Urban Design Guidelines* project to develop a clear framework that will guide future land use and built form along the Avenue. The Guidelines set out a clear vision for the Avenue, established through six key themes; image of Mildura, built form, landscaping, land use, lighting and safety and access and movement. Each of these themes is supported by key objectives and design guidelines which have also been reflected throughout five precincts along the Avenue; Horticultural Edge, Residential, City Gate, Mixed Use and City Core.
- 4.5. Amendment C95 is therefore required to implement the key objectives and design guidelines identified in the *Deakin Avenue Urban Design Guidelines*. The amendment proposes changes to the existing design and development overlay schedules as well as minor changes to the Municipal Strategic Statement.

- 4.6. The Amendment will delete the existing Schedule 1 to the Design and Development Overlay (DDO) DDO1 and will apply a new set of DDO schedules (as directed by DELWP) along the length of Deakin Avenue, equating to the five precincts, and including sufficient direction for the section in the Mildura CBD. It is therefore deemed necessary that Design and Development Overlay, Schedule 3 (Mildura CBD) will cease applying to land fronting Deakin Avenue to avoid overlap and repetition in controls. Careful consideration has been given to ensure the objectives of the Mildura CBD Plan 2007, the Mildura CBD Precincts Plan at Clause 21.10-1 and the Deakin Avenue Master Plan 2006 are still being achieved by the newly introduced DDO schedules.
- 4.7. The Amendment as such will ensure that future development respects and enhances the local character and provides certainty for land use and development outcomes. Furthermore it will facilitate future development and public realm improvements that reflect community values and aspirations.
- 4.8. Additionally, Amendment C95 is required to counter the unintended implications of Amendment VC100 on the retail centres of Mildura. Prior to Amendment VC100, Deakin Avenue accommodated a stretch of Business 5 Zoned (B5Z) land from Fifteenth Street in the south to Thirteenth Street in the north. This precinct accommodates a variety of uses, including numerous motels. Land to the north of Hunter Street and Deakin Avenue was also in the B5Z.
- 4.9. As a legacy of Amendment VC100, the C1Z was applied to all existing Business 5 Zone (B5Z) land fronting Deakin Avenue, subsequently increasing the number of discretionary uses. The land use zone now permits supermarket and 'core' retailing along Deakin Avenue.
- 4.10. 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.
- 4.11. 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).
- 4.12. 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 along Deakin Avenue as outlined in the Deakin Avenue Urban Design Guidelines is consistent with the introduced limit.
- 4.13. The Deakin Avenue Urban Design Guidelines seek to avoid land uses that interrupt the streetscape due to their typically poor built form outcomes, such as fast food outlets, service stations, car sales yards, industrial/manufacturing uses and big box retail outlets and warehouses.

- 4.14. 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. However, these types of larger format uses could be considered acceptable on other C1Z land along the Avenue (where the 80sqm limit does not apply) if a fine-grain presentation to the street can still be delivered through building design.
- 4.15. Upon further review, it is noted that the previous B5Z land did not include all existing C1Z land along the Avenue. Therefore, the 80sqm limit on shops in C1Z land will be rationalised to only apply to C1Z land where it was previously B5Z. The maps below identifying previous B5Z land to be recommended for an 80sqm leasable floor area limit.

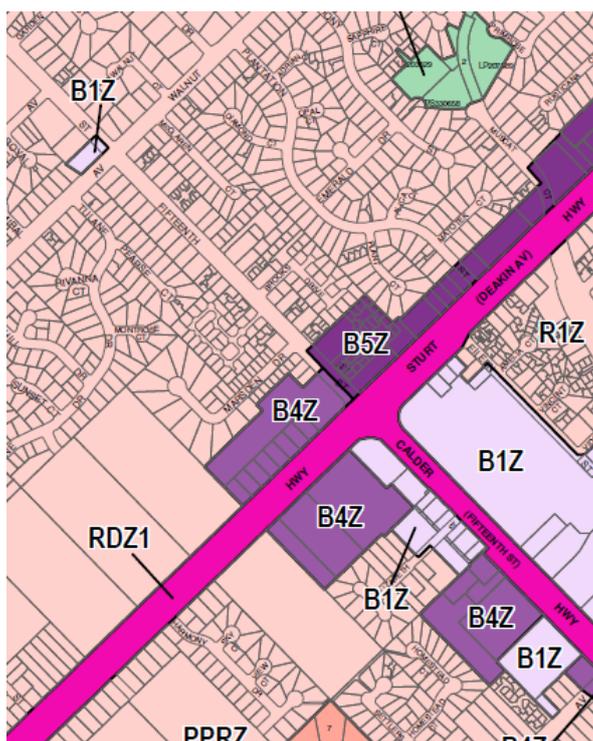


Figure 1 - Part of Planning Map No. 28 as of 14/5/2013 depicting former Business 5 Zone B5Z along Deakin Avenue.

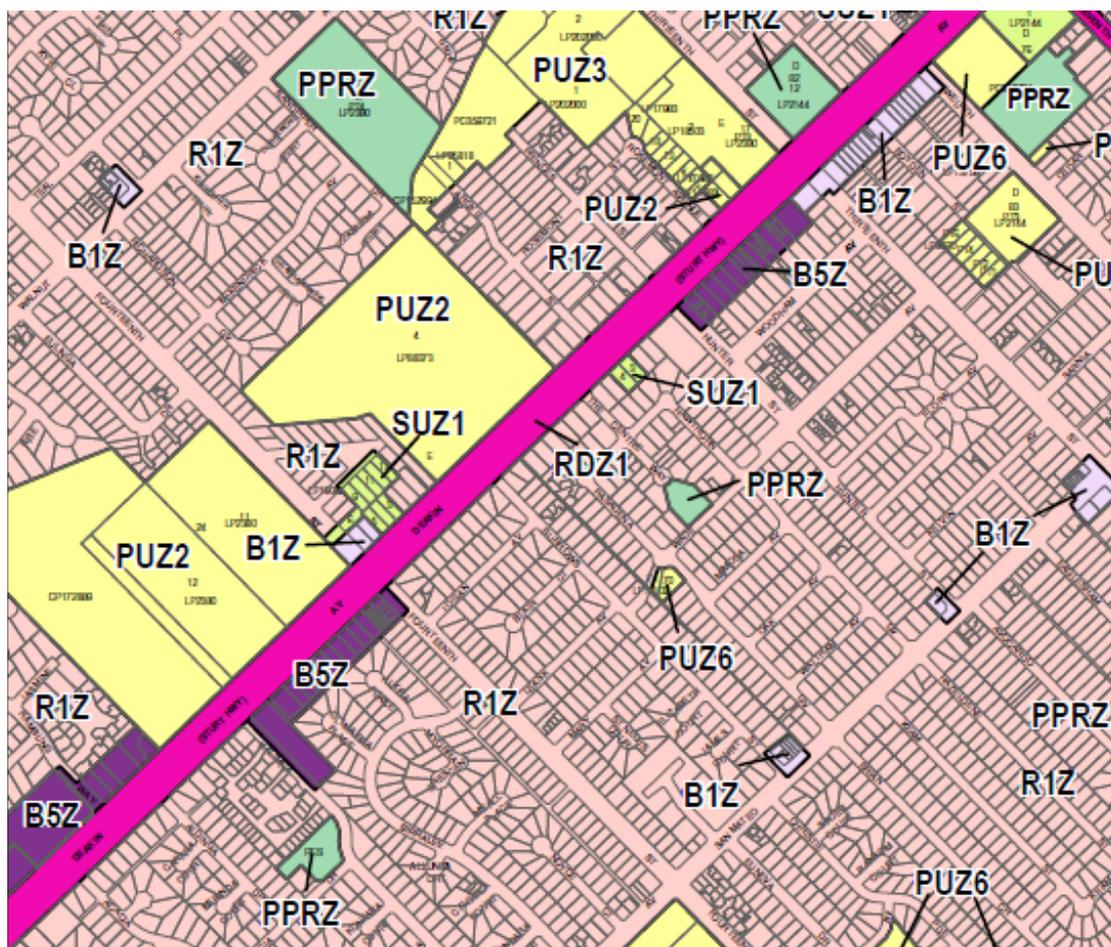


Figure 2 - Part of Planning Map No. 29 as of 14/5/2013 depicting former Business 5 Zone B5Z along Deakin Avenue.

5. INTERACTION BETWEEN ELEMENTS OF THE PLANNING FRAMEWORK

5.1. Planning and Environment Act 1987

5.3.1 The Amendment seeks to achieve the objectives of planning in Victoria as set out in Section 4 (l) of the Planning and Environment Act 1987 including:

- a) To provide for the fair, orderly, economic and sustainable use and development of land
- b) To provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity
- c) To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria
- d) To facilitate development in accordance with the objectives set out in the points above
- e) To balance the present and future interest of all Victorians.

5.3.2 In accordance with these provisions, the amendment will facilitate future orderly planning of land fronting Deakin Avenue and provide a long term strategy to manage land use and development.

5.2. The amendment is consistent with:

- a) The Ministerial Direction on the Form and Content of Planning Schemes under section 7(5) of the Act.
- b) The Strategic Assessment Guidelines, this amendment has considered the local and state planning policy frameworks within the Mildura Planning Scheme.
- c) Ministerial Direction 11 Strategic Assessment of Amendments.

5.3. **State Planning Policy Framework**

The Amendment support or implement the State Planning Policy Framework and any adopted State policy:

5.5.1 Clause 11 Settlement

Clause 11 sets out the framework for planning in Victoria and identifies objectives to manage future growth and development. Specifically it identifies Mildura as a key regional centre where growth and investment should be supported.

The Amendment seeks to strengthen the image of Mildura by setting out a clear vision and strategic framework that will guide future development and land use along its premier street, Deakin Avenue.

5.5.2 Clause 11.07 Regional Victoria

Clause 11.07 has the objective to promote and support the sustainable and integrated planning of regional settlements in Victoria. A range of high level objectives seek to grow a network of prosperous regional settlements, maintain regional Victoria's competitive advantages, plan for climate change and create distinct, liveable and healthy communities.

The amendment supports the future growth and economic development of Mildura by identifying locations which are appropriate for future housing and commercial diversity and intensification. The identification of precincts, each with a preferred future character and suite of design guidelines, provides certainty about land use activity and built form outcomes.

The transition along the Avenue from the low scale Horticultural Edge Precinct to built-up City Core Precinct, as envisaged by the Guidelines, will enhance the grandeur and sense of arrival at Deakin Avenue.

5.5.3 Clause 11.13 Loddon Mallee North

Clause 11.13 sets the policy objectives and strategies for the Loddon Mallee North region in accordance to the Loddon Mallee North Regional Growth Plan (Victorian Government, 2014). This clause has the objective to protect and provide a local sense of place, with the implementing strategy to facilitate growth of Mildura as the regional city, through planned development incorporating the nearby settlements of Red Cliffs, Irymple and Merbein, and encourage urban consolidation, particularly in the Central Business District.

The amendment will include objectives in the planning scheme to maintain the local character and enhance the image of Deakin Avenue which is the premier avenue in Mildura. A suite of design requirements covering the built form, landscaping, access and movement, lighting and safety, coupled with guidance on the land use activities will apply to the whole of Avenue. This will ensure future development contribute to a strong and consistent image and responds to the Avenue's unique character.

5.5.4 Clause 15 Built Environment and Heritage

The promotion of high quality built environments that support health and wellbeing as well as social, economic, heritage values is outlined in Clause 15.

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 for built form applicable to both commercial and residential land uses. Key opportunity sites and significant corner sites have also been identified and specific guidance on these locations is contained in the Amendment for their protection and enhancement.

5.5.5 Clause 16 Housing

Clause 16 sets out objectives and policies to ensure that housing needs are met and the location of residential developments has access to community services and infrastructure.

The Amendment provides certainty about the type and design of housing along the Avenue. Detailed guidelines are contained in each precinct which outline preferred housing typologies and provide direction on key considerations such as building height, setbacks and frontages.

Housing diversity is also supported and it is envisaged that alternative housing typologies will be facilitated through this Amendment. The Amendment seeks high quality built form outcomes and sets out a range of design considerations which have been translated into the proposed DDO to ensure that future development integrates seamlessly into the public realm.

5.5.6 Clause 17 Economic Development

Clause 17 has the purposed to encourage planning that contributes to the economic well-being of communities and the State as a whole by supporting and fostering economic growth and development by providing land, facilitating decisions, and resolving land use conflicts, so that each district may build on its strengths and achieve its economic potential.

The amendment will ensure development along Deakin Avenue is designed to reflect the transition from, rural to inner city. Five distinctive precincts were identified to mark this transition including Horticultural Edge Precinct, Residential Precinct, City Gate Precinct, Mixed Use Precinct and City Core Precinct. The amendment will introduce design requirements to guide development into each of the functional precincts along the avenue based on the role of each precinct.

5.5.7 Clause 18 Transport

Clause 18 supports the development of integrated sustainable transport networks that provide access to social and economic opportunities.

The amendment acknowledges the important role of Deakin Avenue in accommodating through vehicle traffic, including trucks and other heavy vehicles. A range of objectives and actions are contained in each precinct plan that seek to improve access and movement along the Avenue. The designation of a truck bypass route, upgrades to the road and central median strip and intersection upgrades are amongst some of the actions identified.

In addition, there are a suite of objectives and actions to improve the pedestrian and bicycle connections along the Avenue. Key locations along the Avenue have been identified for pedestrian crossings and in certain sections closer to the CBD, the promotion of shared and separated bike paths have been included.

5.4. The Amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement:

5.6.1. Clause 21.02 Key Influences and Issues

Clause 21.02 recognises that Deakin Avenue and the adjoining development is one of the most impressive boulevards in regional Victoria.

The amendment strengthens the vision to maintain Deakin Avenue as Mildura's premier avenue by incorporating additional objectives to improve access and movement and carefully manage land use activity. It also emphasises the need to protect and appropriately transition from horticultural land to the CBD core.

5.6.2. Clause 21.03 Vision and Strategic Framework

Clause 21.03 identifies Deakin Avenue as Mildura's main boulevard that provides residents and visitors a grand entrance to the City. Future development and land uses along the Avenue should be sensitive to the local conditions and enhance visual amenity.

The amendment reinforces the Avenue's role in providing a sense of arrival and the need to maintain its grandeur. Objectives and specific design guidelines contained in the amendment promote development that is reflective of local values, including low-rise building scale, appropriate setbacks and muted colours and finishes. The identification of precincts along the Avenue will ensure that appropriate land uses are clustered to better define the function of the Avenue.

5.6.3. Clause 21.07 Built Environment and Heritage

Clause 21.07 further reinforces Deakin Avenue as the most significant boulevard in Mildura that has a high visual amenity. Two primary objectives seek to protect the visual integrity and land use functions and appearance of Deakin Avenue and to maintain Deakin Avenue as a high quality boulevard entrance into the Mildura urban area. The

Clause also outlines the importance of heritage within Mildura and has objectives to conserve and enhance buildings with special significance.

The protection and enhancement of the built environment and heritage along Deakin Avenue is a central focus of the Amendment. The avoidance of land use conflicts and the strengthening of heritage values are implemented through the Amendment.

5.6.4. Clause 21.08 Economic Development

Clause 21.08 reinforces the economic role and importance of the bulky goods retailing site at the intersection of Deakin Avenue and Fifteenth Street.

The Amendment identifies the lots fronting the intersection of Deakin Avenue and Fifteenth Street as a key opportunity sites. Additional guidance is provided for these sites to ensure that future development enhances the importance of this gateway into the City and that development appropriately interfaces with the intersection.

5.6.5. Clause 21.09 Transport and Infrastructure

Clause 21.09 provides local content to support Clause 18 (Transport) and Clause 19 (Infrastructure) of the State Planning Policy Framework. This clause also provides for the implementation of the Council Plan 2009-2013 by achieving well maintained, sustainable and accessible roads, buildings and facilities; with appropriate, integrated and sustainable land use, development and infrastructure provision.

The amendment is consistent with this aim by including objectives to improve vehicle access and movement along the Avenue. This amendment also seeks to improve potential for access to public transport and other active transport opportunities including improved bus service, bicycle networks and pedestrian links.

5.6.6. Clause 21.10 Local Areas

Clause 21.10 sets out policies for local areas in Mildura that seek to protect heritage features and built form scale in sections of Deakin Avenue.

The Amendment is consistent with the objectives set out in Clause 21.10 and provides further strength by incorporating the Guidelines as a reference document. The insertion of a new local areas policy for Deakin Avenue provides clarity and policy definition around the core aspects of the Guidelines.

Some of the key amendments proposed for Clause 21.10 include the insertion of:

- a) The vision and key supporting objectives
- b) Objectives to maintain the local character and enhance the image of Mildura
- c) Built form guidelines to apply to the whole of Avenue
- d) Guidance on the land use activities
- e) Landscaping, vegetation and character objectives to improve the provision of plants along the Avenue
- f) Objectives to improve the safety of pedestrians and cyclists
- g) Objectives to improve vehicle access and movement along the Avenue

The amendment will also introduce the Deakin Avenue urban Design Guidelines 2016 as a reference document in the scheme.

5.6.7. Clause 22.01 Budget Accommodation

Clause 22.01 outlines the policy for budget accommodation within Mildura which includes, hostels, backpackers lodges, motels and other forms of group accommodation. The policy ensures that these land uses minimise any off-site amenity impacts and directs the location of this accommodation toward the Mildura CBD. The policy strongly discourages budget accommodation within the General Residential zone.

The amendment proposes to make minor modifications to the Clause to discourage budget accommodation from locating along Deakin Avenue.

- 5.5. The amendment makes proper use of the VPPs by utilising the appropriate tools to implement the Guidelines. Specifically:
 - a) The DDO is the most appropriate tool to implement the outcomes of the Deakin Avenue Urban Design Guidelines and provides the most effectual and efficient translation into planning controls.
 - b) Updates to the MSS and Local Planning Policies improve the clarity of the policy framework and provide policy guidance which cannot be contained in the proposed DDO Schedules.
 - c) Floor area modification to the C1Z will allow for smaller retail land uses that are consistent with the surrounding residential interfaces.
 - d) The changes made by the Amendment do not conflict with or duplicate any other existing provision.

6. ISSUES RAISED IN SUBMISSIONS

- 6.1. As required by the *Planning and Environment Act 1987*, the amendment was placed on public exhibition from 10 November 2017 to 18 December 2017. Any person who may be affected by the amendment was given the opportunity to provide a written submission to Council about the amendment.
- 6.2. The amendment exhibition notice appeared in the Victorian Government Gazette (gazetted) on 16 November 2017 and was advertised by:

- a) Advertisement in the local newspaper
 - b) Council's website and Facebook page
 - c) Direct notification via mail out to affected land owners and occupiers (a total of 1645 letters)
 - d) Direct notification to Government Authorities and past consultation/workshop attendees (a total of 108 letters).
- 6.3. During public exhibition, the amendment and any documents that support the amendment were made available for inspection, free of charge, at various locations across the Municipality, this has included:
- a) Council's Madden Avenue and Deakin Avenue Service Centres
 - b) Mildura Library
 - c) Mildura South Post Office.
- 6.4. The amendment was also made available for inspection, free of charge, at the Department of Environment, Land, Water and Planning website www.delwp.vic.gov.au/public-inspection.
- 6.5. A combined drop-in session was held for residents to find out more about the proposed changes through Amendment C95 and Amendment C100 and to have the opportunity to speak to Council staff. The session was held on 30 November 2017, from 3.30pm-7.30pm in the Alfred Deakin Centre on Deakin Avenue. A total of nine people attended the session.
- 6.6. At the conclusion of the public exhibition period the Council received a total of seven formal written submissions, including one late submission was received on 5 February 2018, which Council accepted and has been responded to accordingly.
- 6.7. Feedback from submitters has been generally positive, with minimal issues that require further consideration. However, there are some clear concerns around the 80sqm maximum leasable floor space and concerns from Mildura Central Shopping Centre about the level of additional controls and restrictions that are proposed to be applied to their land.
- 6.8. Submissions Table
The issues raised and a response to each have been summarised in the table below (prepared by Ethos Urban February 2018).

No.	Submitter	Issue/Theme	Response/Recommendation
1	CFA D14	Emergency Vehicle Access As Deakin Avenue is a major thoroughfare for traffic in and around Mildura, it provides vital access for emergency services vehicles. Future design of the street carriageway and surrounding properties should ensure emergency vehicle access is not compromised.	Noted. Amendment C95 does not propose to cause any changes to roads or accessways that may impact on the appropriate access of emergency vehicles.

		Accordingly, all roads and associated infrastructure should be Clause 56 compliant.	No changes to Amendment C95
2	Donald Gibson	<p>Reduction in the allowable leasable floor area of shop/restaurant to 80sqm. Believes that a Shop is a key use and purpose for the Commercial 1 zone and believes schedule 15 to the DDO is not consistent with the current zoning of commercial shops fronting Deakin Avenue. Submitter states that the design objectives of the proposed DDO can be met without limiting the shop size.</p> <p>Believes amendments to the schedule of Clause 34.01 C1Z are aimed at food outlets such as fast food being limited along Deakin Avenue, however does not see substantial reasoning behind this amendment change.</p> <p>Submitter states that drive-through retail venues are required to promote Mildura as a 'leading place for services and retail' and that they will 'enhance the attractiveness of the boulevard' in line with the aims promoted in the amendment.</p> <p>The UDG does not have any objectives that relate to or are impacted by the size of leasable areas.</p>	<p>The introduction of the reformed Commercial Zones in 2013 meant that retail premises became an as-of-right use, which was not supported by Council's vision for the Avenue. Previously much of the C1Z land along the Avenue was within the Business 5 Zone, which prohibited Shops. This intention to prohibit retail uses along that part of the Avenue was lost with the change in the zone controls. In 2014, the Planning Scheme Review recommended that this previous B5Z land limit the leasable floor area for shop to reinstate some of this intention for the Avenue, without prohibiting shops completely. The recent review of the Mildura Retail Strategy has also supported this direction.</p> <p>The DDO seeks to add another level of detail to the built form controls along Deakin Avenue, to ensure future development meets minimum design standards. It is not inconsistent with the C1Z. 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.</p> <p>Upon further review, it is noted that the previous B5Z land did not include all existing C1Z land along the Avenue. Therefore, it is recommended that the 80sqm limit on C1Z land be revised to only apply to C1Z land where it was previously B5Z (this zone was only located between Thirteenth and Fifteenth Streets but did not include the Mildura Central site). See attached maps identifying previous B5Z land to be recommended for an 80sqm leasable floor area limit.</p> <p>Furthermore, the Deakin Avenue Urban Design Guidelines seek to avoid land uses that interrupt the streetscape due to their typically poor built form outcomes, such as</p>

		<p>Submitter states that existing use rights should apply for the use and development of land, including leasable floor areas.</p> <p>Submitter believes there is a legal argument around the Planning Scheme taking priority over an as-of-right entitlement.</p>	<p>fast food outlets, service stations, car sales yards, industrial/manufacturing uses and big box retail outlets and warehouses. This does not mean that these uses (e.g. large format retail or drive-through premises) would not be acceptable in other parts of Mildura, in its role as a Regional Activity Centre.</p> <p>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. However, these types of larger format uses could be considered acceptable on other C1Z land along the Avenue (where the 80sqm limit does not apply) if a fine-grain presentation to the street can still be delivered through building design.</p> <p>Under Clause 63 of the Planning Scheme a previously approved use may continue to operate under existing use rights. Amendment C95 will not allow the Council to discontinue a permit for any existing building, use or business based on the proposed Planning Scheme changes.</p> <p>However, existing use right provisions do not automatically require the Council to approve a change of use and alternative prohibited uses are at the discretion of the Council.</p> <p>Existing uses with leasable floor areas that are more than the proposed maximum 80sqm, will continue to operate under existing use rights. A change of use that proposes more than 80sqm leasable floor area will also be at the Council's discretion (as outlined in Clause 63.08 and 63.09). Clause 63.09 states that a permit must not be granted for a leasable floor area greater than 500sqm.</p> <p>Recommendations: Remove the proposed 80sqm limit on leasable floor area from C1Z land that was not previously zoned B5Z.</p>
3	EPA Vic (NW Region)	No issues	<p>Noted.</p> <p>No changes to Amendment C95</p>
4	Goulburn Murray Water	No issues	<p>Noted.</p> <p>No changes to Amendment C95</p>

5	DELWP	<p>Supportive of use of native vegetation for landscaping and the retention of mature trees.</p> <p>Not supportive of planting of vines, olives or Citrus on verges. Submitter notes a preference for indigenous plantings that are native to the Mallee area.</p>	<p>Noted.</p> <p>The Deakin Avenue UDG seeks to enhance verges and median strips with indigenous vegetation and plants that highlight Mildura's traditional horticultural pursuits. This planting would be undertaken and maintained by Council and/or VicRoads.</p> <p>The planting of vines, olive trees and citrus trees is identified as a consideration for landowners within front setbacks and not within verges. However, it is agreed that this is a guide only within the UDG and should be removed from the proposed DDO16.</p> <p>Recommendations: Remove reference to considering the planting of vines, olive trees and citrus trees from DDO16</p>
6	DEDJTR	<p>Submission recommends the following changes:</p> <p>DDO Schedule 3: change in wording to promote preferred bicycle network outcomes such as protected bicycle lanes versus edge line treatments or sealed shoulders.</p> <p><i>Amend 'Support the implementation of the Mildura Strategic Bicycle Plan 2013' to 'Support the implementation of the Deakin Avenue Urban Design Guidelines – Principle 6 Access and Movement'</i></p> <p>DDO Schedule 16 & 17: Proposed wording of landscape treatments, and regard to road safety infrastructure. It is noted that VicRoads Tree Policy (May 2016) states that on 80km/h roads approved safety treatments such as wire rope barriers or guard rail should be used to protect trees or speeds will need to be reduced (this applies to landscaping treatments in the Horticultural Edge and Residential Precincts).</p> <p><i>Consider incorporating 'Ensure the placement of tree plantings, hard landscaping</i></p>	<p>Agree to include an additional dot point in DDO3 under 'Cycling' that says – <i>'Support the implementation of the Deakin Avenue Urban Design Guidelines – Principle 6 Access and Movement'</i></p> <p>Retain reference to the Mildura Strategic Bicycle Plan 2013, as it applies to other areas of Mildura also.</p> <p>It is understood that all landscaping and works along Deakin Avenue will be subject to VicRoads approval and safety treatments.</p> <p>An action of the Deakin Avenue UDG is to continue consulting with VicRoads to implement any public realm works along the Avenue.</p> <p>It is agreed that DDO16 and 17 could be amended to incorporate a requirement to consider road safety and tree policies, as identified.</p>

		<p><i>areas and access crossings have regard to road safety infrastructure and any applicable tree policy in the road reserve’.</i></p> <p>DDO Schedule 18: proposed wording to have regard to truck movements at Fifteenth Street intersection. <i>Amend ‘Create an iconic landmark at the Fifteenth Street intersection with high quality architecture, where applicable’ to ‘Create an iconic landmark at the Fifteenth Street intersection with high quality architecture, where applicable, and having regard to truck movements’.</i></p> <p>Supplementary comment that Council will be responsible for all permeable and hard surface landscaping maintenance in the road reserve.</p> <p>The importance of advocating for the relocation and construction of underground powerlines to achieve the objectives of the UDG is highlighted as important and recommends that the priority of this direction be elevated.</p>	<p>Agreed that under Key Opportunity Sites in the proposed DDO Schedule 18, the strategy regarding an iconic landmark at Fifteenth Street, could be amended to have regard to truck movements.</p> <p>Noted.</p> <p>Noted.</p> <p>Recommendations: 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’</p> <p>Amend DDO16 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’.</p> <p>Amend DDO18 Key opportunity sites requirements, dot point 3 – ‘Create an iconic landmark at the Fifteenth Street intersection with</p>
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			<i>high quality architecture, where applicable, and having regard to truck movements.'</i>
7	Vicinity Centres (Mildura Central Shopping Centre)	<p>Submitter is unsure how the proposed amendment will provide clear guidance for the planning outcomes sought; for example, how the land use vision would translate into built form outcomes:</p> <p><i>'Deakin Avenue will highlight the economic successes of the Mildura region and present an enhanced image of the town that welcomes visitors and increases opportunities for tourism'</i></p> <p>Believes that the proposed policy additions to Clause 21.10 introducing Deakin Avenue as a Local Area requires more focussed commentary, to determine which of the outcomes is the most important to Council.</p> <p>Believes many comments under Land Use are inappropriate given the commercial zoning of the land in the City Gate Precinct. As an identified sub-regional centre, retail activity should be encouraged at Mildura Central as well as to the city centre. E.g.:</p> <p><i>'Direct land use that require higher built forms, or retail activity to the city centre'.</i></p> <p>Does not support the following commentary:</p> <p><i>'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.'</i></p> <p>Submitter believes it does not reflect the uses which are permissible in the current zoning regime. Believes there shouldn't be a blanket ban on such uses</p>	<p>It is proposed that implementation of DDOs 15-18 will clearly implement the UDG, as the objectives outlined within each DDO Schedule have been translated directly from the UDG and seek to implement the overall vision for Deakin Avenue. The design guidelines and built form requirements seek to translate these objectives into built form outcomes.</p> <p>Ethos Urban believe that the proposed Clause 21.10 provides a focussed commentary of the Deakin Avenue Urban Design Guidelines (2016) to identify all the land use and public realm outcomes that are important to Council.</p> <p>It is understood that land within the City Gate Precinct is identified as a sub-regional centre where retail activity is encouraged. However, it is not agreed that this sub-regional centre should encourage the same heights or density as the City Centre Precinct, which is the major Activity Centre of Mildura.</p> <p>It is Council's position to avoid any land uses that present as a large format or bulky built form along Deakin Avenue and instead encourage finer grain opportunities. It is also important to note that the land use objectives only apply to the small grain lots fronting Deakin Avenue, not along Fifteenth Street or other areas zoned C1Z away from Deakin Avenue.</p> <p>As mentioned above at submission no. 2, the introduction of the reformed Commercial Zones in 2013 meant that retail premises became an as-of-right use, which was not supported by Council's</p>

		<p>and should instead provide some design suggestions.</p> <p>Supports consistency of infrastructure, facilities and landscaping.</p> <p>Sees a contradiction in the policy that seeks to use indigenous and native species and maximise the use of low maintenance and climate appropriate species that also supports green nature strips and medians and lawn/grasses.</p> <p>Due to the nature of the proposed DDOs capturing all lots fronting Deakin Avenue, there are controls that cover the entire 'Mildura Central' site rather than just the portion that fronts Deakin Avenue. Submitter requests that the documentation be amended to apply only to the frontage of the site. It is deemed inappropriate that DDO controls for the Deakin Avenue frontage be applied to areas of the site 300m away from the avenue frontage.</p>	<p>vision for the Avenue. Previously much of the C1Z land along the Avenue was zoned Business 5 Zone, which prohibited Shops. This intention to prohibit retail uses along the Avenue was lost. In 2014, the Planning Scheme Review recommended that this previous B5Z land limit the leasable floor area for shop to reinstate some of this intention for the Avenue, without prohibiting shops completely.</p> <p>Furthermore, the Deakin Avenue Urban Design Guidelines seek to avoid buildings that might accommodate large format retail and bulky uses that may detract from the image of Mildura along the Avenue</p> <p>Such land use policy in the MSS is discretionary and therefore up to Council discretion based on quality design outcomes and presentation to Deakin Avenue, by implementing the proposed DDO schedules.</p> <p>Noted.</p> <p>Landscaping objectives have been determined based on existing valued neighbourhood character (as identified through community consultation) and the Deakin Avenue Landscape Masterplan. For further details see the Deakin Avenue Landscape Masterplan, July 2006. The balance between green nature strips and medians with the use of indigenous tree species will be closely considered by Council over time and may vary for each individual Precinct along the Avenue.</p> <p>Agreed. In this instance it is agreed that the proposed DDO maps be revised to only cover the portion of the Mildura Central site that fronts the Avenue. It is recommended that this portion be in-line with existing adjacent lots.</p>
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	<p>Does not support the statement found in DD015 that for commercial land uses it is a design requirement for 'car parking to be provided at the rear of the building' as this does not respond to commercial realities of development.</p> <p>Submitter requests a review of the signage requirements and wording. It suggests that as per the DDO, the Reference Document (UDG Report) say 'should' in relation to additional signage requirements. For example: Signage controls on pg. 25 of UDG nominates 'standalone signs must not be of an area larger than 2sq.m, and no higher than 1.8 sqm'. Despite a control applying to C1Z areas where signage already has a minimum limitation.</p> <p>Also concern that the DDO seeks to apply Category 3 signage to all land within DDO15, despite large portions of the land being impacted by the DDO being commercially zoned. Also sees the following DO15 statement regarding signage as limiting as it is already prohibited under category 3: <i>'Discourage the use of flashing or animated signs or the use of coloured neon lighting'</i></p> <p>DDO15 includes <i>'whether there is likely to be any adverse overshadowing impacts on the landscaped median from any development'</i>. Whilst a consideration for Council, this is not detailed in any other documentation. If this is to be included, there should be a standard by which</p>	<p>Ethos Urban disagrees with this statement. Commonly new retail development is designed to front and address the street with car parking to the rear of buildings. A large-scale development of this nature can still provide a retail / built component at the corner to improve the urban design outcome.</p> <p>The proposed DDO implements the Deakin Avenue UDG and its signage objectives. The DDO is discretionary in its wording around additional advertising sign limitations and therefore this decision lies with the Council. It is unnecessary to amend the adopted UDG to be in-line with the proposed and preferred DDO wording.</p> <p>Additional signage requirements that have been prepared for DDOs 15-18 recognise the importance and high amenity values along Deakin Avenue, especially as a mixed-use strip that includes residential and community uses. The proposed controls also reflect the intentions of the advertising signs requirements at Section 3.0 of DDO12. Therefore, the proposed Category 3 signage requirements in DDOs 15-18 would not impose greater restrictions than what is already present on the Mildura Central site.</p> <p>Further to this, recent Amendment VC144, has reduce control over Category 3 signage, which now allows electronic signs. On this basis, the signage requirements in addition to the Category 3 designation, is considered appropriate for the proposed Deakin Ave DDOs.</p> <p>It is recommended that the decision guideline relating to overshadowing the median be removed from Amendment C95. The proposed built form requirements adequately guide preferred built form outcomes.</p>
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		<p>overshadowing is acceptable or not.</p> <p>Sees there is a fundamental problem with the drafting of controls, due to the Mildura Central Shopping Centre site needing to respond to nine design objectives across DDO15 and DDO18, plus zone objectives, plus the Fifteen and Deakin Structure Plan DDO which has another 11 design objectives.</p> <p>Does not support the proposed changes to the C1Z leasable floor area, which will require a planning permit for a reconfiguration of existing tenancies to meet 80sqm shop sizes, which previously did not require a planning permit. Sees this as against the spirit of the control which seeks to support commercial uses.</p>	<p>The proposed Amendment C95 seeks to introduce design objectives that relate only to built form fronting Deakin Avenue, not the entirety of the Mildura Central Shopping site, which is covered by DDO12. Whilst it is understood that Vicinity would need to consider a number of objectives, it is considered that this level of detail is adequate for Deakin Avenue, considering its high value and vision for the future. It is not considered that this will require an applicant considerably more work in preparing a quality-built form proposal for any site.</p> <p>The number of DDO schedules developed for Deakin Ave to implement the UDG has been considered within input from DELWP to conform with the Ministerial Direction for the form and content of planning schemes amendments.</p> <p>Disagree that the 80sqm limit for leasable floor area should be removed from the majority of Deakin Avenue, as the vision for the Avenue seeks to create and retain a fine grain nature along this boulevard. However, it is agreed that this limitation should not apply to the Mildura Central shopping.</p> <p>As noted above at Submission no.2, the previous Business 5 Zone prohibited Shops and therefore it was the intention of Council that this land not be used for retail purposes. However, the B5Z became C1Z when the reformed Commercial Zones came in 2013. The Planning Scheme Review in 2014 recommended that the previously zoned B5Z limit leasable floor areas for retail to 80sqm.</p> <p>Upon further review, it is noted that the previous B5Z land did not include all existing C1Z land along the Avenue. Therefore, the 80sqm limit on C1Z land will be revised to only apply to C1Z land between Thirteenth and Fifteenth Streets (not including the Mildura Central site). See attached maps identifying previous B5Z land to be recommended for an 80sqm leasable floor area limit.</p>
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			<p>Recommendations:</p> <p>Review proposed DDO15 and 18 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.</p> <p>In DDO15, remove Decision Guideline dot point 4 regarding overshadowing.</p> <p>Exclude the Mildura Central site from the 80sqm leasable floor space requirement in the Schedule to the C1Z.</p>
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6.9. Further to the response to submission No.2, paragraph two above, it is noted that in the current Clause 21.07-2 of the Mildura Planning Scheme under Objective 2, Strategy 2.1 seeks to protect the visual integrity and land use function and appearance of Deakin Avenue by discouraging the establishment of food and drinks premises or restaurants in the GRZ and C1Z along Deakin Avenue.

7. POST EXHIBITION – PROPOSED CHANGES TO AMENDMENT C95

7.1. Further to the public exhibition period, and having examined all of the submissions received it was not recommended to alter Amendment C95 extensively. A few small inclusions and changes are recommended to the amendment documents. However, some issues raised cannot be supported and therefore they remain unresolved issues.

7.2. At the March 2018 ordinary meeting, Council endorsed the position taken in response to the submissions received to Amendment C95 as detailed in the ‘Mildura Amendment C95 Public Exhibition Summary February 2018’ report by Ethos Urban. Council further agreed to refer the submissions received in relation to Amendment C95 to an Independent Panel appointed by the Minister for Planning

7.3. The recommendations, as outlined in the ‘Mildura Amendment C95 Public Exhibition Summary February 2018’ report by Ethos Urban (formerly Planisphere Pty Ltd), are summarised below:

- a) Remove reference to considering the planting of vines, olive trees and citrus trees from DDO16.
- b) 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’.
- c) Amend DDO16 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’.

- d) 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.’
- e) Review proposed DDO15 and 18 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.
- f) In DDO15, remove Decision Guideline dot point 4 regarding overshadowing.
- g) Exclude all C1Z land that was not previously zoned B5Z (prior to the reformed Commercial Zones in 2013) including the Mildura Central site, from the 80sqm leasable floor space requirement in the Schedule to the C1Z.
- h) Provide greater clarity in Amendment C95 to accurately reflect the UDG’s 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 Cl.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.

7.4. On a separate note, one typographical error has been identified in the exhibited Schedule 20 to the Design and Development Overlay relating to an inaccurate translation of the maximum height allowed in the stretch of Deakin Avenue, Seventh Street to Tenth Street. The allowable figure should be corrected to 16m as outlined in the adopted Deakin Avenue Urban Design Guidelines Document, and as a consistent approach for a storey height of 4 metres applied universally in the six DDO schedules of Amendment C95.

7.5. On the basis of the above, Amendment C95 is now proposed in the version provided to the Planning Panel Victoria on the 17 May 2018.

7.6. The Panel has already heard from Mrs Kristen Wilkes of Ethos Urban (formerly Planisphere Pty Ltd) in relation to:

- a) Deakin Avenue Urban Design Guidelines Project
- b) Drafting of Amendment C95
- c) Analysis of Exhibited Amendment C95
- d) Response to Submissions.

8. CONCLUSION

8.1. In conclusion the Council respectfully requests that given the strategic justification for the Amendment and with the proposed complying with all technical requirements for a planning scheme amendment, after consideration of all relevant matters before it, the Panel in due course recommends the adoption of the Amendment, as put forward.

8.2. Ammar Habasch
Strategic Planner
Mildura Rural City Council

14 May 2018