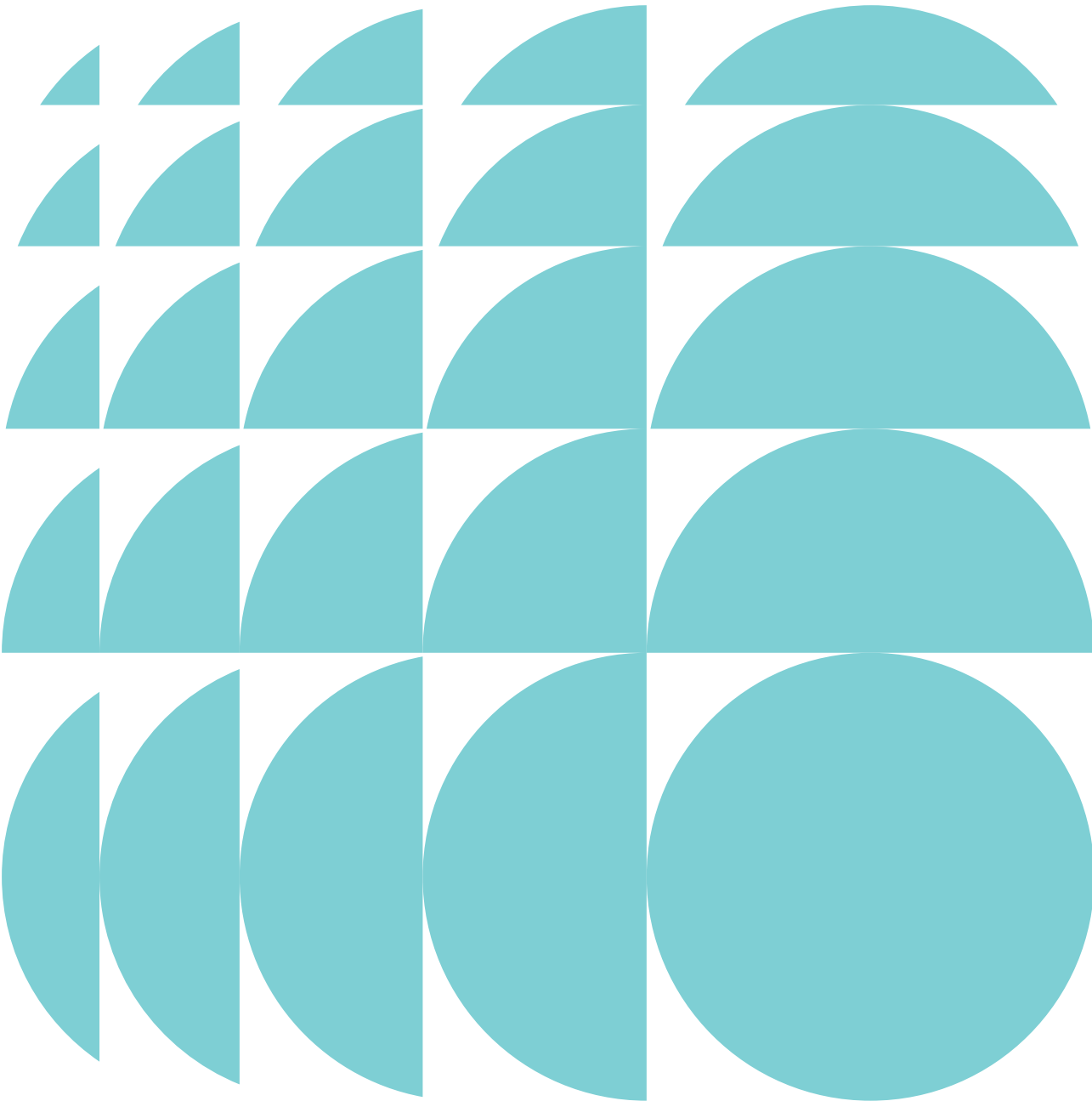


**ETHOS
URBAN**

Mildura Planning Scheme Review

Report (Adopted)
24 April 2019

for Mildura Rural City Council



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Executive Summary

Introduction

This Project (Mildura Planning Scheme Review 2018) fulfils the legislative requirements of section 12B(1) of the *Planning and Environment Act 1987* (the Act) whereby councils are required to conduct a review of their planning schemes within one year of the adoption of a new Council Plan. Councils are required to produce a four-year Council Plan every four years.

Mildura Rural City Council adopted the *Community and Council Plan* in 2017 and thus a review of the Mildura Planning Scheme is now required.

The Department of Environment Land Water and Planning (DELWP) provides guidance for how to conduct the review, through 'Planning Practice Note 32: Review of Planning Schemes' (PPN32) and the associated Continuous Improvement Review Kit (2006).

This report considers:

- History of the Mildura Planning Scheme and previous reviews;
- Five (5) key issues identified as outstanding work from the previous Planning Scheme Review (conducted in 2014);
- How the State and Local Planning Policy context has changed since the previous review;
- Issues identified through workshops with stakeholders and public consultation;
- The structure and content of the Mildura Planning Scheme in the context of the above issues and changes.

Background

The municipality is situated in Victoria's north-west and is Victoria's largest municipality by land area. The main urban area consists of Mildura, Irymple and Red Cliffs. Ouyen is also significant as the largest population centre in the southern part of the municipality.

The Mildura Planning Scheme was converted to a "New Format Planning Scheme" in 1999 and has since been reviewed three (3) times in 2003, 2010 and 2014. The previous review in 2014 has not yet been implemented through a planning scheme amendment, and the current version of the planning scheme does not include any of the changes recommended from that review.

Key Issues

The previous Planning Scheme Review conducted in 2014 included a large number of recommendations. Five issues from the 2014 Review remain outstanding, and their investigation formed part of the project brief for the current 2018 Review. The issues are:

- Provide objectives and decision guidelines in separate schedules to the Mixed Use Zone that reflect existing policies.
- Review and audit the Specific and Particular Provisions schedules and determine whether there is strategic justification for preparing local amendments to these provisions.
- Review and provide an updated policy framework to provide appropriate objectives and decision guidelines pertinent to the Farming Zone as follows:
 - Review and assess the need to reinstate the section of the former Agricultural Land Local Policy that refers to the preferred uses in the Farming Zone. This should include developing policy guidelines for inclusion in the MSS or a local policy regarding preferred uses in both the Farming and Rural Conservation Zones.
 - Review and prepare an appropriate policy framework to introduce policy guidelines outlining application requirements and decision guidelines for applications for Group Accommodation in non-urban zones.
 - Review and prepare an appropriate policy framework to introduce policy guidelines for applications to use land for Caravan parks in the Farming Zone.
- Include policy in the MSS that recognises and capitalises on the benefits of the Sunraysia modernisation project and the following emerging industries: sustainable energy (including solar parks and wind farms), mineral sand extraction and agricultural value-adding industries.
- Identify and protect important industries requiring buffer distances through the application of the Environmental Significance Overlay.

This report contains an in-depth analysis of each of these reform areas, including an examination of the background to the issue, relevant context, current policy and an assessment of whether reform is required, and if so, the potential scope of any changes to the Mildura Planning Scheme.

On the basis of this analysis, it is recommended that:

- Separate schedules be prepared for each of the four areas of MUZ in the municipality.
- The schedules to Clauses 52.17 and 52.33 be modified to incorporate more local content and that Council undertake further strategic work into Open Space provision, native vegetation removal applications and the potential for a gambling policy.
- Clause 22.01 'Budget Accommodation' be expanded to provide more explicit policy guidance in relation to all forms of seasonal worker accommodation, particularly 'Group Accommodation' and 'Camping and Caravan Parks'.
- A range of small additions be made to the Municipal Strategic Statement to better recognise the Sunraysia Modernisation Project and emerging industries.
- The existing ESO4 'Incompatible Land Use Buffer' provision be reviewed and expanded to protect important industries identified by Council.

State Policy Context

State Policy has changed significantly over the last 4 years. The most significant series of reform are those relating to Smart Planning, which has been introduced to all Victorian planning schemes via Amendments VC142 and VC148. These Amendments, particularly VC148, significantly restructure the Planning Policy Framework (PPF). In the future, the PPF will have a tiered, theme-based structure, rather than separate State, Regional and Local sections.

The Municipal Strategic Statement (MSS) and Local Planning Policy Framework (LPPF) remain in the interim, but will eventually be included in the new Municipal Planning Strategy and PPF.

Other relevant changes to State Policy include:

- Plan Melbourne (refresh) 2017-2050;
- The introduction of VicSmart and a streamlined assessment process;
- Ministerial Direction: The Form and Content of Planning Schemes, most recently amended post-VC148;
- Infrastructure Contributions Reform and the need for Council to review all Development Contribution Plans (DCPs);
- The introduction of the *Climate Change Act* 2017;
- Sustainable Animal Industries Reform;
- Many new and updated Planning Practice Notes (PPNs).

Of particular note are the collection of amendments (5) to the Victoria Planning Provisions relating to bushfire.

There have also been 52 changes to the suite of Planning Practice Notes published by DELWP that influence the implementation and practice of planning in Victoria. Some 33 of these changes are relevant to the municipality.

Local Policy Context

The MRCC has been proactive in undertaking strategic projects since the last review in 2014. Some of the key pieces of strategic work undertaken during this period include:

- *Community & Council Plan 2017-2021*;
- *Mildura Housing and Settlement Strategy 2013*;
- Mildura Older Irrigation Areas (MOIA) Incorporated Document (August 2016);
- Draft Invasive Plant and Animal Plan 2015-2019

Local Amendments

During this period, there have been nineteen (19) local amendments to the planning scheme (in addition to the V and VC amendments). Some of the more important amendments that have implemented significant policies include:

- Amendment C89 - implementing the findings of the MHSS and reviewing the MOIA planning controls;
- Amendment C88 - Bioenergy power plant in

Cawarp Road;

- Amendment C75 - implementing the intent of a number of strategic documents relating to the development of Mildura South.

Panel Reports

The issues and discussion contained in the Panel Reports associated with significant local Amendments provides sound strategic justification for recent changes to Mildura's local policy framework.

VCAT Decisions

There have been a relatively low number of decisions (23) considered by VCAT since the 2014 Review. As a general statement, VCAT has tended to support Council's decisions which indicates that the current scheme is effective in justifying and supporting decision making. Some of the key issues emerging from the VCAT decisions include:

- Residential pressure on agricultural land (related to MOIA and the Mildura Housing & Settlement Strategy);
- Little local guidance around neighbourhood character;
- Development along Deakin Avenue and satisfying the requirements of DDO1 (noting the Deakin Avenue Urban Design Guidelines are in the process of being incorporated into the planning scheme through Amendment C95);
- Policies and development along Benetook Avenue and the truck bypass route;
- Issues pertaining to amenity in relation to specific, proposed land uses;
- Policies pertaining to the establishment of seasonal workers accommodation, including a bioremediation facility;
- The assessment of developments in industrial areas; and
- A decision in relation to public acquisition.

Consultation

Engagement with key stakeholders and the broader community has occurred at various stages throughout the Review. The issues raised have assisted in auditing the effectiveness of the planning scheme, and highlighting issues

around structure, gaps, interpretation and resourcing.

Some of the key issues raised include:

- The establishment of budget accommodation outside the urban area to support seasonal workers.
- A desire to re-examine issues related to the settlement strategy for Mildura, particularly site specific issues pertaining to the Mildura Older Irrigation Area (MOIA).
- Issues related to renewable energy, including household solar generation and the location of commercial-scale facilities.
- Policy and planning provisions relating to Benetook Avenue and the truck bypass.
- Updates and improvements to the environmental policies within the planning scheme.
- A desire to examine policies relating to retail locations and support for investment in local industries and job creation.
- Monitoring and control of the weed Cumbungi at Lake Cullulleraine, and creation of an exemption within the planning scheme.
- The zoning of the Hattah township.
- The establishment of a Merbein South Growth Area.
- Various requests for zoning and overlay changes relating to specific properties.

Planning Policy Framework

Amendment VC148 implements the next stage of Smart Planning reform and restructures the VPP significantly. State and regional will be combined with local provisions such as the MSS and LPP to create a new, integrated Planning Policy Framework (PPF). This major change to the Mildura Planning Scheme will be undertaken over the next year, with the assistance of DELWP.

The MSS reflects the objectives of an outdated Council Plan, and often refers to statistics or documents that are more than several years old. There is a need for some of these strategic documents driving the content of the MSS to be reviewed and updated to reflect more current conditions.

Presently, there are only three (3) Clause 22

local policies:

- Budget Accommodation: one of the five issues outstanding from the previous review, is the update to this policy. This is considered in detail in the Key Issues Section of this report.
- Heritage: review and update of this local policy is pending finalisation and adoption of the Heritage Strategy currently underway.
- Healthy and Sustainable Neighbourhood Design: an important policy that captures the need for Mildura to be resilient to, and minimise the impacts of, climate change while maintaining preferred landscape and neighbourhood character objectives of built up areas. This local policy is not yet strongly reflected by the local content of the planning scheme.

Zones

Schedules that contain local content to the Zones of the Mildura Planning Scheme are not common. Most local policy was introduced or updated by local Amendment C89, which implemented the strategic intent of the Mildura Housing and Settlement Strategy (MHSS). The justification for the structure and content of this local policy is found in the Panel Report for this Amendment.

Schedules to the Mixed Use Zone that define land use objectives for different areas is one of the key issues identified as outstanding work from the last Planning Scheme Review.

Overlays

Local content to the Environmental and Landscape overlays are present in the planning scheme, protecting vegetation and sensitive land use buffers. In consideration of the Local Policy for sustainable neighbourhood design, and submissions received in relation to the protection of more sensitive land use buffers, there is potential for more local content to be developed and more widely applied.

Heritage and built form overlays have many schedules, some of which are older and require further review or minor amendments to ensure their currency. It is understood the Heritage Overlay will be updated pending the completion of the Heritage Strategy review. The extent of

some Development Plan Overlay (DPO) areas may require scaling back to ensure there are no conflicts within the planning scheme.

As noted, the Development Contribution Plan Overlay (DCPO) will require amendment pending the completion of Council's review of DCPs in light of State Government reform.

Consultation has revealed a list of existing and former landfill sites that may require application of the Environmental Audit Overlay (EAO).

Particular Provisions

Including more local content in the Particular Provisions was an issue identified as outstanding from the previous Planning Scheme Review in 2014. Amendment VC148 has recently made significant changes to the structure of Particular Provisions in all Victorian planning schemes, and many of the clauses mentioned in this report are now out-of-date, although the conclusions reached in relation to the Particular Provisions remain applicable.

Conclusion and Recommendations

A suite of prioritised recommendations is provided in Section 13.2 and includes references to section(s) of this report that contain the discussion leading to the recommendation. The relevant Clause(s) of the Mildura Planning Scheme are also referenced.

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Vision for the Rural City of Mildura
Mildura Planning Scheme (Clause 21.03-1)



1.0



INTRODUCTION



1.0 Introduction

1.1 Purpose

The purpose of the Mildura Planning Scheme Review Project ('the Project') is to fulfil the legislative requirements of the Planning and Environment Act 1987 ('the Act') with the guidance of the Continuous Improvement Review Kit 2006 ('the Review Kit') and Planning Practice Note 32: Review of Planning Schemes (PPN32).

Section 12(B) of the Act requires:

- (1) *A planning authority which is a municipal Council must review its planning scheme—*
 - (a) *no later than one year after each date by which it is required to approve a Council Plan under section 125 of the Local Government Act 1989;*

Mildura Rural City Council (MRCC) was required to produce a four-year Council Plan by 30 June 2017. Council adopted the Community and Council Plan 2017-2021 on 22 June 2017 and is committed to reviewing and updating this document annually. A full review of the Mildura Planning Scheme is required to be conducted and provided to the Minister by 30 June 2018.

The Minister has granted all Councils an extension of 6 months to review their Planning Schemes due to changes implemented by Smart Planning reform. The Planning Scheme Review must now be completed by 31 December 2018.

The Act describes the objectives and other requirements of a planning scheme review:

- (3) *The objective of a review under this section is to enhance the effectiveness and efficiency of the planning scheme in achieving—*
 - (a) *the objectives of planning in Victoria; and*
 - (b) *the objectives of the planning framework established by this Act.*
- (4) *The review must evaluate the planning scheme to ensure that it—*
 - (a) *is consistent in form and content with the directions or guidelines issued by the Minister under section 7; and*

- (b) *sets out effectively the policy objectives for use and development of land in the area to which the planning scheme applies; and*
- (c) *makes effective use of State provisions and local provisions to give effect to State and local planning policy objectives.*

On completion of a review under this section, the Planning Authority must without delay report the findings of the Review to the Minister.

The Department of Environment Land Water and Planning (DELWP) provides guidance for how to conduct the reviews, through 'Planning Practice Note 32: Review of Planning Schemes' (PPN32) and the associated 'Continuous Improvement Review Kit (2006)'.

This Planning Scheme Review Report ('this Report') takes into consideration stakeholder views, strategic work and recent planning reforms including proposed, active and implemented planning scheme amendments. It also audits the planning scheme and provides recommendations for Council to refine the effectiveness of the Mildura Planning Scheme over the next 4 years.

1.2 Project Overview

The Review is being undertaken in six (6) stages:

1: Inception & Background Review

This stage sought to establish the project scope and review background documents provided by Council to determine the key issues to inform the first round of consultation.

2: Consultation (Round 1)

The first round of consultation occurred in November 2017 with the objective of providing stakeholders and early opportunity to identify key issues.

3: Research & Analysis

The Preliminary Analysis and Emerging Issues Paper ('the Emerging Issues Paper') was the principal output of the research and analysis undertaken in Stage 3.

The Emerging Issues Paper summarised the findings from the background documentation review, relevant feedback received during the consultation process and an audit of the planning scheme using the Continuous Improvement Tool Kit.

The previous Mildura Planning Scheme Review conducted in 2014 identified five (5) points of outstanding work. A summary of these issues and steps to address them was also provided in the Emerging Issues Paper.

4: Consultation (Round 2)

The second round of consultation sought to gain detailed input on the identified issues and potential approaches to the five key issues. Notification was given online and invited interested parties to make submissions or arrange an interview with Council staff and the consultants.

The findings and notes from these engagement sessions have been summarised as part of this Report.

5: Policy Development & Draft Report

The Draft Planning Scheme Review Report was the primary output of this stage. Preparation of this Report involved the investigation and development of potential policy responses to the identified issues, and recommendations on how to update the Planning Policy Framework to address these issues.

Subsequent planning scheme changes that are required have also be identified for future amendments, along with any additional strategic work that should be undertaken over future years.

Wider community feedback and comments have been sought during the exhibition of this Report.

6: Final Report

A final version of the Mildura Planning Scheme Review is the primary output of this stage.

All submissions received will be summarised, considered and include suggested responses and potential modifications to the Report.

The response to submissions will be presented to Council, as part of their consideration on adoption and finalisation of the Review. Council adopted this report on 24 April 2019.

1.3 Report Structure

This Report is structured as follows:

1.0 Introduction

Outlines the legislative requirements that have prompted the Mildura Planning Scheme Review and the objectives to be achieved through the review. Provides an overview of the project and report structure.

2.0: Background

Explores the history of the Mildura Planning Scheme through previous reviews and subsequent amendments.

Outlines the purpose and objectives of the Continuous Improvement Review Kit

3.0 Key Issues

Detailed analysis of the five (5) key issues outlined in the project brief as outstanding work from the previous Planning Scheme Review (2014). Recommendations are provided for implementation of provisions to address these issues.

4.0 State Policy Context

A summary of the changes at a State Government level since the previous Planning Scheme Review, and the implications for this Project. This includes consideration of new policies, strategies, process reforms, legislative changes, VPP amendments and changes to planning practices notes.

5.0 Local Policy Context

A summary of changes at a local (Rural City of Mildura) since the previous Planning Scheme Review, and the implications for this Project.

6.0 Panel Reports

Considers the themes and issues outlined in Panel Reports or local amendments to the Mildura Planning Scheme and the implications for this Project.

7.0 VCAT Decisions

Considers the issues raised at the Victorian Civil and Administrative Tribunal since the previous Planning Scheme Review and evaluates the effectiveness of the Mildura Planning Scheme.

8.0 Consultation Outcomes

Considers the feedback received from the community and other key stakeholders during this review, and highlights potential issues for further investigation.

9.0 Planning Policy Framework

Considers the structure and local content of the restructured (post-VC148) Planning Policy Framework (PPF), including the Municipal Strategic Statement (MSS) and Local Planning Policy (LPP) that form the (former) Local Planning Policy Framework (LPPF). Provides recommendations where further strategic work may be required to provide additional local content to address known issues.

10.0 Zones

Considers the structure and local content of zones and provides recommendations where further strategic work may be required to provide additional local content to address known issues.

11.0 Overlays

Considers the structure and local content of overlays and provides recommendations for further strategic work which may be required to provide additional local content to address known issues.

12.0 Conclusion

Consolidates the body of recommendations formed from the review of background materials and local content of the planning scheme to provide Council with a Work Program that prioritises these tasks.

1.4 Engagement Methodology

The Project has three (3) rounds of consultation as a means of engaging with the community to ensure the Planning Scheme Review considers issues important to the residents of the municipality.

The first round of consultation occurred in November 2017. The primary objective of this round of consultation was to provide an early opportunity for stakeholders to identify key issues to be investigated during the review.

Consultation at this stage included:

- A meeting of the Project Steering Committee;
- A workshop and presentation to Councillors;
- Three other workshops with stakeholders, which involved Council officers & government agencies, the local development industry and the general community; and
- The opportunity to make written submissions.

The findings were recorded and used to form a basis for this Report. Preliminary issues were researched and analysed from background material provided by Council.

The second round of consultation was held during Stage 4 and informed the community of the emerging directions for the Review, and sought to test and validate the research and analysis. The outcome of this round of consultation assisted in refining the key issues and identifying additional issues to be included in the final Planning Scheme Review. It also included stakeholders in the development of potential solutions.

The methods used for this stage of consultation included:

- A Project Bulletin was prepared based on the Emerging Issues Report which summarised work to-date, outlined potential approaches to the five key issues and invited residents and stakeholders to make a written submission and/or request an interview with Council staff and the consultant team.

- The Project Website was updated to alert people about the second round of consultation and the project bulletin was available for download.
- Notification was given in the local paper.
- Interviews were conducted with seven (7) submitters who requested to meet with Council staff and the consultants. Refer to Appendix J.
- Another workshop was held with Council's Statutory Planning team, as well as a meeting with the regional DELWP land use planning officer.
- Fourteen (14) written submissions were also received during this period. Refer to Appendix K.

The results of engagement have assisted in refining the key issues for this Report.

The third round of community consultation was the public exhibition of the draft Mildura Planning Scheme Review; the purpose of which was to:

- Inform the community about the status of the review;
- Involve the community and stakeholders in reviewing the draft Review report, by inviting them to make submissions; and
- Ensure all submitters know that their submissions have been received and considered, and that their input is valued.



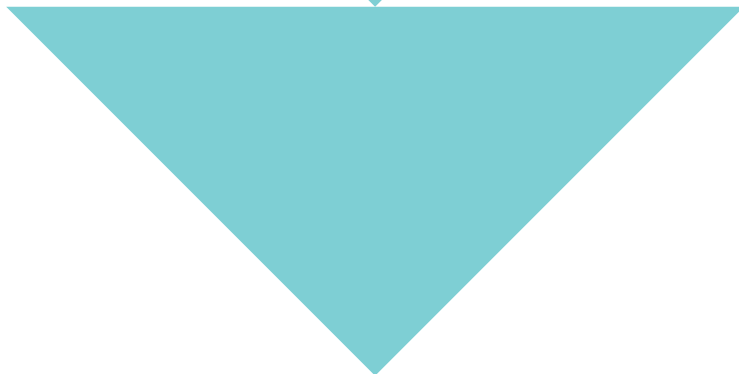
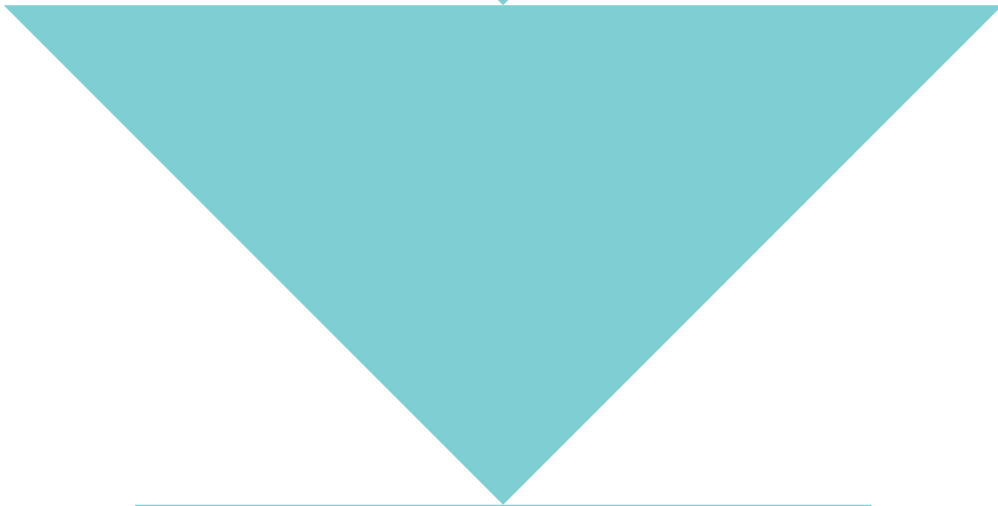
WILLIAM
BENJAMIN
CHAFFEY.
C.M.G.

Erected by his many friends
in Midland and throughout Australia
in recognition of his
nearly 40 years of unflinching labors
on behalf of the
Australian Dried Fruits Industry.
He and his elder brother George
were the pioneers of irrigation
in the Murray valley
founder of the settlements of
Mildura and Renmark
in the West 1867.

He was the moving spirit and
for many years President of
the Dried Fruit Association
which is now of world
fame and has
brought to the world
the finest dried fruits
from Australia.

2.0

BACKGROUND



2.0 Background

2.1 Mildura

Mildura is a regional city in north-western Victoria approximately 552 kilometres from Melbourne. The Mildura Local Government Area (LGA) covers approximately 22,330km² making it the largest LGA by land area in Victoria. The Mildura LGA was formed in 1995 when the Shires of Mildura and Walpeup were amalgamated.

Despite being the driest and hottest part of Victoria, Mildura is also a very productive agricultural region. The northern part of the LGA is irrigated and mostly produces fruit while the south is typically reserved for grain crops. Viticulture and wine tourism form another aspect of the Mildura economy which is bolstered by the Murray River that runs along the northern border of Victoria.

At the time of the 2016 census Mildura had a population of 53,878 persons, this figure is projected to increase to 59,440 residents by 2031 according to Victorian government projections.

Approximately 75% of the housing stock in Mildura is detached housing while the second most prevalent type is semi-detached (townhouses, terrace houses). Mildura has a private dwelling vacancy rate of 10.7% which is well under the 17.1% vacancy rate for the rest of Victoria.

In terms of age structure, the younger age brackets are well represented in the region when compared with the rest of Victoria. Residents in the 45-84 year age brackets are slightly under represented in the region when compared with Victorian averages. This age composition is reflected in the median age of Mildura residents being 40 compared with the rest of Victoria median of 43.

Incomes in the Mildura LGA are less than those in the rest of Victoria as the median personal income is \$555 per week and the median household income is \$1,064 per week.

The Mildura Municipal Strategic Statement

(MSS, Clause 21.01) states that the resident population in 2011 was approximately 51,850 persons. This figure is slightly higher than the 2011 Census figure (50,979). These figures should be updated to reflect the 2016 census results.

The MSS also states that Council supports a high Estimated Resident Population (ERP) growth scenario which estimated that the population of the Mildura LGA would be approximately 65,000 residents by 2032. Based on updated projections derived from the 2016 census data and State Government's 'Victoria in Future' estimates, the figure stated in the Mildura MSS is ambitious. State Government projections indicate that a more realistic figure would be approximately 59,500 residents by 2031.

2.2 Previous Planning Scheme Reviews

New Format Mildura Planning Scheme 1999

The new format Mildura Planning Scheme (MPS) was prepared and exhibited in 1997 and considered by Panel in March 1999, before being approved by the Minister for Planning on 21 October 1999. The Planning Scheme has since been reviewed three times: in 2003, 2010 and most recently in 2014.

The Panel Report made the following recommendations which should be implemented following the adoption of the scheme:

- That Council discuss with EPA the suitability of land for residential development which has been subject to long term agricultural spraying;
- That Council undertake, within the first review period, a review of the amount and location of land zoned for rural residential purposes. The review should produce recommendations for the extent and location of relevant zones, including Low Density Residential Zone, Rural Living Zone and Environmental Rural Zone if and where appropriate;
- That Council review the distribution of the Business zones in the light of the review of the retail / commercial strategy;
- That Council review the extent and location of the LDR Zone in the context of the review of rural residential provision;
- That Council review the potential of the Environmental Rural zone following the provision of further information by DNRE;
- That Council review the boundaries of Urban Floodway Zone as discussed in submission no 126;
- Council liaise with DNRE in relation to:
 - An ESO for the Murrayville GSPA;
 - A VPO for the habitat of the Elegant Parrot; and
 - The use of the Erosion Management Overlay in the dryland areas.
- That the strategy as exhibited by Council for adoption in the new scheme be approved, but that, as a matter of the highest priority, a comprehensive review of the retail strategy for the city be undertaken;
- The initiation of this review should not be tied to the adoption of the scheme but should be initiated within six months of the receipt of this report and completed so that any necessary changes to the scheme can be introduced within the first review period;
- The land zoned Low Density Residential Zone be approved but the extent and location of the zones be further considered as part of the review of rural residential provisions in the first review period;
- That the area identified as Stage 3 Urban Growth in the Mildura Township Structure Plan remain in a Rural Zone and should only be reviewed during the second review period if and when it becomes clear that the demand for the remaining land in Stages 1 and 2 is creating pressure for further release; and
- That the status and future of the College Lease Lands be reviewed through a process involving the Council, the Minister for Education and the Minister for Planning and Local Government.

The above list of recommendations from the Panel Report nearly 20 years ago shows that many of the issues raised by the submitters at that time remain concerns for some local stakeholders. It should also be noted that many of their issues have been addressed through the strategic work undertaken by Council; yet some stakeholders still wish to see these policies and strategies revisited.

Mildura Planning Scheme Review 2003 and Amendment C28

The first review of the new format Mildura Planning Scheme was conducted in 2003. These recommendations were addressed through Amendment C28, which was exhibited in 2004 before being considered by Panel in February 2005 and gazetted on 21 July 2005. The major findings of the Panel Report are discussed below.

The amendments to the provision of residential land were based on the findings of the Review of the Mildura and Irymple Residential Land Strategy reports. Enough residentially zoned land was provided to cater to the “ambitious” population forecast, but was restricted by the availability of existing and planned stormwater infrastructure. The Residential Growth Boundary was amended to include some properties in Mildura South that did not have a “very high” salinity risk.

Land in the Low Density Residential Zone (LDRZ) was preferred to be provided in planned estates rather than ad-hoc small lot excisions from lots in the Rural Zone, which was the dominant form of this type of development at the time. Restrictions were placed on the amount of LDRZ land to be released for a 10 year demand projection only. New LDRZ estates were provided at Nichols Point and the Former Mildura Feedlots Site, Lake Hawthorn.

The Panel stated that the effectiveness of a planned low density residential estate depended on Council’s attitude towards ad-hoc rural excisions of smaller lots. This needed to be addressed as part of the Rural Review and the Panel strongly supported the retention the rural nature of the Rural Zone and action to limit ad-hoc small lot excisions.

There was merit for lots to be smaller than 4000m² in the LDRZ where they can be connected to reticulated sewerage.

A number of other areas were identified for future consideration of LDRZ given their suitability, but were not included as part of this amendment, including: Cabarita, Koorlong and Sandilong Avenue, Irymple.

The Mildura Structure Plan was amended to no longer identify the land adjacent to Benetook Avenue as future residential and maintains the Rural Zone in this area. Benetook Avenue was previously made a Road Zone - Category 1 and has been identified as the preferred route for heavy vehicles, therefore residential development fronting this route is no longer appropriate and it is to be maintained as a non-urban break between Mildura and Irymple.

The amendment incorporates the Mildura Industrial Land Use Strategy 2003 which notes there is sufficient industrial land already provided to meet demand, however much of this land was not large enough to accommodate some industrial uses, and was strategically not well located adjacent to an urban area. Therefore new areas were included as industrial land: part of the “Block H” site that was not impeded by significant vegetation, and the Thurla site to the south; both areas were supported for rezoning to industrial.

The amendment also incorporated the Mildura South Development Contributions Plan 2004 through the DCPO1.

Further work required as a matter of urgency was a review of the boundaries of the Land Subject to Inundation Overlay and an amendment to the Mildura Planning Scheme to give effect to updated mapping in respect to flooding.

Additional recommendations included:

- That the Planning Authority liaise with DSE in relation to the preparation of any Amendment needed to protect the flight path of the Regent Parrot and the Duddo Limestone Aquifer;
- That the Public Lands Policy (Clause 22.05) be amended to recognise the importance of bee keeping on public lands in the decision making process;
- That the exhibited R1Z on Lot 1 PS437900 and Reserve No. 1 on PS511599G Section 4 Blk E be deleted and the existing PUZ1 be retained for land owned by Lower Murray Water in Sixteenth Street Mildura (Submission No. 9); and

- That routine corrections of anomalies and titles of Reference documents contained in the Planning Scheme, raised by DSE and MCMA in their submissions and agreed to, in principle, by the Planning Authority be attended to, as required.

Mildura Planning Scheme Review 2010 and Amendment C64

The second review of the new format Mildura Planning Scheme was conducted in 2010. These recommendations were addressed through Amendment C64, which was exhibited in 2011 before being considered by Panel in August 2012 and gazetted on 13 March 2014. The major findings of the Panel Report are discussed below.

- The Municipal Strategic Statement's (MSS) major themes were restructured to incorporate many of the existing local planning policies;
- Zoning anomalies were amended generally as a result of submissions made during the Planning Scheme Review process;
- The Mildura CBD Car Paring Policy introduced a new car parking regime in Clause 52.06;
- The Mildura CBD Plan 2007 has been added as a reference document and includes guidelines on building heights and setbacks within the DDO3;
- The Mildura Airport Master Plan 2010 has been added as a reference document at Clause 21.08-5 and replaced the previous Mildura Airport Master Plan 2000-2015. It exempts all buildings and works consistent with the plan;
- The Site Salinity Management Guidelines 2009 have been added as a reference document and replace the Site Salinity Management Plan 2004. They will be used in conjunction with the proposed updates to the Salinity Management Overlay (SMO); and
- A number of rezoning requests were referred to be considered throughout the preparation of the Mildura Housing and Settlement Strategy (which was in the tendering process at the time). It was anticipated that this strategy would provide a sound strategic basis for the consideration of these requests.

Proposed Amendment C94 was withdrawn or put on hold until such time as the outcome of the current review can be determined, so as to amalgamate the changes of both reviews into one Amendment.

Mildura Planning Scheme Review 2014 and (withdrawn) Amendment C94

The third and most recent planning scheme review was conducted in 2014. Amendment C94 was the product of this review, and was withdrawn or put on hold until such time as the outcome of the current review can be determined, so as to amalgamate the changes of both reviews into one Amendment.

Outstanding work identified in the Mildura Planning Scheme Review 2014 formed part of this Project and is discussed in more detail in Section 4.0.





KEY ISSUES

3.0 Key Issues

3.1 Overview

A range of issues from the previous Planning Scheme Review in 2014 have been identified for further analysis and investigation of possible policy responses as part of the current review. These include:

- Provide objectives and decision guidelines in separate schedules to the Mixed Use Zone that reflect existing policies.
- Review and audit specific and particular provisions schedules and determine whether there is strategic justification for preparing local amendments to these provisions.
- Review and provide updated policy framework to provide appropriate objectives and decision guidelines pertinent to the Farming Zone as follows:
 - Review and assess the need to reinstate the section of the former Agricultural Land Local Policy that refers to the preferred uses in the FZ. This should include developing policy guidelines for inclusion in the MSS or a local policy regarding preferred uses in both the Farming and Rural Conservation Zone.
 - Review and prepare appropriate policy framework to introduce policy guidelines outlining application requirements and decision guidelines associated with applications for Group Accommodation in non-urban zones.
 - Review and prepare appropriate policy framework to introduce policy guidelines for applications to use land for Caravan parks in the Farming Zone.
- Include policy in the MSS that recognises and capitalises on the benefits of the Sunraysia modernisation project and the following emerging industries: sustainable energy (including solar parks and wind farms), mineral sand extraction and agricultural value-adding industries.
- Identify and protect important industries requiring buffer distances through the application of the Environmental Significance Overlay.

3.2 Mixed Use Zone

Introduction

As identified in the previous (2014) Mildura Planning Scheme Review, the reforms to the residential, commercial and industrial zones introduced through Amendments C8 and VC100 in the year 2013, had the effect of removing the floor area restrictions for offices, shops and food and drinks premises within the Mixed Use Zone (MUZ).

The 2014 Review identified that schedules to the Mixed Use Zone could be used to vary the effect of the MUZ in each area and achieve the differing objectives and preferred outcomes for these areas.

Background

Clause 32.04 'Mixed Use Zone' of the Mildura Planning Scheme currently contains a single, un-modified version of the State-standard schedule.

There are four (4) areas within the municipality subject to the MUZ. Despite having significantly

different contexts and strategic objectives, the reforms to the MUZ have effectively removed any distinction between the policy outcomes encouraged in each area. Further, there are only limited policy references within the Mildura Planning Scheme to the preferred outcomes in these areas.

In the 2014 Review, it was recommended that objectives and decision guidelines be provided in separate schedules to the MUZ to reflect existing policies in the associated reference documents. Council's strategic intent by this means is to differentiate the preferred outcomes, and in particular the role, of these four MUZ areas. Their role and function differs substantially given the scale and location of each area, for instance the outcome for Precinct G of the Mildura CBD is very different when compared to only two lots in the MUZ at Nichols Point.

The four (4) areas of the MUZ were described in the 2014 Mildura Planning Scheme Review as shown in Table 1 below.

Table 1 – Mixed Use Zones areas in Mildura (extract from Mildura Planning Scheme Review 2014)

Area	Policy
1. Orange and Lemon Avenue area, Mildura	<p>This area is part of the Rural City's primary activity centre, Mildura CBD, where commercial and residential mix is encouraged surrounding commercial core (Clause 21.10).</p> <p>Smaller scale retail showroom uses are promoted in the Eastern Mixed Use precinct (most of the area) (Clause 21.10)</p> <p>Medium density residential infill housing and a high level of amenity is encouraged in the Peripheral Residential Precinct (on Lemon Ave between Ninth and Tenth Streets), (Clause 21.10)</p> <p>Approval of significant retail development should be limited in this area to support the consolidation of retail activities west of Deakin Ave in Mildura CBD (Mildura Retail Strategy, 2010, p.79)</p> <p>More detailed policy is provided in Mildura CBD Plan, 2007, p.91-94)</p>
2. Koorlong Avenue and Waltham Avenue area, Irymple	<p>Was rezoned to MUZ as recommended in Irymple Structure Plan (2010) to enable the development of recreation, community use, higher density residential and small retail opportunities (p.17) The floor area for shops could be limited to achieve this (p.19)</p>
3. Fifteenth Street / Karadoc Avenue area, Irymple	<p>Was rezoned to MUZ as recommended in Irymple Structure Plan (2010) and the floor area for shops could also be limited in this area (p.19)</p>
4. Small area at Fifth Street, Nichols Point	<p>Identified as "shop post office" in the Context Analysis map in Nichols Point Report for Residential Development Plan (2007)</p>

The 2014 Planning Scheme Review also outlined the potential issues faced by the MUZ in its current state:

“The revised MUZ removes the permit requirement for offices, food and drink premises and shops subject to floor area restrictions. These restrictions are desirable particularly for areas 1-3 where the floor area of shops should be limited.

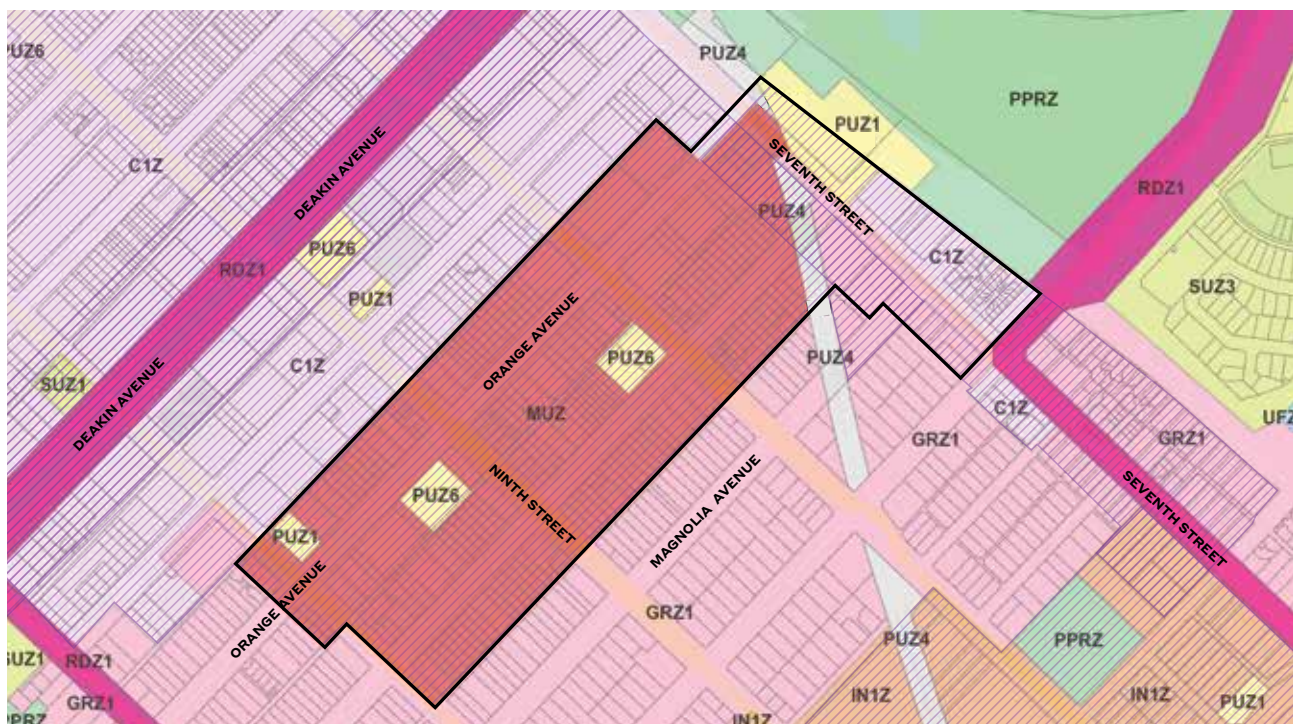
The revised MUZ can be tailored for different areas. For each of the four areas, its role can be specified in its objectives. Areas 1-3 have policy that could be translated into objectives for separate schedules. Other policy considerations could be included in decision guidelines e.g. historical integrity of the Lemon Street heritage residential area for area 1. Siting and design requirements

can also be varied in the schedule. The Mildura CBD DDO3 includes design controls and guidance for area 1. This does not need to be included in the zone as well.”

Discussion

MUZ Area 1: Precinct G of the Mildura CBD


The MUZ Area 1 forms the substantial part (but not all of) Precinct G ‘Eastern Mixed Use’ of the Mildura CBD. This precinct is defined within the Mildura CBD Plan (2007) which is a reference document within the Mildura Planning Scheme, and each of the Precincts (A through to H) are shown in Figure 2 of Clause 21.10-1 ‘Main Urban Areas’ of the Municipal Strategic Statement (MSS).



Legend

- Design & Development Overlay
- Precinct G (from Mildura CBD Plan 2007)
- Commercial 1 Zone (C1Z)
- General Residential Zone - Schedule 1 (GRZ1)
- Industrial 1 Zone (IN1Z)
- Mixed Use Zone (MUZ)
- Public Park and Recreation Zone (PPRZ)
- Public Use Zone - Schedule 1 & 6 (PUZ)
- Public Use Zone - Schedule 4 (PUZ)
- Road Zone - Category 1 (RDZ1)
- Special Use Zone - Schedule 1 & 3 (SUZ)
- Urban Floodway Zone (UFZ)



Precinct Map
MILDURA CBD PLAN
 date | Jul / 07 revision | 00 client | Mildura Rural City Council
 **plán i' sphere**

In terms of the role this area should play, the Mildura CBD Plan states the vision for Precinct G as:

“The eastern mixed use precinct will continue its service role. It will be a growth area of the CBD with more activity generated by the increase in offices and residents in the area. Incompatible land uses and the ensuing interface issues will be avoided through clustering of like uses within the precinct. Clear pedestrian routes along Eighth and Ninth Streets will link the precinct with central retail and entertainment functions of the CBD.”

And lists the following objectives:

- *Maintain the mixed use functions of the area.*
- *Separate incompatible land uses in the mixed use zone.*
- *Promote the eastern mixed use precinct for location of smaller scale retail showroom uses.*
- *Locate light industrial uses in Orange Avenue and Lemon Avenue north of Eighth Street.*
- *Encourage residential uses at upper levels of offices and showrooms and redevelopment for medium density housing.*
- *Create a distinct gateway entrance to the CBD from the Chaffey Bridge. This should include higher built form along Seventh Street.*
- *Create more opportunities for people to live in the Mildura CBD.*
- *Provide clear and safe pedestrian links from residential areas to the CBD*
- *Encourage new mixed use developments to include residential use at upper levels.*

Some policy direction for land use for Precinct G is already included in the MSS. In the Local Areas section, Clause 21.10-1 includes the following relevant objectives and strategies for this area:

- *Sustain the Mildura CBD as the primary activity centre, and ensure its development is consistent with the Mildura CBD Plan 2007 and the Mildura CBD Precincts Map (Figure 5) by:*
- *Promoting smaller scale retail showroom uses in the Eastern Mixed Use Precinct.*
- *Ensuring new development incorporates retail uses on the ground level to create active street frontages and pedestrian movement.*
- *Promoting the Mildura CBD as the preferred for location for head offices and large businesses.*
- *Encouraging larger scale redevelopment to include multi-level car parking structures.*

MUZ Areas 2 and 3: Irymple

Irymple contains a neighbourhood centre comprised predominantly of land in the Commercial 1 Zone with two pockets of land in the MUZ, as identified in the Irymple Structure Plan 2012 (the Structure Plan).

The Structure Plan made a number of recommendations that have since been adopted, including the rezoning of two areas of land to the MUZ, and the need for a neighbourhood shopping centre which has since been provided in the form of ‘Ritchie’s IGA’ in the C1Z at 2109-2111 Fifteenth Street, Irymple.

There are broader land use objectives outlined in the Structure Plan for the two pockets of land in the MUZ, and limited discussion on uses and objectives specific to each pocket.

Broadly, land in Irymple’s MUZ should not be an extension of the homemaker and bulky goods uses already present on Fifteenth Street. Rather, they should provide opportunities for higher density residential development to increase housing choice and diversity (e.g. shop

tops), and provide retirement living to allow elderly residents to 'age in place'.

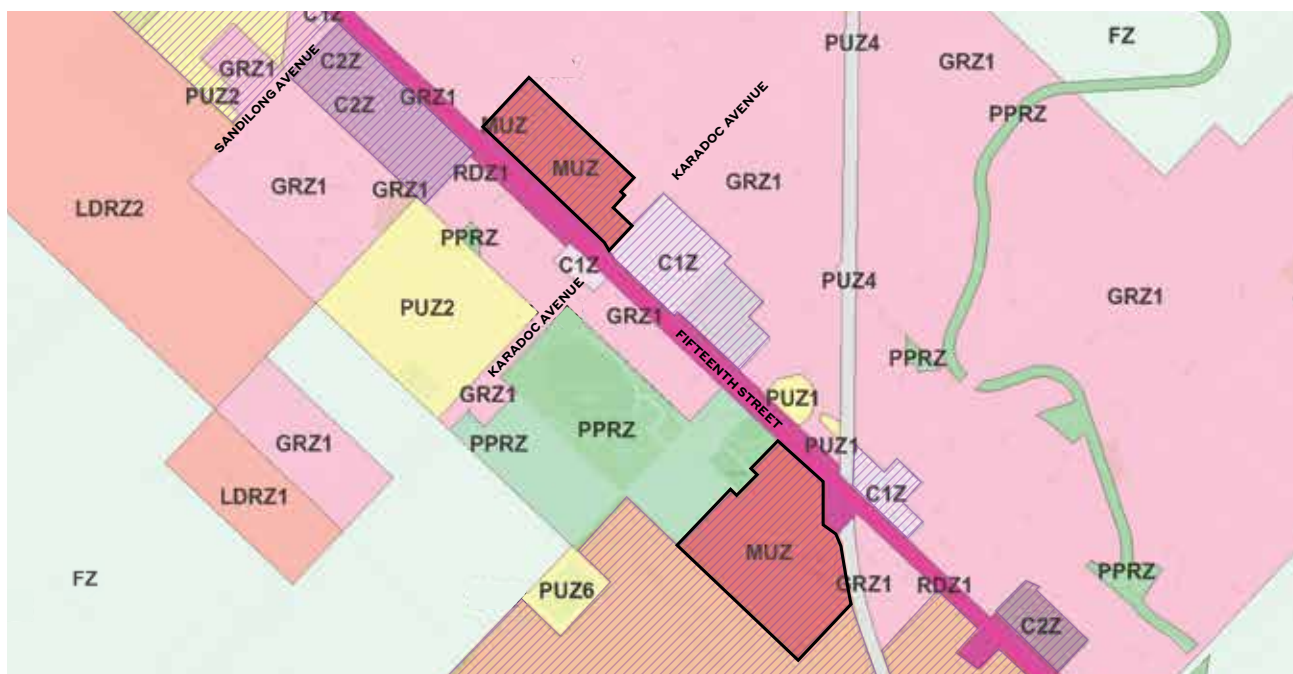
The area of land in the MUZ adjacent to the Henshilwood Reserve and recreation centre (Area 2) contains established residential uses, the Irymple Country Fire Authority (CFA) and small-scale commercial uses. The Structure Plan recommended this land be rezoned to the MUZ to reflect historic and ongoing land uses and enable the development of:

- Higher density residential uses (in accordance with the broader land use objectives for the Irymple neighbourhood centre, at upper levels where applicable);
- Recreation and other community uses as complementary extension of the Henshilwood Reserve; and
- Small scale retail and office uses.














The area of land in the MUZ to the north of the intersection of Fifteenth Street and Karadoc Avenue (Area 3) is in closer proximity to the now existing neighbourhood shopping centre (IGA) and contains a medical centre, retirement living (Royal Freemasons), accommodation (Orana Motor Inn) and function centre (Sunraysia Masonic Centre). The Structure Plan recommended this land be rezoned to the MUZ to reflect historic and ongoing land uses and enable the development of:

- Higher density residential uses (in accordance with the broader land use objectives for the Irymple neighbourhood centre, at upper levels where applicable);
- Small scale retail and office uses.

The Irymple Structure Plan also contains objectives and strategies relating to built form, access and spaces, and other elements. Many



Legend

- | | |
|--|---|
|  Design & Development Overlay |  Public Park and Recreation Zone (PPRZ) |
|  Commercial 1 Zone (C1Z) |  Public Use Zone - Schedule 1 & 6 (PUZ) |
|  Commercial 2 Zone (C2Z) |  Public Use Zone - Schedule 4 (PUZ) |
|  General Residential Zone - Schedule 1 (GRZ1) |  Road Zone - Category 1 (RDZ1) |
|  Industrial 1 Zone (IN1Z) |  Special Use Zone - Schedule 1 & 3 (SUZ) |
|  Low Density Residential Zone (LDRZ) |  Urban Floodway Zone (UFZ) |
|  Mixed Use Zone (MUZ) | |

of the recommended built form objectives and building height controls have been included within the Design and Development Overlay – Schedule 13 (DDO13) and apply more broadly to Irymple and are not specific to the MUZ areas.

MUZ Areas 4: Nichols Point

The area of MUZ at Nichols Point (Area 4) covers two lots and is identified in the Nichols Point Residential Development Plan as containing a general store and post office. Development of this area is constrained by a number of factors.

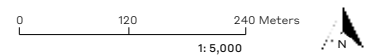
The residential expansion of Nichol's Point is explored in detail in the existing strategic work, including the Nichols Point Residential

Development Plan. There is, however, very little strategic direction for purpose of the MUZ in Nichols Point, in terms of preferred land uses or built form objectives.

Based on the existing land uses, it can be assumed that the MUZ should function as a local convenience centre, providing basic local services to the residents of Nichols Point. The provision of the MUZ also allows for the existing store to expand.



- Legend**
- Farming Zone (FZ)
 - Neighbourhood Residential Zone (NRZ)
 - Mixed Use Zone (MUZ)
 - Public Park and Recreation Zone (PPRZ)
 - Public Use Zone Education (PUZ2)



Evaluation

The scope and discretion of the Mixed Use Zone is very broad. While classified as a residential zone, the MUZ allows almost all industrial, commercial and community uses; indeed, only five specific land uses are prohibited. The majority of possible land uses are permissible, and many of the activities allowed as-of-right subject to floor area limitations are also possible subject to the grant of planning permit. For this reason, it is important that decision making in Mixed Use areas is guided by well-considered strategic policies included within the planning scheme.

As outlined above, each of the MUZ areas have very different contexts and very different land use objectives as established by the adopted strategic plans and reports. Accordingly, the Mildura Planning Scheme should include policy guidance to distinguish between differing strategic land use objectives.

Each of the supporting reference documents also contain objectives in relation to access, traffic and other built form elements. Many of these requirements have been included in the DDO3 and DDO13, which contain built form requirements that do not need to be repeated in any schedule to the MUZ.

Currently the Mixed Use Zone within the Mildura Planning Scheme does not provide this guidance. For Precinct G of the CBD the MSS provides only limited policy guidance, but does not adequately address the array of land use objectives within the Mildura CBD Plan. In the same Clause of the MSS, only limited reference is made to the land use objectives in the Irymple activity centre, and no specific reference to the objectives for the two MUZ areas. No guidance is provided about the commercial/retail areas in Nichols Point.

Recent decisions made by the Tribunal in Mildura do not include any within the MUZ, and therefore do not cite a lack of strategic land use objectives or decision guidelines in the MUZ as an issue. No significant instances of the same nature noted in other municipalities. Guida v

Yarra CC [2003] VCAT 1299 noted that the provisions of the MUZ and Yarra City Council's Municipal Strategic Statement (MSS) prevented the development of a nightclub in an area which was deemed inappropriate.

Nonetheless, other municipalities have prepared schedules to the MUZ which recognise the varying strategic objectives for different areas, including:

- Darebin Planning Scheme:
 - MUZ1 (Strategic Corridors – Commercial Focus) encourages commercial uses at ground level.
- Warrnambool Planning Scheme:
 - MUZ2 ('The Mill at Warrnambool' Redevelopment, Harris Street, Warrnambool) provides for community, public use, convenience retailing and tourism uses.
 - MUZ3 (811-821, 823 and 825 Raglan Parade, Warrnambool) provides for accommodation, office, retail and warehouse uses.
- Whittlesea Planning Scheme:
 - MUZ2 (Doreen Neighbourhood Activity Centre (South-West corner of Yan Yean Road and Bridge Inn Road)) provides for retail, commercial and residential uses.

The inclusion of additional policies to the Mildura Planning Scheme will bolster Council's ability to control inappropriate development in these areas where the definition of 'mixed use' can be very broad and may attract contentious proposals. There would appear to be three options for providing the required strategic guidance:

- Additional policies within the MSS.
- A new local policy for the Mixed Use areas.
- Creation of schedules to the Mixed Use Zone.

To aid the simplicity of navigating the Mildura Planning Scheme, and to effectively implement the quite specific strategic guidance within the supporting reference document, it is recommended that schedules are created for the MUZ, supported by some additional, broad objectives within Clause 21.10-1 of the MSS.

Recommendation

It is recommended that a planning scheme amendment be prepared to introduce four (4) new schedules to the Mixed Use Zone, and some broad policy guidance to the MSS, to achieve the land use objectives for each area outlined in Table 2 below.

Table 2 – Recommended local content for Mixed Use Zone Schedules in Mildura

	Area 1: Precinct G, Mildura CBD	Area 2: Irymple	Area 3: Irymple	Area 4: Nichols Point
Vision	To reflect the growth area of the CBD To provide a services role To increase the number of residents living and working in the CBD	Encourage housing diversity and choice, including affordable housing. Provide for smaller households and older residents to 'age in place'	Encourage housing diversity and choice, including affordable housing. Provide for smaller households and older residents to 'age in place'	To provide a local convenience centre for the residents of Nichols Point
Land use objectives	Residential at upper levels Commercial and offices at ground level	Higher density residential at upper levels Community and recreational uses Small-scale retail and offices	Higher density residential at upper levels Small-scale retail and offices at ground level	Community uses Convenience retailing
Other objectives	Avoid clustering of like uses within the precinct	Encourage connectivity to the existing Henshilwood Recreation Reserve	Encourage connectivity to the existing supermarket (IGA)	N/A

3.3 Particular Provisions

Introduction

As originally identified in the 2010 Review of the Mildura Planning Scheme, and noted as outstanding in the 2014 Review, there is an opportunity to:

"... review and audit specific and particular provisions schedules and determine whether there is strategic justification for preparing local amendments to these provisions."

Background

The Particular Provisions section of the Mildura Planning Scheme constitutes some 95 individual clauses and schedules. As described in 'Using Victoria's Planning System', a guide published by the Department of Planning, Environment, Land and Water:

"Particular provisions are specific prerequisites or planning provisions for a range of particular uses and developments, such as advertising signs and car parking. They apply consistently across the state and there is no ability to include in planning schemes particular provisions which are not in the VPP. Unless specified otherwise, the particular provisions apply in addition to the requirements of a zone or overlay. Some particular provisions have schedules for local requirements"

(Chapter 1, page 11)

The ability to specify a local requirement allows a Planning authority (such as Council) to create objectives and standards which are more appropriate to the local context, and reflect local policies. Such variations need to be strategically justified and implemented through an amendment to the Mildura Planning Scheme. A local requirement can only be specified in the schedule to some of the clauses within this section of the planning scheme.

At the time of the 2014 planning scheme review there were eleven (11) opportunities to specify local requirements in the Particular Provisions, three (3) of which already included local content. Since that time, one opportunity to specify local content has been removed (the schedule to Clause 52.06 'Car Parking') by the State Government, which leaves ten (10) opportunities. A summary is provided in Table 3.

Table 3 – Summary of 2014 planning scheme review particular provisions

Clause	Title	2014 Review	Current Status
52.01	Public Open Space Contribution and Subdivision	No local policy	No local policy. Moved to Clause 53.01.
52.02	Easements, Restrictions and Reserves	No local policy	No local policy
52.03	Specific Sites and Exclusions	Specified which areas are subject to incorporated documents (as contained in clause 81) that guide use and development.	Same function as 2014. List 7 areas and the corresponding incorporated document. Moved to Clause 51.01.
52.05	Advertising Signs	No local policy	No local policy
52.06	Car Parking	No local policy	Schedule removed by Amendment VC95
52.12	Bushfire Protection: Exemptions	N/A	Introduced by VC148. No local policy.
52.16	Native Vegetation Precinct Plan	No local policy	No local policy
52.17	Native Vegetation	Referenced the Goulburn-Murray Water Native Vegetation Code of Practice, February 2011	No permit required to remove vegetation to the minimum extent necessary for the Bioenergy Power Plant at Cawarp.
52.27	Licensed Premises	No local policy	Schedule removed.
52.28	Gaming	No local policy	Schedule removed.
52.32	Wind Energy Facility	No local policy	Prohibits wind energy facilities within 5km of urban Mildura
52.37	Post Boxes and Dry Stone Walls	No local policy	No local policy. Moved to Clause 52.33.
52.43	Live Music and Entertainment Noise	No local policy	No local policy. Moved to Clause 53.06.

Discussion and Evaluation

Of the ten (10) schedules within the Particular Provisions which can be varied, Council has not included content for seven. In the three instances where Council has provided a local variation, the local policy is generally minimalistic. These opportunities are discussed in more detail below, as well the strategic work that would be required to justify an amendment to the scheme.

Clause 52.01: Public Open Space Contribution and Subdivision

Clause 52.01 seeks to require that:

“A person who proposes to subdivide land must make a contribution to the council for public open space in an amount specified in the schedule to this clause (being a percentage of the land intended to be used for residential, industrial or commercial purposes, or a percentage of the site value of such land, or a combination of both). If no amount is specified, a contribution for public open space may still be required under section 18 of the Subdivision Act 1988”.

(underlining added)

A local requirement can be provided in the schedule to implement different rates of open space contribution for subdivision across the municipality, or within nominated, defined areas. Other municipalities have typically applied the recommendations of an Open Space Strategy or a local development plan, that calculates and strategically justifies these rates based on a rigorous calculation of need and demand.

MRCC has a Public Open Space Strategy (2003) which contains recommendations for the type of open space that should be provided in new residential estates but does not include recommendations for the percentage of open space that should be provided across the municipality, or in specific areas. Given that this Strategy is now 15 years old, a revision and update to this document would be required to strategically justify any variation this clause. It is noted that this document is currently under revision.

Mildura also has a number of Development Plans for its various growth areas which could also be used to justify an area specific variation to the rate of public land contribution. For these areas, Development Contributions Plans have been introduced, which include allowance for contributions for public open space provision.

As mentioned above, the amount of strategic investigation required to introduce a local variation to Clause 52.01 is substantial. For this reason, any investment of resources from Council would need to be justified against the potential benefit derived from an increased rate of public open space provision. This could be calculated with reference to the amount of residential growth within the municipality over a given period (for instance 30 years).

Residential growth in Mildura was recorded in the Regional Residential Report in 2011 as an average of 378 dwellings per annum. The majority of this development occurs in the residential growth areas, which already have Development Contributions Plans (DCPs) applied to them, and are thus make a financial contribution toward public open space provision above and beyond the standard specified in the Subdivision Act 1988.

On this basis, there may only be minimal benefit in revising the schedule to this clause for the small proportion of development not already included within a DCP area. Accordingly, no variation is recommended at this time.

Further Strategic Work: As part of the review of the Mildura Public Open Space Strategy, Council should consider the different mechanisms currently requiring the contribution of public open space (such as the DCPs) and evaluate the effectiveness of Council's existing policies to gain contributions commensurate with the demand generated by individual developments. Following adoption of the revised strategy, Council should evaluate whether an amendment to vary the schedule to Clause 52.01 is required.

Clause 52.02: Easements, Restrictions and Reserves

The purpose of this clause is:

“To enable the removal and variation of an easement or restrictions to enable a use or development that complies with the planning scheme after the interests of affected people are considered.”

In general, the effect of this clause is to require a planning permit to create, vary or remove an easement or some alterations to reserves.

A local variation can be introduced to provide an exemption from the need for such permits, by specifying actions within the schedule.

As highlighted in the above, the Mildura Planning Scheme does not contain any local policy in this schedule at present.

To date, no individual submissions have been received to this review which raise the need for such an exemption to be introduced. Further, Council’s planning officers have not identified an excessive volume of planning applications concerning easements and reserves which could otherwise be avoided by adding exemptions to this clause.

Consequentially, given the lack of any identified issue or need, no variation is recommended as part of this review.

Clause 52.03: Specific Sites and Exclusions

The purposes of this clause are:

To recognise specific controls designed to achieve a particular land use and development outcome existing on the approval date.

To provide in extraordinary circumstances specific controls designed to achieve a particular land use and development outcome

This is a powerful clause within all planning schemes, as it effectively allows land to “... be used or developed in accordance with the specific controls contained in the incorporated document corresponding to that land”. It can

thus allow development that would otherwise be prohibited or restricted, and can exempt a site from any other control in the scheme. Of the all the Particular Provisions, the schedule to Clause 52.03 ‘Specific Sites and Exclusions’ is the most likely to contain a local variation across municipal areas.

Within the Mildura Planning Scheme, the schedule list sevens areas with seven corresponding incorporated documents, providing for specific controls to guide the development of each place. The schedule was last updated in November 2016 with the adoption of Amendment C89 which included minor changes to the MOIA incorporated document. This demonstrates that Council continues to add content to this schedule as the need arises.

No immediate need to vary the schedule has been identified by Council or the community, and consequently no variation to this schedule is recommended at this stage. But Council should continue to use this clause (sparingly) as the needs arises as part of future strategic work.

Clause 52.05: Advertising Signs

The purposes of this clause are:

To regulate the display of signs and associated structures.

To provide for signs that are compatible with the amenity and visual appearance of an area, including the existing or desired future character.

To ensure signs do not contribute to excessive visual clutter or visual disorder.

To ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance or efficiency of a road.

Clause 52.05 ‘Advertising Signs’ is one of the more commonly used clauses of the Particular Provisions. Despite containing a lot of content, the schedule to the clause only has the ability to vary the notice requirements in relation to ‘Major promotion sign’ (see Clause 52.05-6). In effect, Council has the ability to exempt

from notice any major promotion sign within a specified location, subject to conditions.

Most municipalities in Victoria have not sought to vary this requirement or introduce any local variation, instead focusing on including policy guidance for all signage (not just major promotional signs) within either the MSS (Clause 21) or the Local Policies (Clause 22).

The schedule to Clause 52.05 contains no local variation within the Mildura Planning Scheme. It is noted that Council recently refused an application for a major promotional sign and the applicant is challenging this decision at VCAT. A large number of objections were made to this application during the statutory planning process and the outcome of the VCAT case will determine if the existing policy needs to be strengthened to better meet community expectations.

Clause 52.16: Native Vegetation Precinct Plan

The purposes of this clause are:

To provide for the protection, management and removal of native vegetation through the use of a native vegetation precinct plan incorporated into this scheme.

To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. This is achieved by applying the following three step approach ...(avoid, minimise, offset)

To manage the removal, destruction or lopping of native vegetation to minimise land and water degradation.

This clause only has effect if a) a native vegetation precinct plan for an area has been prepared; and b) that plan is incorporated into the planning scheme and c) is listed in the schedule to this clause. Consequentially, the entire purpose of the clause is to introduce local requirements and policy into the planning scheme. If no plan is listed in the schedule, the clause has no effect. If a native vegetation precinct plan is listed, then the clause requires a permit for the removal, destruction or lopping

of native vegetation, unless exempted within the native precinct plan.

Currently within the Mildura Planning Scheme there are no native vegetation precinct plans listed in the schedule to Clause 52.16, and the consequentially the clause has no effect.

Council and other agencies have not advised of the existence of any native vegetation precinct plan, nor of any intention to prepare one. A native vegetation precinct plan would essentially allow a Planning authority the ability to holistically assess vegetation in a specific area and put in place a coordinated system for its management (as part of a development plan for instance). An applicant (and Council) can then avoid the need for unnecessary planning permits provided they act in accordance with the approved plan.

Until a native vegetation precinct plan is prepared, it is not recommended that any variation to the schedule to this clause be undertaken.

Further Strategic Work: As a small exercise, Council could review the number of planning permit applications received over the past 4 years for native vegetation removal, and examine whether a) there is a geographic concentration in a particular area and b) whether the number of applications in the area is significant. If these two conditions are met, Council could consider preparing a native vegetation precinct plan to provide a more holistic approach to vegetation management.

Clause 52.17: Native Vegetation

Similar to above, the purposes of this clause are to:

To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. This is achieved by applying the following three step approach...(avoid, minimise, offset)

To manage the removal, destruction or lopping of native vegetation to minimise land and water degradation

Within rural municipalities, Clause 52.17 is one of more frequently referenced and used of the Particular Provisions, as it requires a permit "...to remove, destroy or lop native vegetation, including dead native vegetation". Exemptions from the need for a permit are provided through:

- The list of state-standard exemptions.
- In accordance with a native vegetation precinct plan (as per Clause 52.16).
- Or through any local exemptions specified in the schedule to Clause 52.17.

The schedule can thus modified to identify specific areas where no permit is required to remove, destroy or lop certain type(s) of native vegetation, or to identify scheduled weeds in particular areas.

Other municipalities have provided local policy in different ways, for example:

- No permit required to remove native vegetation in the Public Acquisition Overlay (PAO);
- No permit required to remove native vegetation identified on a masterplan; or
- No permit required to remove certain species of native vegetation across the whole municipality (Nillumbik Shire).

Mildura currently has an exemption for *"all native vegetation including trees, shrubs, herbs and grasses, to the minimum extent necessary for the works to be undertaken for the construction and operation of the Bioenergy Power Plant, Carwarp, in accordance with the incorporated document titled "Bioenergy Power Plant Concept Master Plan, Carwarp, 14 May 2014"."*

It is noted in submissions that Cumbungi (*Typha spp.*), known commonly as bulrush, is an invasive native species impacting the biodiversity of Lake Cullulleraine, and a request has been made for exemptions to allow for the removal and management of this vegetation.

Council has an existing *Draft Invasive Plants and Animals Plan 2015-2019 (DIPAP)* which describes invasive species as:

"both non-native (introduced) and invasive native species. Most invasive species are non-native, but there are also native species that have the ability to invade areas that provide an opportune niche for these species to exist in large numbers and outcompeting other native species leaving areas with minimal species diversity. E.g. Cumbungi (Typha domingensis)."

The DIPAP identifies both Broadleaf Cumbungi (*Typha orientalis*) and Narrowleaf Cumbungi (*Typha domingensis*) as established invasive plants that outcompete naturally occurring indigenous vegetation in the municipality. Given the pest-plant status of Cumbungi, it would be appropriate to exempt its removal from the need for a planning permit.

Accordingly, it is recommended that the schedule to Clause 52.17 be modified to exempt the removal of Cumbungi at Lake Cullulleraine and its riparian zone from the need for a planning a permit.

Clause 52.27: Licensed Premises

The purposes of this clause are:

To ensure that licensed premises are situated in appropriate locations.

To ensure that the impact of the licensed premises on the amenity of the surrounding area is considered.

Clause 52.27 applies *"...to premises licensed, or to be licensed, under the Liquor Control Reform Act 1998"*. In general, the clause requires a planning permit to use land to sell or consume liquor. Amongst other factors, an exemption from the need for a permit can be created:

- *If the schedule to this clause specifies that a permit is not required to use land to sell or consume liquor under a particular type of licence.*

The schedule can also *"...specify that a permit may not be granted to use land to sell or consume liquor under a particular type of licence"*.

Melbourne City Council has provided an exemption in the CBD and Docklands for all licenses required under the *Liquor Control Reform Act 1998*. It appears that exemptions are put in place where the separate licensing and planning processes unnecessarily replicate the same or similar assessment.

Liquor licensing has not been highlighted as an issue by the MRCC or through the initial consultation processes. No evidence has been provided to show that the need to issue a planning permit for liquor licences has generated a high number of applications. Nor has there been any suggestion that assessment of permits is essentially pointless and therefore redundant.

Given the lack of demonstrated need, no changes to this clause are recommended at this time.

Clause 52.28: Gaming

The purposes of this clause are:

To ensure that gaming machines are situated in appropriate locations and premises.

To ensure the social and economic impacts of the location of gaming machines are considered.

To prohibit gaming machines in specified shopping complexes and strip shopping centres.

Clause 52.28 'Gaming' requires a planning permit to install or use an Electronic Gaming Machines (gaming machines), but also has the effect of prohibiting gaming machines in specified locations. The schedule to the clause can be modified by a Planning authority (Council) to gaming machines in certain shopping complexes and/or strip shopping centres (unless located in an approved venue under the Gambling Regulation Act 2003).

In May 2017, Amendment VC133 introduced the schedule to Clause 52.28 and prohibited gaming machines in all strip shopping centres across the municipality.

Given the existing prohibition on strip shopping centres, the only locations that gaming machines can locate would include:

- Approved venues under the Gambling Regulation Act 2003
- Shopping complexes.

Council does not have the ability to vary what constitutes an approved venue under the *Gambling Regulation Act 2003*. Therefore, the only variations open to Council are to a) remove or modify the prohibition on gaming machines in strip shopping centres, and/or b) seek to prohibit gaming machines in all or some shopping complexes.

No clear policy has been provided by Council, and no submissions received in relation to the issue of gaming machines within the municipality. In the absence of any research and analysis, or any policy direction, no change to the schedule is currently recommended.

Further Strategic Work: If supported by Council, further research and analysis could be conducted in to the impacts of gambling within the municipality, with a view to exploring whether a more comprehensive strategy for the municipality is required. If a strategy were to be developed, it should consider modifications to the schedule to Clause 52.28, in conjunction with policy to be included elsewhere within the Mildura Planning Scheme, as part of a broader set of actions to reduce the impacts of gambling on the local community.

Clause 52.32: Wind Energy Facility

The purpose of this clause is:

To facilitate the establishment and expansion of wind energy facilities, in appropriate locations, with minimal impact on the amenity of the area.

Clause 52.32 “...applies to land used and developed or proposed to be used and developed for a Wind energy facility”. It requires a planning permit to use and develop land for a wind energy facility. The clause also prohibits the establishment of wind energy facilities in specified locations, including land listed in the schedule to the clause, which can be modified by Council.

The schedule to Clause 52.32 was introduced by Amendment VC82 in August 2011 and prohibited the development of a wind energy facilities in a number of locations across Victoria, the most relevant of which was:

- *All land within five kilometres of major regional cities and regional centres specified in the Regional Victoria Settlement Framework in the State Planning Policy Framework...*

As a result, the schedule to Clause 52.32 currently prohibits the establishment of a wind energy facility on “*all land within five kilometres of a residential zone, an industrial zone, a business zone or a special purpose zone in the urban area of Mildura.*”

The establishment of wind energy facilities has not been highlighted as an issue by Council nor through submissions from the public. Accordingly, it is not recommended that the schedule to Clause 52.32 be modified further at this time.

Clause 52.37 Post Boxes and Dry Stone Walls

The purpose of this clause is:

To conserve historic post boxes and dry stone walls.

Clause 52.37 requires a planning permit to demolish or remove a post box constructed before 1930, or to demolish, remove or alter a dry stone wall constructed before 1940 on land specified in the schedule to the provision.

Other municipalities have listed specific areas where these walls are found and their alteration requires a planning permit.

The Mildura Heritage Study identifies the presence of stone walls in various locations throughout the municipality (the former Shire of Walpeup, Boinka and Danyo). Despite this, no areas within Mildura are currently identified within the schedule to Clause 52.37. Consequently, the clause does not provide any protection for dry stone walls (but the Heritage Overlay may).

Given the ability to provide protection of an important local community cultural asset, it is recommended that Council:

- a. Review the research and statement of significance for the stone walls identified within the Mildura Heritage Study.
- b. Subject to the sites meeting the ‘locally significant threshold’, it is recommended that the Schedule to Clause 52.37 be amended to require a permit for the alteration or removal of the nominated stone walls.

Recommendations

On the basis of the above evaluation, it is recommended that only two of the particular provisions be modified at this time to include

local content as follows:

- Modify the schedule to Clause 52.17 to exempt the removal of Cumbungi at Lake Cullulleraine and its riparian zone from the need for a planning a permit.
- If the dry stone walls identified within the Mildura Heritage Study are found to be locally significant, then modify the schedule to Clause 52.37 to require a permit for their alteration or removal.

A number of other modifications to the schedules within the Particular Provisions maybe appropriate, but the following further strategic work is required to first evaluate the need for change and provide sufficient strategic justification for a future planning scheme amendment:

- As part of the review of the Mildura Public Open Space Strategy, Council should consider the different mechanisms currently requiring the contribution of public open space (such as the DCPs) and evaluate the effectiveness of Council's existing policies to gain contributions commensurate with the demand generated by individual developments. Following adoption of the revised strategy, Council should evaluate whether an amendment to vary the schedule to Clause 52.01 is required.
- As a small exercise, Council could review the number of planning permit applications received over the past 4 years for native vegetation removal, and examine whether a) there is a geographic concentration in a particular area and b) whether the number of applications in the area is significant. If these two conditions are met, Council could consider preparing a native vegetation precinct plan to provide a more holistic approach to vegetation management.
- If supported by Council, further research and analysis could be conducted into the impacts of gambling within the municipality, with a view to exploring whether a more

comprehensive strategy for the municipality is required. If a strategy were to be developed, it should consider modifications to the schedule to Clause 58.28, in conjunction with policy to be included elsewhere within the Mildura Planning Scheme, as part of a broader set of actions to reduce the impacts of gambling on the local community.

Amendments

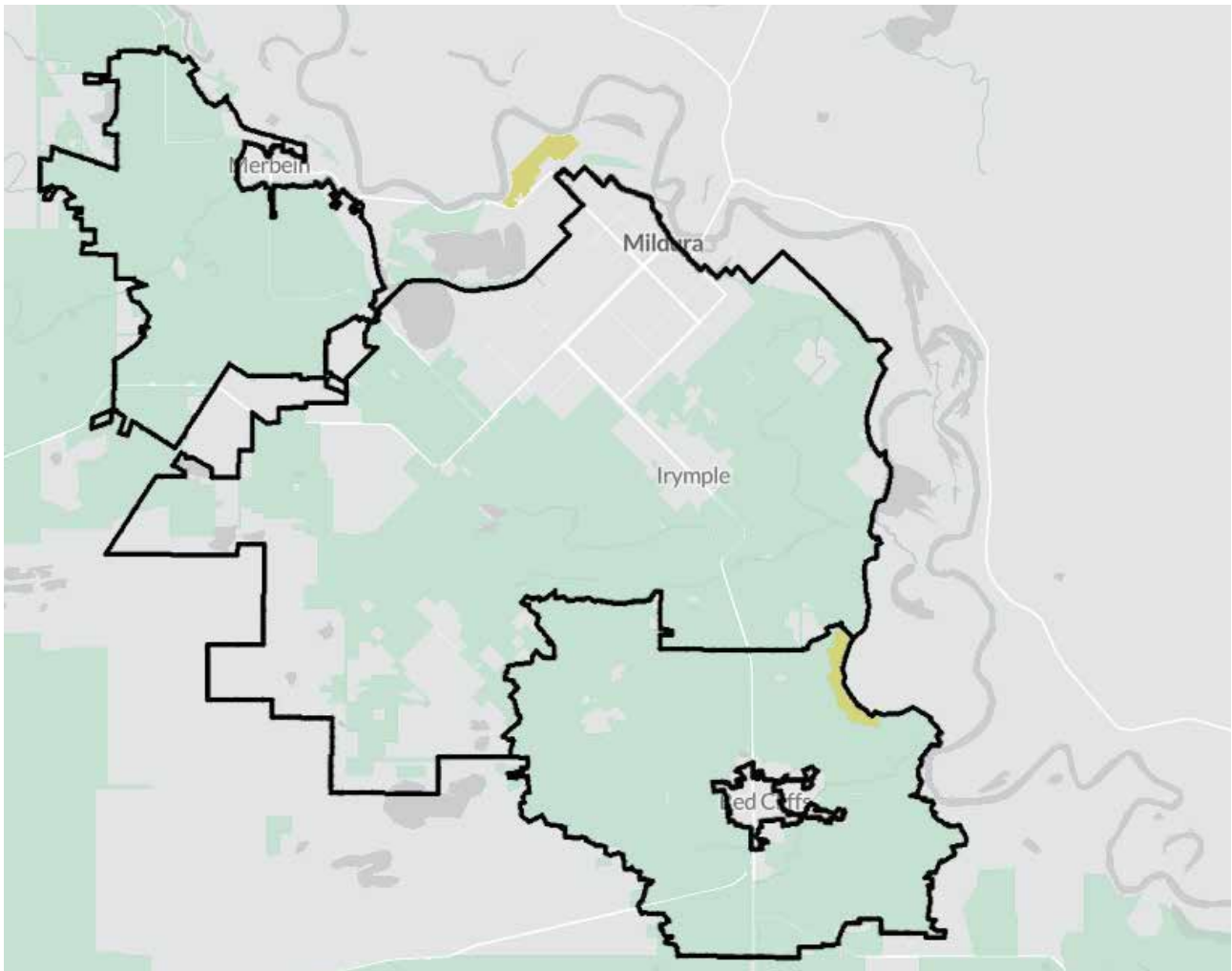
Amendment VC148, driven by Smart Planning Reform, was implemented during this review process, and restructured the VPP including many of the Particular Provisions. A guide entitled 'Changes to the Victoria Planning Provisions by VC148' published by DELWP is also available and should be referred to where clauses have been relocated.

3.4 Better protection of agricultural land from encroaching urban activities

Introduction

Given the importance of agricultural production to the municipality, issues arising from the operation of the Farming Zone were a key focus arising from the 2014 Mildura Planning Scheme Review.

The Farming Zone covers large areas of the municipality and protects valuable agricultural land which is important for food security and the regional economy in Mildura. Over the years competing land uses have started to threaten the Farming Zone, particularly residential development due to its high demand and value.



Background

As stated in Mildura's old Clause 22.06 'Agricultural Land Policy':

Mildura Rural City is nationally and internationally significant in terms of its horticultural output. The local economy is mainly driven by horticulture industries and their value-added activities, such as packaging, processing and transport. Dryland farming provides economic diversity and important regional income. Agricultural and horticultural production in the municipality is a major contributor to the Victorian economy. Output from these activities has the potential to increase considerably over the next decade as a result of both irrigation development and productivity improvements. Support for and development of sustainable practices will assist in preserving an agricultural and horticultural future for the municipality and surrounding region.

There is potential to expand agricultural and horticultural production throughout the Rural City. Realising this potential in a responsible manner by ensuring ecological and agricultural sustainability will bring added and continued wealth to the local economy and residents of the municipality. Important in this regard is the protection of agricultural land from urban encroachment including the small lot subdivision of horticultural properties.

Four of the five top employment industries in Mildura are related to Agriculture, demonstrating the importance of this sector to the local economy. Protecting the supply of viable, agricultural land is thus integral to the economic health and vitality of the economy, and the well-being of residents. The Mildura Older Irrigation Area (MOIA) and the New Irrigated Areas (NIA) are key to this outcome, with agriculture from the MOIA estimated to generate approximately \$200 million per year to the local economy. Agricultural areas in the municipality are included in the Farming Zone and the Rural Conservation Zone under the Mildura Planning Scheme.

The above statistics demonstrate the importance of protecting this important land resource, and avoiding its alienation from farming activities through non-agricultural development. It is therefore unsurprising that a large number of the policies within the Mildura Planning Scheme are concerned with the protection of agriculture.

An extensive analysis of the policy provisions relating to agriculture are included in Appendix A to this report, but in summary they are as follows:

State Planning Policy Framework (SPPF)

- Clause 11.13 'Loddon Mallee North', and more specifically Clause 11.13-3 'Agricultural productivity' provides clear direction on the value of agriculture land in the greater region.
- Clause 14.01 'Agriculture' provides strategic direction for agricultural across Victoria. Clause 14.01-1 'Protection of agricultural land' seeks "to protect productive farmland which is of strategic significance in the local or regional context".
- Clause 14.01-2 'Sustainable agricultural land use' of the SPPF seeks 'to encourage sustainable agricultural land use'.

Local Planning Policy Framework (LPPF)

- Clause 21.01 'Municipal Profile' states the following about agriculture in Mildura: "*The Mildura region has a \$2.45 billion economy (2007-08) that has shown positive growth over recent years. Significant agriculture and horticulture sectors generate economic activity in other sectors such as manufacturing, wholesale trade, transport and storage. The protection of agricultural and horticultural land is important, particularly in the Mildura Older Irrigated Areas (MOIA) and Newer Irrigated Areas (NIA)".*

- Clause 21.02-2 'Key Influences and Issues' identifies the importance of agriculture to the local areas, and the need to protect agricultural land (particularly the MOIA and NIA areas).
- Clause 21.03 'Vision and Strategic Framework' sets a vision in relation to the future of agriculture in the region, which will be the "... foundation of the municipality's strong and prosperous economy and will be uninhibited by urban encroachment."
- For Clause 21.04-2 'Urban residential land supply and growth areas', Strategy 4.9 seeks to 'Provide greater flexibility for the development of dwellings in the Farming Zone in identified growth areas through changes to the Mildura Older Irrigation Area Incorporated Document.'
- Clause 21.06 'Natural Resource Management' concerns the 'Protection of rural land'. Much of the clause is reproduced below as a relevant consideration for this issue". This clause is one of two which provides the bulk of policy in relation to agricultural areas within the municipality, and contains much of the content from the old 'Agricultural Land Policy'.
- Clause 21.07-1 'Avoiding land use conflicts' of the Mildura MSS also deals with the alienation of agricultural land, by seeking "to minimise the potential for future land use conflicts".
- Clause 21.08 'Economic Development' contains most of the policy previously included in the old Clause 22.06 'Agricultural Land Policy', and recognises the importance of agriculture to the local economy and seeks "to support the continued development of sustainable agricultural and horticultural industries as the foundation of a strong and prosperous economy".
- Clause 22.01 'Budget accommodation' provides policy guidance for seasonal worker accommodation including Group Accommodation and other forms of tourism accommodation. Fundamentally the policy seeks to address the potential negative externalities arising from these forms of accommodation, but recognises their importance in providing for the seasonal workers that the local horticultural economy requires.

2014 Mildura Planning Scheme Review

The 2014 Review dealt extensively with the direct impacts of residential (urban) use and development on the agricultural productivity of the Farm Zone areas and the economy of Mildura. While the previous Review didn't identify any need for reform to settlement policies, it did suggest that the following issues should be considered as part of any reforms to policy affecting the Farming Zone:

Residential Land Use Conflicts (page 17)

The development of land for residential use in and near agricultural areas has placed pressure on agricultural operations, particularly in relation to amenity complaints by residents. Agricultural operators are concerned that their 'right to farm' is being eroded by the high amenity expectations of nearby residential occupants.

Residential growth on the fringe of towns (primarily Mildura) and pressure for ad hoc rural residential development in the agricultural areas raise concerns about land use conflicts with nearby agricultural activities. Residents in and near productive areas have raised concerns about noise from farming operations and deliveries, the smell of bulk grain stores and the impacts of spraying crops and activities during harvest time. This issue has been considered as part of the Mildura Housing and Settlement Strategy (2013).

Farm Accommodation (page 18)

Proposals for permanent housing in the farming zone have been submitted under the guise of farm or worker accommodation.

In order to circumvent stringent planning provisions relating to dwellings in the Farming Zone, a number of applications have been received for farm worker housing (known as 'group accommodation' under the planning scheme). This is a particular issue in MOIA. The planning scheme requirements and decision guidelines for group accommodation are less detailed than those for single dwellings, yet the impact on agricultural productivity and environmental values; and the potential for land use conflict are significant.

This loophole could be addressed by introducing detailed application requirements and decision guidelines e.g. by requiring additional evidence to justify the need for farm accommodation before approval. The guidelines should, among other things, address issues relating to itinerant worker accommodation and may operate along the same principles to dependant person unit provisions.

Industry Pressure on agricultural land (page 18)

Industrial land uses are developing on cheaper Farming Zoned (FZ) land and leaving land designated for industry vacant because of the required infrastructure expenses.

Recent changes to the Farming Zone have increased discretion to allow use and development for the purposes of Industry. Stakeholders have raised concerns about potential land use conflict and the diversion of development from Industrially zoned land. More guidance could be provided in relation to decisions about industrial development on FZ land.

Section 3.8 of the 2014 Review (page 34 to 36) addressed these issues in the context of changes to the Reformed Residential Zones. In summary, following Amendment VC103 the Farming Zone and Rural Conservation Zone were reformed to enable the consideration of land uses/developments that were previously prohibited within each zone. Many of the now permitted land uses had been specifically discouraged in the old Clause 22.0 'Agricultural Policy' which was removed and sections of which were incorporated into Clause 21.08 of the 'Municipal Strategic Statement'. As outlined in the previous review:

The pre-C64 MPS aimed more specifically to retain high value rural land for agricultural and horticulture (Clause 22.06). It includes the following policy which provides more detail in terms of the desired land uses:

The use of rural land for purposes other than agriculture, horticulture, extractive industry, leisure and recreation, mining or natural systems, or uses which support these uses, be strongly discouraged, especially:

- *Retail type uses on main roads including take away food and convenience facilities and peripheral sales;*
- *Dwellings not directly associated with the use of the land for agriculture or horticulture;*
- *Industrial uses that are not intrinsically linked to agricultural or horticulture production activities on the site except if the site requirements of the proposed use are such that the use cannot be accommodated within the urban area; and there are no off site impacts; and the use is to be located outside the irrigation district.*

Potential Issues

Land in the Farming Zone may now be used and developed for Industry, subject to a planning permit. The industry may be the primary use of the land and need not be associated with Agriculture. Previously, only Rural industry was permissible in the zone, thereby requiring a nexus to agricultural activity.

Development of FZ land for (non-rural) industrial purposes may be attractive due to lower land costs and infrastructure requirements compared to urban land. This may draw industrial development away from preferred industrial areas, leaving areas such as Benetook Avenue IN3Z area vacant or underdeveloped. Policy guidelines could be provided in the MPS to assist decision-making in the case of industrial proposals in the FZ.

Policy guidelines may also be developed for the FZ and RCZ in relation to other now discretionary uses that have the potential to contribute to land use conflict or divert development from more appropriate locations e.g. camping and caravan park, warehouse, saleyard, market, motor racing track.

In light of the reforms to the FZ, Council should consider reinstating the pre-C64 Agricultural Land Local Policy as a policy guideline to assist decision-making and expanding its scope to address uses that were previously prohibited prior to the most recent reforms. This should allow for tourism-related uses to be provided that help support agriculture. Further work is proposed to clarify the preferred uses in the Farming Zone and Rural Conservation Zone. This work could include consideration of group accommodation and caravan park applications in these zones which are also proposed for further work.

Discussion

As can be seen from the above discussion, there are three key issues surrounding the Farming Zone (FZ) that were identified in the 2014 Review that require further analysis:

- The need to review and assess the possibility of reinstating the section of the former Agricultural Land Local Policy that refers to the preferred uses in the Farming Zone.
- The need to review and prepare appropriate policy framework to introduce policy guidelines outlining application requirements and decision guidelines associated with applications for Group Accommodation in non-urban zones (Farming Zone, Rural Conservation Zone).
- The need to review and prepare *appropriate policy framework to introduce policy guidelines for applications to use land for Caravan parks in the Farming Zone.*

Table 4 – Translation of (former) Agricultural Land Local Policy provisions to the current MSS

Old Agricultural Land Policy Provisions	Current MSS Provisions
<ul style="list-style-type: none"> • Subdivision of land (within a gazetted irrigation district or where a Water Licence has been issued and applied to land for horticulture) in order to provide a lot for an existing or additional dwelling which is not incidental to the use of the land for crop raising, is strongly discouraged. • The use of rural land for purposes other than agriculture, horticulture, extractive industry, leisure and recreation, mining or natural systems, or uses which support these uses, be strongly discouraged, especially: <p>....</p> <ul style="list-style-type: none"> - dwellings not directly associated with the use of the land for agriculture or horticulture; <p>....</p>	<p>Clause 21.06; Strategy 1.1:</p> <ul style="list-style-type: none"> • Ensure new dwellings and subdivision are associated with and assist in growing the agricultural enterprise. <p>Clause 21.08-1; Strategy 1.1</p> <ul style="list-style-type: none"> • Minimise unplanned urban intrusion into horticultural areas. <p>Clause 21.08-1; Strategy 1.7</p> <ul style="list-style-type: none"> • Ensure that future subdivision of agricultural land is based on sustainable farming methods and sustainable environmental grounds.
<ul style="list-style-type: none"> • The use of rural land for purposes other than agriculture, horticulture, extractive industry, leisure and recreation, mining or natural systems, or uses which support these uses, be strongly discouraged, especially: <ul style="list-style-type: none"> - retail type uses on main roads including take away food and convenience facilities and peripheral sales. <p>....</p>	<p>Clause 21.06; Strategy 1.2</p> <ul style="list-style-type: none"> • Discourage the use or development of rural land for purposes other than agriculture, extractive industry, leisure and recreation, mining or natural systems that are not directly required to support the agricultural or horticultural use of the land. <p>Clause 21.06; Strategy 1.4</p> <ul style="list-style-type: none"> • Discourage non-agricultural uses on main roads including food and drink premises, convenience shops, peripheral sales and industry.
<ul style="list-style-type: none"> • The use of rural land for purposes other than agriculture, horticulture, extractive industry, leisure and recreation, mining or natural systems, or uses which support these uses, be strongly discouraged, especially: <p>....</p> <ul style="list-style-type: none"> - industrial uses that are not intrinsically linked to agricultural or horticulture production activities on the site except if the site requirements of the proposed use are such that the use cannot be accommodated within the urban area; and there are no off site impacts; and the use is to be located outside the irrigation district. 	<p>Clause 21.06; Strategy 1.3</p> <ul style="list-style-type: none"> • Ensure rural industries are appropriately located and have a direct nexus with the agricultural use of the land the industry is located on. <p>Clause 21.08-1; Strategy 1.3</p> <ul style="list-style-type: none"> • Support horticultural and agricultural diversification and value adding.

Reinstating sections of the old Agricultural Land policy

Section 3.8 of the previous Review (page 34 to 36) addressed these issues in the context of changes to the Reformed Residential Zones. In summary, following Amendment VC103 the Farming Zone and Rural Conservation Zone were reformed to enable the consideration of land uses/developments that were previously prohibited within each zone. Many of the now permitted land uses had been specifically discouraged in the former Clause 22.06 'Agricultural Land Policy' which was removed and sections of which were incorporated into Clauses 21.06 and 21.08 of the Municipal Strategic Statement'. For instance:

Upon examination, most of the policies from the old 'Agricultural Land Policy' have already been included in the MSS at Clauses 21.06 and 21.08. It is therefore unclear which additional parts of the former Clause 22.06 policy require translation into the current MSS. One potential change could be to add a new strategy to complement Strategy 1.2 at Clause 21.06 of the MSS and provide a more positive encouragement, potentially as follows:

- Encourage the use or development of rural land for agriculture, extractive industry, leisure and recreation, mining or natural systems.

Such a new provision could be included in Clause 21.08 'Economic Development', where there are existing strategies such as *"Support the development of new horticultural areas"* and *"Support horticultural and agricultural diversification and value adding"*. These existing strategies are clearer in their strategic intent of encouraging the use of productive farm land for agricultural purposes, rather than 'muddying the waters' in terms of extractive industry, leisure and recreation, etc.

Tourism accommodation in the Farming Zone

The issues of Group accommodation and Caravan Parks in the Farming and Rural Conservation Zones present similar issues to the above, which are fundamentally about the

preferred uses that should be encouraged in agricultural areas.

In the case of Group Accommodation, there is also the added concern that the ability to apply for this use is being used to circumvent stringent planning provisions relating to second residential dwellings currently in place.

There are several VCAT cases that deal with preferred uses in the Farming Zone that have occurred since the last Mildura Planning Scheme review including:

- Mildura Rural CC v Donmez [2016] (VCAT 1920). In this case, the Tribunal found that a property was being used for the purpose of a labour hire company as well as an accommodation without existing use rights or a planning permit (for either the use or the development). Council sought a declaration, which was granted by VCAT, making the use unlawful under Section 149B of the *Planning and Environment Act 1987*.
- Grasso v Mildura RCC [2014] VCAT 1333 (Application for construction of 400sqm shed and use of land for a transfer station). VCAT stated that the establishment of a transfer station use on the site represents a loss of agricultural land in the Mildura Older Irrigation Area and an out of sequence extension of an industrial use away from any land designated for such purposes. The transfer station does on a small-scale assist in waste and resource recovery and its location on Benetook Ave is a positive benefit; however ultimately this does not balance the loss of agricultural land or the establishment of an urban use in a rural area.
- Burns v Mildura Rural CC [2014] VCAT 1418 (Construction and operation of a passive bioremediation facility). VCAT issued a varied permit, but made specific reference to the use not removing the balance of the site from productive agricultural production and will not impact on surrounding agricultural uses, which has strong policy support in the Farming Zone and state and high level local policy.

- **Garner v Mildura RCC [2015] VCAT 909** (Establishment of a transport terminal). This includes the storage of trucks, including a refrigerated truck and change-over of trailers hitched to trucks. The Tribunal upheld Council's decision to refuse a permit on the basis that the application cannot demonstrate that reasonable amenity will be maintained, or that the use is appropriate for its location having regard to relevant policy and the purpose of the Farming Zone.
- **Keen v Mildura RCC [2017] VCAT 219** (Use and development for a service station for cars and trucks). The Tribunal set aside the decision of Council and overturned the permit for several reasons, including the unequivocal policy support for the retention of the highly productive soils in Mildura's irrigation districts for agricultural use. The Tribunal found that the benefit derived from the agricultural land outweighed the benefit generated by the service station.

The decisions from the Tribunal above demonstrate the strength and success of the existing policy around the protection of the productive agricultural land from non-agricultural activities.

Despite the above, the reforms to the Farming Zone (FZ) and Rural Conservation Zone (RCZ) have enabled the consideration of a large number of uses that were previously prohibited. In part, the 2014 Review recommended the reinstatement and expansion of the Agricultural Land Local Policy to provide guidance on land uses that these reforms have now enabled (e.g. camping and caravan park, warehouse, saleyard, market, motor racing track, etc.). The 2014 Review contained a detailed list of changes to the Farming Zone and Rural Conservation Zone, which are now appended to this report (Appendix C).

Both 'Group Accommodation' and 'Camping and caravan park' are defined land use terms, nested within the 'Accommodation Group' at Clause 75.01. They are defined at Clause 74 as follows:

- **Camping and caravan park:** *Land used to allow accommodation in caravans, cabins, tents, or the like.*
- **Group accommodation:** *Land, in one ownership, containing a number of dwellings used to accommodate persons away from their normal place of residence.*

Another relevant definition is 'Backpackers' lodge' which is a separately listed use, without a definition but included within 'Residential Building' which is defined as "*land used to accommodate persons, but does not include camping and caravan park, corrective institution, dependent person's unit, dwelling, group accommodation, host farm, residential village or retirement village*". In common parlance, a Backpackers' Lodge provides accommodation for people away from their usual place of residence, often for extended periods of time (weeks to months), often with shared amenities and facilities.

'Camping and Caravan Park' is prohibited under the Rural Conservation Zone, but can be considered under the Farming Zone and Rural Activity Zone. There is no condition to be met in relation to this use.

Group Accommodation can be considered under both the Rural Conservation Zone and Farming Zone. There are no conditions against this use in either zone.

The local policy at Clause 22.01 'Budget Accommodation' should also be considered in this regard, as it applies to the "use of any land within the municipality for any form of higher density commercial accommodation (including Group Accommodation). The objectives of the policy are to:

- *To provide for a wide variety of accommodation types to meet the diverse needs of the region's visitors and seasonal workers.*
- *To encourage a variety of budget accommodation in appropriate locations that meet acceptable standards in terms of management and amenity.*

- *To locate budget accommodation premises where there is convenient access to public transport, community and retail facilities.*

To provide clear guidelines for operators, visitors, workers and residents about the location and likely approval conditions for budget accommodation.

Another council facing a similar issue to Mildura with group accommodation is Yarra Ranges Shire Council. Clause 21.04 (Objective 4' Tourism') of their MSS seeks "to recognise and facilitate the development of appropriate tourism opportunities, especially those that integrate with and promote the agricultural, environmental and conservation attributes of the Shire". Specific policy relating to accommodation includes the following:

Accommodation

When considering applications for accommodation it is policy that the following is considered appropriate:

- *The preferred location for accommodation is within the urban areas or rural townships (within the Urban Growth Boundary) in locations that:*
 - *Have access to a properly constructed road.*
 - *Not contribute to a concentration of similar land use activities that would alter the established residential character of the surrounding area.*
 - *Enable the facility to be accommodated without causing any adverse effect on the character and amenity of adjoining and nearby areas.*
- *Visitor accommodation (other than for five people or less) not be established in the Foothills Residential Areas.*
- *Visitor accommodation (other than for six people or less) not be established in the Rural Living Zone.*

In Green Wedge areas of the municipality, the policy is even more restrictive:

- *It is policy that when considering applications for accommodation (including six people or less) within the Green Wedge Zone, Rural Conservation Zone or Green Wedge A Zone the following apply:*

- *Be associated with a dwelling or other permitted use of the land, such as a restaurant or tourist facility.*
- *Be on a site that will enable the proposed use to be integrated with the character of the surrounding area with minimal impact on landscapes and vegetation.*
- *Be sited and designed to avoid the removal of established trees or indigenous vegetation and protect the residential amenity of any adjoining or nearby residential area.*
- *Be located to avoid potential conflict with normal farming operations on adjoining or other nearby properties.*
- *Only be established in an area of intensive agricultural production if the proposed accommodation will be associated with intensive agricultural production carried out on the land.*
- *Not contribute to a concentration of similar land use activities that would alter the established character of the surrounding area or detract from its residential amenity or rural and green wedge character.*
- *Have direct access to a sealed road or a formed gravel road which is capable of accommodating anticipated traffic levels without causing any adverse effect on the condition of the road.*

Although expired, another policy of interest is Clause 22.19 'Green Wedge Camping and Caravan Park' of the Mornington Peninsula Planning Scheme. Among other objectives, it seeks to:

- *To regulate the location, scale and design of camping and caravan parks so they do not have a significant adverse effect on the landscape, agricultural or environmental values of the green wedge area or the settlement pattern of the Peninsula.*
- *To ensure that location, siting and design of camping and caravan parks protects the amenity of park users from adverse impacts of neighbouring rural land uses.*

Clause 22.08 'Integrated recreational and residential development in rural areas' of the Mornington Peninsula Planning Scheme seeks "to maintain the long term recreational role of the Mornington Peninsula and to prevent de facto urban or rural residential encroachment into rural areas". Policy related to this outcome include:

- *Recreational developments that incorporate accommodation should be considered in terms of the policy on Commercial and Industrial Uses in Rural Areas and particularly should be established on lots of an adequate size to avoid apparent encroachment of buildings and works in the rural landscape. Generally this will require a lot of the minimum area specified for the zone.*
- *Where residential, commercial or subdivisional components are included in a recreational development, they will be required to demonstrate that:*
 -
 - *The recreational component remains the dominant element of the project.*
 - *The development meets appropriate locational and development design criteria, including access to or the provision of infrastructure services to prevent adverse environmental impacts on surface waters and ground water.*
 - *Development will not result in apparent urban encroachment.*

In this context, a site development density of no more one dwelling for every 8 hectares of site area, and located so as to occupy no more than ten percent of the site, may be considered as an indicator of the residential lot density that may be considered by the responsible authority, subject to the planning scheme amendment process.

The main features of these examples from other municipalities are:

- 'Group accommodation' and 'Camping and Caravan Park' are tourism related accommodation uses. Group accommodation cannot be a person's 'usual place of residence'.

- They are commercial in nature.
- The preferred location for accommodation areas are recognised urban/township areas.
- If established in a rural area, there needs to be a genuine and enduring link between the agricultural activity, or the tourism activity, and the need for the accommodation.
- Accommodation should not be the predominant land use activity.
- If established in a rural area, the scale of the development should be limited and restricted.
- Locating in some intensive rural/agricultural areas is strongly discouraged.
- Accommodation should have access to infrastructure (sealed roads, electricity, etc.).
- The accommodation should not detract, or impede, nearby agricultural activities.

Evaluation

Continuing pressure for residential development of agricultural land

A continuing pressure through the 2014 Review (and the current review as demonstrated through public submissions) is the desire for residential uses (more housing and subdivision) in productive agricultural areas. If allowed, the individual and cumulative effect of these decisions negatively impact on agricultural production, both directly through the removal of viable farm land from production; and indirectly through amenity impacts associated with residential land use, and by placing a residential value on the purchase of farm land, making it more difficult to make a sustainable financial return.

This issue was dealt with extensively in the 2014 Review in the section entitled 'Rural Residential Pressure on Agricultural Land' (page 14 to 17). There is a long history of Council addressing these issues through changes to the Rural Areas Strategy, the Mildura Housing and Settlement Strategy and changes to the Mildura Older Irrigation Area Incorporated document.

Amendment C89 to the Mildura Planning Scheme came into effect in November 2016 and implemented the findings of the Mildura Housing and Settlement Strategy 2013 (MHSS), which informs where rezoning should occur to provide for future residential development. The amendment also implemented the findings of the review of the MOIA planning controls, which restricted use of much of the agricultural land in Mildura and protected the land from residential pressure.

There is an extensive amount of existing policy within the Mildura Planning Scheme which recognises the importance of agricultural production to the future economic prosperity of Mildura, and the need to protect productive agricultural land. The strategic intent of this policy is clear, and provides ample policy support for decisions to refuse applications which alienate land from agricultural production. This policy framework appears to be well-supported by VCAT.

Accordingly, it appears unnecessary to revisit this issue as part of the current review, as the policy direction at the State and Local levels remains clear and has not been altered in the intervening 4 year period. No changes to these policies are recommended at this stage.

Reinstating sections of the former Agricultural Land policy

As shown from the extensive amount of existing policy within the Mildura Planning Scheme, and the comparison against the previous policy, most of the content from the old 'Agricultural Land Policy' has already been included in the MSS at Clauses 21.06 and 21.08. While it may be possible to include a policy statement which provides explicit support for some non-agricultural activities in the Farm Zone, this could lead to a confusing situation for little clear gain.

On this basis, no changes to these policies are recommended at this stage, as the former Agricultural Land policy has been adequately translated into the current MSS.

Tourism accommodation in the Farm Zone

The Victoria-wide changes to the Farming and Rural Conservation Zones highlighted within the

2014 Planning Scheme Review have expanded the range of activities that can be considered within these zones.

As highlighted within this report, the current MSS contains extensive and clear policies – both at the SPPF and LPPF level (including the purposes of the zone) – seeking to protect this land for agricultural production. This policy framework is being considered and upheld by VCAT. While there doesn't appear to be an immediate need for policy direction, on the basis of feedback from Council officers there is potential for permit applicants to use the Group Accommodation land use category to build a second (or more) dwelling as a permanent place of residence.

Despite this concern, Council clearly recognises the importance of providing accommodation to suit the needs of seasonal workers. As stated in the introduction to Clause 22.01 'Budget Accommodation': *"Budget worker accommodation is especially important to the economy of the region as it provides short to medium stay accommodation for horticultural workers. It is estimated that in the peak season, up to 10,000 visitors to Mildura are actively working in the harvest of horticultural produce"*.

Clause 22.01 'Budget Accommodation' already provides clear direction on the preferred location for these forms of accommodation; being the *"...commercial areas of the Mildura central business district, Merbein town centre, Red Cliffs town centre, Irymple town centre and Ouyen town centre"*. But the emphasis of this policy is currently on managing negative amenity impacts on neighbouring (residential) areas.

This policy could be expanded to provide more guidance on the preferred locations for seasonal workers accommodation, including 'Group Accommodation' and 'Camping and Caravan parks'. The scope of the policy could be expanded as follows:

- Provide explicit direction for some forms of accommodation to locate outside of productive agricultural areas (similar to the Yarra Ranges examples).
- To this end, greater use could be made of the UGB boundaries shown in the framework and structure plans in Clause 21.10 'Local Areas'.

- More criteria should be included to explicitly state:
 - Approved accommodation cannot be a person's 'usual place of residence'.
 - That there needs to be genuine and enduring link between the agricultural activity, and/or the tourism activity, and the need for the accommodation.
 - Agriculture should be the primary use of the land, and (in combination with value adding activities) should be a sufficient scale and intensity to justify the accommodation.
 - A proponent should be required to submit a business plan to demonstrate the above.
- If established in a rural area, the scale of the development should be limited and restricted.
- Locating in some intensive rural/agricultural areas is strongly discouraged, particular on lots under a certain size.
- Council explicitly states that applications to subdivide land to create individual lots for dwellings approved as Group Accommodation will not be supported.
- Accommodation should have access to infrastructure (sealed roads, electricity, etc.).
- The accommodation should not detract, or impede, nearby agricultural activities.
- Renaming the policy to be clear its scope has increased (possibly "Temporary accommodation for seasonal workers").

As an additional action, Council should keep a register of Group Accommodation premises as they must be registered with Council under the Public Health and Wellbeing Act 2008, and in some circumstances also registered with Consumer Affairs. As part of the annual registration process, Council can monitor which facilities are being used for tourism/seasonal worker accommodation. If registration should cease for a period of two years or more, then the existing use rights of the facility would cease (see Clause 63.06), and Council could undertake enforcement action to ensure the dwelling is rendered non-habitable to prevent it being used as a principal place of residence. This would be similar to the requirement to remove a

Dependent Person's Unit from a property once the dependent person no longer requires the unit.

Another possibility that should be explored is the difference between the definitions of 'Group accommodation' and other land use terms including 'Backpacker's Lodge', 'Residential building', 'Hostel' and 'Farm Stay Accommodation'. Consideration should be given to how these definitions may vary in other legislation such as the Public Health and Wellbeing Act 2008 and the Building Act.

Group Accommodation involves the construction of a self-contained dwelling, with its own amenities and facilities. Council is concerned that if approved for the purpose of accommodating seasonal workers, there is little ability for Council to prevent the 'Group Accommodation' dwelling from being used as a permanent place of residence. One potential solution would be to not approve seasonal worker accommodation as 'Group Accommodation', but rather as one of these other categories, and then providing policy guidance around the physical built form of the 'seasonal worker accommodation'. Such a definition could have reference to requiring a period of vacancy in the accommodation (in the off-season period); and/or the need for shared utilities and facilities, which would discourage permanent residents. This potential solution requires more investigation of VCAT decisions from across the state.

Recommendation

On the basis of the above, it is recommended that Council vary Clause 22.01 'Budget Accommodation' to expand its scope to provide more explicit policy guidance (as outlined above) in relation to all forms for seasonal worker accommodation, particularly 'Group Accommodation' and 'Camping and Caravan Parks'.

As an additional non-planning action, Council should investigate the feasibility of monitoring registered Group Accommodation facilities, and ensuring that they are continuing to be used for their approved purpose.

3.5 Recognition of emerging industries and the Sunraysia Modernisation Project

Introduction

As identified in the two previous reviews (2010 and 2014), the Mildura Planning Scheme could better recognise emerging industries within the municipality, through the inclusion of policy in the Municipal Strategic Statement that recognises and capitalises on the benefits of the Sunraysia modernisation project and the following emerging industries: sustainable energy (including solar parks and wind farms), mineral sand extraction and agricultural value-adding industries.

Background

Sunraysia Modernisation Project

The Sunraysia Modernisation Project is one of several projects funded and supported by governments to upgrade irrigation districts to generate water savings and improve levels of services to water users. These water savings have generated significant public benefits, such as water recovery for the environment.

As stated on the Department of Land, Environment, Water and Planning website:

Modernising irrigation systems may involve:

- *Automating and upgrading channels to reduce the need to operate the system manually, while measuring water flows accurately and in real-time;*
- *Removing redundant channels;*
- *Replacing open channels with pipelines to minimise water losses;*
- *Upgrading the accuracy of metered outlets that deliver water to farms; and*
- *Lining and remodelling channels to minimise water lost during transport.*
- *These works, in combination with changes to the way systems operate, will improve service levels to irrigators and save billions of litres of water.*

....

The \$120 million Sunraysia Modernisation Project has created a more efficient irrigation network across the Mildura, Merbein and Red Cliffs districts. The project has:

- *Upgraded key pump stations across the three districts;*
- *Replaced approximately 24 kilometres of open channels with pipeline; and*
- *Installed channel automation in the remaining 20 kilometres of open channels, including 19 regulating structures.*
- *Benefits of the project include:*
 - *365 day access to irrigation water via the water ordering system for over 2,000 customers, providing greater reliability and water availability;*
 - *Improved water quality leading to reduce on-farm filtration costs;*
 - *Greater operational flexibility to improve service delivery to irrigation customers; and*
 - *Seven gigalitres in water savings transferred to the environment to bridge the gap under the Murray-Darling Basin Plan.*

According to the Lower Murray Water, the enhanced Sunraysia Modernisation Project has delivered upgraded services to 1,198 irrigation assessments (some 65% of irrigators), which collectively covers an area of 7,858 hectares.

Other potential benefits of the project include (taken from Lower Murray Water's Q&A bulletin)

- The SMP provides a year-round irrigation supply to as many customers as possible. It substantially increases the quality and reliability of water supplies in the irrigation districts. These improvements have allowed new plantings and different crops, as well as potentially improving yields in existing crops.
- A stronger Sunraysia via jobs, development, growth and cost reductions for our growers.
- The SMP was intended to generate 7GL of water savings. It provides environmental benefits to the Cardross Lakes and Woorlong Wetlands by allowing year-round access to water for environmental flows. The project also brings the district into line with National Water Initiative standards for accurate measurement and reading of meters.

Lower Murray Water has recently been successful in obtaining funding for an expansion of the original project called SMP2 (Sunraysia Modernisation Project 2). The total project cost is \$6 million, with the costs shared between agricultural developers (50:50 funding) and government. Works are expected to commence as soon as possible with the schedule outlining water be delivered by the 2019 irrigation season.

Since completion of the SMP, the Sunraysia Rejuvenation Project (SRP) has been initiated to ensure the potential benefits from SMP are maximised. This is a two-year cross-agency initiative to increase employment and business activity in the region with the facilitator working with agencies, growers and developers to remove impediments to redevelopment of dried-off properties in the Sunraysia pumped districts as well as improving efficiencies of businesses on smaller properties.

(‘SMP2 Project Update’, Lower Murray Water, April 2017)

Renewable Energy

Clause 19.01 ‘Renewable energy’ forms part of the State Planning Policy Framework (SPPF) of the Mildura Planning Scheme. Its objective is:

To promote the provision of renewable energy in a manner that ensures appropriate siting and design considerations are met.

This is to be achieved through the following strategies:

Facilitate renewable energy development in appropriate locations.

Protect energy infrastructure against competing and incompatible uses.

Develop appropriate infrastructure to meet community demand for energy services and setting aside suitable land for future energy infrastructure.

In considering proposals for renewable energy, consideration should be given to the economic and environmental benefits to the broader community of renewable energy generation while also considering the need

to minimise the effects of a proposal on the local community and environment.

In planning for wind energy facilities, recognise that economically viable wind energy facilities are dependent on locations with consistently strong winds over the year.

In November 2014, Amendment VC107 has the effect of amendment Clause 19.01 in regard to wind farms, by requiring Responsible authorities to consider the updated ‘Policy and Planning Guidelines for Development of Wind Energy Facilities in Victoria’ (DELWP, 2017).

Council has also recently formed a Renewable Energy Committee (REC), in order to shape the future of renewable energy production in the area, and realise the Mallee’s potential to become Australia’s solar capital.

Mildura Regional City Council region is considered to be an ideal location for solar farms in Victoria, due to high amounts of both sun exposure and sunshine hours. Projects such as the 112MW Karadoc Solar Farm beginning construction in March 2018, and the 200MW Total Eren solar farm could deliver Victoria’s largest solar farms to date. Projects of this scale will further boost the local economy and bring employment to the region. This is in addition to a number of planning applications received for the establishment of new solar energy projects, which demonstrate an expanding local industry.

Mineral Sand Extraction

Clause 14.03 ‘Resource Exploration and Extraction’ of the SPPF has the following objective:

To encourage exploration and extraction of natural resources in accordance with acceptable environmental standards and to provide a planning approval process that is consistent with the relevant legislation.

Strategies related to the achievement of this objective seek to protect natural resources, which includes the following:

Protect the opportunity for exploration and extraction of natural resources where

this is consistent with overall planning considerations and application of acceptable environmental practice.

Provide for the long term protection of natural resources in Victoria.

Recognise the possible need to provide infrastructure for the exploration and extraction of natural resources.

Planning schemes must not impose conditions on the use or development of land that is inconsistent with ...(relevant legislation)

Planning permit applications should clearly define buffer areas appropriate to the nature of the proposed extractive uses, which are to be owned or controlled by the proponent of an extractive industry.

Local mineral sand mines such as Cristal Mining's Ginkgo and Snapper mines approximately 85 kilometres north of Mildura, demonstrate the existence of an important natural asset within the Murray Darling Basin. These existing mines are drawing staff from local towns such as Mildura before sourcing employment from elsewhere.

There are also examples of past mines within the municipality such as the Kulwin mine from Iluka which was in operation from 2009 to 2012. This mine had 135 employees, 85% of which came from Mildura and the surrounding region.

Opportunities such as this can continue to provide beneficial local employment and contribute to economic activity in local towns within the region, with associated social benefits from a vibrant and growing local economy.

Agriculture

Clause 14.01-2 'Sustainable agricultural land use' of the SPPF seeks 'to encourage sustainable agricultural land use'. Amongst other strategies, this is to be achieved through:

Encourage sustainable agricultural and associated rural land use and support and assist the development of innovative approaches to sustainable practices.

Support effective agricultural production and processing infrastructure, rural industry and farm-related retailing and assist genuine farming enterprises to adjust flexibly to market changes

As stated in Mildura's old Clause 22.06 'Agricultural Land Policy':

Mildura Rural City is nationally and internationally significant in terms of its horticultural output. The local economy is mainly driven by horticulture industries and their value-added activities, such as packaging, processing and transport. Dryland farming provides economic diversity and important regional income. Agricultural and horticultural production in the municipality is a major contributor to the Victorian economy. Output from these activities has the potential to increase considerably over the next decade as a result of both irrigation development and productivity improvements. Support for and development of sustainable practices will assist in preserving an agricultural and horticultural future for the municipality and surrounding region.

There is potential to expand agricultural and horticultural production throughout the Rural City. Realising this potential in a responsible manner by ensuring ecological and agricultural sustainability will bring added and continued wealth to the local economy and residents of the municipality. Important in this regard is the protection of agricultural land from urban encroachment including the small lot subdivision of horticultural properties.

The REMPLAN Economy Report for June 2018 notes that Agriculture, Forestry & Fishing is a major contributor to Mildura's economy in terms of its output (\$702 million, 11.8%), employment (2,364 jobs, 10.6%) and value-added (\$353 million, 12.1%).

This indicates that agriculture is an important aspect of Mildura's economy. Specifically, the Mildura Older Irrigation Area (MOIA) is an area of Mildura, Merbein and Red Cliffs which

is zoned under the Farming Zone. This area has a rich history of agriculture, particularly horticulture, and is valued for its landscape amenity and rural residential living, which is seen as a fundamental feature of Mildura.

In addition to primary production, a key component of the economic contribution of agriculture to the local economy is through value added activities, such as packaging and processing. Value adding also occurs through farm related retailing and agricultural tourism including accommodation, food and wine.

Discussion

The Mildura Planning Scheme already provides some recognition of these emerging industries in the Local Planning Policy Framework, as shown in Table 5.

Table 5 – Emerging industries in the Mildura Local Planning Policy Framework

Clause	Objective	Strategy
21.01 Municipal Profile		<ul style="list-style-type: none"> The Mildura region has a \$2.45 billion economy (2007-08) that has shown positive growth over recent years. Significant agriculture and horticulture sectors generate economic activity in other sectors such as manufacturing, wholesale trade, transport and storage. The protection of agricultural and horticultural land is important, particularly in the Mildura Older Irrigated Areas (MOIA) and Newer Irrigated Areas (NIA). The economic base is diversifying with emerging industries such as mineral sands, salt extraction, boat building, packaging and solar power generation.
21.02 Key influences and issues		<ul style="list-style-type: none"> The need to maintain and protect industrial land for a variety of activities with varying land size and buffer requirements. The critical importance of protecting agricultural land for agricultural purposes, in order to support the economic base of the municipality. The key economic drivers of the municipality include horticultural and agricultural production, tourism, government services, and retail and commercial activities. Significant economic potential exists through the solar industry; the extraction of limestone aggregate, gypsum, and salt; and future mineral sands mining. The region's future economic growth will depend largely on the expansion of horticultural and agricultural industries, commodity prices and the future management of water. Extensive irrigation infrastructure is located within the horticultural districts of the municipality.
21.03 Vision and strategic framework		<ul style="list-style-type: none"> Extensive value adding and processing of the region's agricultural and horticultural produce will be occurring in well sited industrial estates which will be served by power and piped natural gas. Mildura will be the centre of Australia's solar industry. Agricultural and horticultural production will be the foundation of the municipality's strong and prosperous economy and will be uninhibited by urban encroachment. Land, water and physical infrastructure in agricultural and horticultural areas will be utilised for their most productive agricultural or horticultural use and will be managed in a sustainable manner.

21.06 Protection of rural land	To protect rural land for agriculture and horticulture	<ul style="list-style-type: none"> • Strategy 1.3 ‘Ensure rural industries are appropriately located and have a direct nexus with the agricultural use of the land the industry is located on’. • Strategy 1.5 In the Mildura Older Irrigated Areas (MOIA): <ul style="list-style-type: none"> ... - discourage non-agricultural use and development within the MOIA; ... <p>Policy guidelines</p> <ul style="list-style-type: none"> • When deciding on an application to use or develop land for a non-agricultural use: <ul style="list-style-type: none"> - The proposed use should contribute to value adding to agricultural activities on the site, except where the site requirements of the proposed use are such that it cannot be accommodated within an urban area; ... - Avoid the loss or fragmentation of land within an irrigation district.
21.08-1 Agriculture	To support the continued development of sustainable agricultural and horticultural industries as the foundation of a strong and prosperous economy.	<p>Overview</p> <p>Mildura Rural City is nationally and internationally significant in terms of its horticultural output. The local economy is mainly driven by horticultural industries and their value added activities, such as packaging and processing. Dryland farming provides economic diversity and important regional income.</p> <ul style="list-style-type: none"> • Strategy 1.3 Support horticultural and agricultural diversification and value adding. • Strategy 1.5 Protect rural and agricultural infrastructure such as roads, drainage and water supply.

Evaluation

This issue essentially concerns whether the following projects and emerging industries are adequately a) recognised and b) encouraged and supported, within the current Mildura Planning Scheme.

- Sunraysia Modernisation Project
- Renewable energy
- Mineral Sand Extraction
- Agricultural value-adding activities

Sunraysia Modernisation Project

Given the historic development of Mildura around the irrigation systems, it is unsurprising that horticulture continues to play the leading role in the local economy and employment, and constitutes a significant proportion of national horticultural output.

From the background and discussion above, it is clear the Sunraysia Modernisation Project (SMP) represents a major investment in the agricultural productivity of the region, with economic benefits, associated social benefits, as well as direct environmental benefits through a contribution to improving environmental flows within the Murray Darling basin.

Table 2 shows the importance of irrigation to Mildura – specifically the Mildura Older Irrigated Areas (MOIA) and Newer Irrigated Areas (NIA) – is recognised in a number of sections of the MSS, from the Municipal Profile to Economic Development. But there is no reference to the scale of investment in local infrastructure that the SMP represents, nor the multiple benefits that have accrued from this investment, particularly the Sunraysia Rejuvenation Project.

On this basis the MSS should be amended to include reference to, and support for, the SMP and associated projects. Reference could be included in the following clauses:

- 21.01 'Municipal Profile'
- 21.02 'Key influences and issues'
- 21.03 'Vision and strategic framework'
- 21.05 'Environment' (Specifically Clause

21.05-1 'River and Wetland Health')

- 21.08 'Economic development'
- 21.09 'Transport and infrastructure'

Policy references should acknowledge the scale of investment, its multiple different benefits. The MSS already contains reference to the importance of the MOIA and NIA areas and their preservation for agricultural purposes. Additional recognition of the SMP will reinforce these strategic policies and demonstrate that this continues to be a serious and current concern with national and international consequences.

Renewable energy

Clause 19.01 'Renewable energy' of the SPPF provides existing policy support for the establishment of renewable energy facilities across Victoria, which Council can rely upon to make decisions about these types of facilities. Additionally, the existing MSS contains reference to the fact that this is an emerging industry for Mildura, with great potential for the future. Indeed Clause 21.03 'Vision and strategic framework' already contains the strategic aspiration for the region to become the centre of Australia's solar industry. Council has backed this aspiration with non-planning activities, through the establishment of the Renewable Energy Committee

While the establishment of new solar energy projects should be encouraged, an emerging issue is the location of this non-agricultural activity in irrigated agricultural areas (MOIA and NIA). This is inconsistent with existing policy directions, and represents the further alienation of agricultural land from productive farming. Given the vast availability of land within the municipality with abundant solar access, and the recent multi-million dollar investment in irrigation through the SMP, policy within the planning scheme should direct these activities to establish in non-irrigated areas.

Clauses 21.01 'Municipal Profile', 21.02 'Key influences and Issues' and 21.03 'Vision and strategic framework' already contain references to solar energy. These references

could be amended to refer more broadly to 'renewable energy projects', and reference some of the more recent solar energy projects established in the area. In the case of 21.03, more detail could be provided on how the municipality intends to become "...the centre of Australia's solar industry", but this can only occur after Council has developed a strategy, possible as an outcome from its recent formation of the Renewable Energy Committee.

But to provide a clear linkage to Clause 19.01 'Renewable energy' of the SPPF, Clause 21.09 'Transport and infrastructure' of the MSS should be amended to include a new section addressing renewable energy. Depending on the timing of any strategy produced by Council and the Renewable Energy Committee, a staged approach to building this policy could be pursued; an initial amendment to create the new 'Renewable Energy' section should be undertaken, followed by a second amendment to provide more support and guidance at a later stage following Council's adoption of a renewable energy strategy. The first amendment should include new policy to direct the establishment of new solar energy facilities to areas outside of the MOIA and NIA, consistent with existing clear policy position which discourages non-agricultural activities from establishing in these areas.

Mineral Sand Extraction

At this point of the review, no issues or problems have been identified around the establishment or ongoing operation of mineral sand or any other natural resource extraction activities within the municipality. Council has not identified any issues. No submissions have been received, and there are no adverse VCAT decisions. The impetus for discussing this issue is the recommendation arising from the previous review of the Mildura Planning Scheme, which suggested increasing the recognition of this emerging industry.

Clause 14.03 'Resource exploration and extraction' of the SPPF already provides strategies and policy support which Council can rely on to make decisions in the relation

to mineral sand extraction, and other natural resource extraction industries. In general it seeks to protect opportunities to extractive industries.

As with renewable energy, mineral sand extraction is already recognised within Mildura Planning Scheme, at Clauses 21.01 'Municipal Profile' and 21.02 'Key influences and Issues'. These references sufficiently recognise the potential of mineral sand extraction for the local economy. Beyond on this, there are scant references to mineral sand extraction within the Mildura Planning Scheme.

An additional reference to could be added to the 'Economic Development' section of 21.03 'Vision and strategic framework' to recognise that the region contains natural resources; that these have the potential to make a significant contribution to local economic activity.

Council could also consider creating a new section as part of Clause 21.06 'Natural Resource Management' of the MSS, possibly entitled 'Stone and mineral resources'. This section would describe the extent of mineral sand extraction, included statistics (if available) on the economic contribution of mineral sand extraction; and then provide objectives and strategies which are consistent with State policy at Clause 14.03 and provide local detail on how to protect these resources, particularly from encroachment by urban land uses.

Agricultural value-adding activities

The importance of agriculture to the municipality's economy is a central theme within the MSS, and has been addressed in the above discussion.

Similar to mineral sand extraction, no issues or problems have been identified around value-adding activities by Council, or through submissions or through VCAT. Again, it is a suggestion for greater recognition arising from the previous review of the Mildura Planning Scheme.

The SPPF provides strategies which support value adding activities at Clause 14.01-2 'Sustainable agricultural land use', and as

highlighted in Table 2 above, there are several references to value adding agricultural activities scattered through the MSS, including the following explicit strategies:

Clause 21.08-1 Agriculture

*Mildura Rural City is nationally and internationally significant in terms of its horticultural output. The local economy is mainly driven by **horticultural industries and their value added activities, such as packaging and processing**. Dryland farming provides economic diversity and important regional income.*

Strategy 1.3 Support horticultural and agricultural diversification and value adding.

Given the absence of any clear identified problem, and the existing references and policy support for agricultural value-adding within the Mildura Planning Scheme, it is suggested that no amendment is required to the MSS at this stage.

Recommendation

On the basis of the above discussion, it is recommended that a planning scheme amendment be prepared to modify the Mildura MSS in the following way:

- Include reference to, and support for, the Sunraysia Modernisation Project and associated projects. Reference could be included in the following clauses:
- Update Clause 21.01 'Municipal Profile' to include reference to the Sunraysia Modernisation Project; and expand the reference to solar energy to include renewable energy, and list recent projects.
- Update Clause 21.02 'Key influences and issues' to include reference to the Sunraysia Modernisation Project; and expand the reference to solar energy to include renewable energy.
- Update Clause 21.03 'Vision and strategic framework' to include reference to the Sunraysia Modernisation Project. Also include reference to could be added to the 'Economic

Development' section to recognise that the region contains natural resources and that these have the potential to make a significant contribution to local economic activity.

- Update Clause 21.05 'Environment' (Specifically Clause 21.05-1 'River and Wetland Health') to include reference to the environmental benefits of the Sunraysia Modernisation Project.
- Update Clause 21.06 'Natural Resource Management' to create a new section possibly entitled 'Stone and mineral resources'. This section would describe the extent of mineral sand extraction, included statistics (if available) on the economic contribution of mineral sand extraction; and then provide objectives and strategies which are consistent with State policy at Clause 14.03 and provide local detail on how to protect these resources, particularly from encroachment by urban land uses.
- Update Clause 21.08 'Economic development' to include reference to the investment in and economic benefit of the Sunraysia Modernisation Project.
- Update Clause 21.09 'Transport and infrastructure' to:
 - Include reference to the Sunraysia Modernisation Project.
 - Include a new section addressing renewable energy which should include new policy to direct the establishment of new solar energy facilities to areas outside of the MOIA and NIA.

If addition to the above, Council could consider developing a renewable energy strategy to provide clear support and strategies for establishing the municipality as the centre of Australia's solar industry'.

3.6 Using the Environmental Significance Overlay to protect important industries

Introduction

In the 2014 Mildura Planning Scheme Review, the Environmental Protection Agency (EPA) suggested that Council consider applying the Environmental Significance Overlay (ESO) around larger industries and intensive animal industries to protect their ongoing operation and provide for their future expansion.

Background

The State Planning Policy Framework contains many objectives and strategies which seek to protect industries from the encroachment of sensitive (urban) land uses through the application of buffer distances.

Clause 11.13 'Loddon Mallee North' is a regional growth clause, which contains sub-clause 11.12-2 'A diversified economy' which seeks "To realise opportunities to strengthen and diversify the economy". Strategies to achieve this objective include

- Support further diversification of the primary production, service, manufacturing and tourism industries. Support growth and adaptation of agriculture.
- Support emerging agribusinesses and location clusters, including intensive animal industries.
- Support production and processing that adds value to local agricultural and other primary products.
-
- Support emerging and potential growth sectors such as nature-based tourism, mining and renewable energy generation and protect these activities from urban encroachment.

Clause 13.04 'Noise and Air' of the SPPF contains a number of relevant objectives and strategies, including Clause 13.04-1 'Noise abatement' which seeks "to assist the control of noise effects on sensitive land uses". This is to be achieved by:

"Ensuring that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area."

Similarly, Clause 13.04-2 'Air quality' seeks "to assist the protection and improvement of air quality" in part through by "ensur(ing), wherever possible, that there is suitable separation between land uses that reduce amenity and sensitive land uses".

Clause 14.03 'Resource exploration and extraction' has been mentioned elsewhere in this report in relation to mineral sands mining. It includes the following strategies which support the application of buffer distances, as well as criteria to use in determining the buffer areas:

- "Planning permit applications should clearly define buffer areas appropriate to the nature of the proposed extractive uses, which are to be owned or controlled by the proponent of an extractive industry.
- Buffer areas between extractive activities and sensitive land uses should be determined on the following considerations:
 - Appropriate limits on effects can be met at the sensitive locations using practical and readily available technology.
 - Whether a change of land use in the vicinity of the extractive industry is proposed.
 - Use of land within the buffer areas is not limited by adverse effects created by the extractive activities.
 - Performance standards identified under the relevant legislation.
 - Types of activities within land zoned for public use.

In addition to the above, *Clause 52.10 – Uses with adverse amenity potential of the Victoria Planning Provisions* lists industrial and materials storage uses with the potential to adversely affect the amenity of their neighbourhoods.

It seeks to protect the residential amenity of neighbourhoods by specifying minimum setback distances for specified use from the nearest areas of residential zoned land, or land for sensitive uses (hospitals, education, etc.). These minimum setback distance could be used as a general guide to help define buffer distances through an ESO.

It should also be noted that the recent Advisory Committee into Major Hazard Facilities (Final Report, July 2016) noted that these minimum setback distances should be reviewed and should “...draw on the best-available science and best-practice approaches. It will also examine threshold distances in the context of EPA’s ‘Recommended Separation Distances for Industrial Residual Air Emissions’ guidelines, to ensure the two mechanisms align.”

As noted in the discussion regarding emerging industries, there are a number of clauses in the Local Planning Policy Framework which support the principle of protecting industries through the application of buffer distances. Clause 21.02 ‘Key influences and issues’ identified “the need to maintain and protect industrial land for a variety of activities with varying land size and buffer requirements.”

Clause 21.07-1 ‘Avoiding land use conflicts’ of the Mildura MSS deals with this issue explicitly, as stated in the overview:

“There is the potential for land use conflicts in and around the major urban areas of Mildura, Merbein, Irymple and Red Cliffs arising from the proximity of sensitive land uses to land use and development with adverse amenity potential, such as the Mildura Airport, Merbein Mushrooms, the Mildura Wastewater Treatment Plant and agricultural activity taking place on the valuable agricultural land that surrounds these towns. It is important to manage these uses and their environs to ensure they are not compromised by inappropriate land use and development.”

Accordingly, the objective of this clause is “to minimise the potential for future land use conflicts”, through:

1.1 Limit the location of sensitive land uses in the vicinity of industries or other activities with significant off site effects such as noise, traffic and residual air emissions.

1.2 Discourage housing in locations where amenity may be negatively impacted by farming and related activities, or where the location of housing may inhibit rural activities.

1.3 Discourage the siting of sensitive land uses such as residential development along either side of Benetook Avenue (from Eleventh Street to Seventeenth Street) and along the heavy vehicle by-pass designation of Seventeenth Street (from Benetook Avenue to Deakin Avenue).

The existing Environmental Significance Overlay – Schedule 4 within the Mildura Planning Scheme (Incompatible Land Use Buffer Area) (ESO4) has not been amended since 2010, but provides an ESO buffer around three (3) major industrial uses in the municipality, including:

- *“Abattoir, Lot 1 LP 221865, being part of Crown Allotment 1 Section 89, Block F, Parish of Mildura, Gordon Avenue, Mildura South;*
- *Concrete Batching Plant, Part Crown Allotment 19 of Section 114, Block F, Parish of Mildura, corner Benetook Avenue and Twentieth Street, Koorlong;*
- *Asphalt and Crushing Plant, Crown Allotments 8, 9 and 10, Section 114, Block F, Parish of Mildura, corner Benetook Avenue and Twentieth Street, Koorlong.”*

The ESO seeks “to minimise the potential for future land use conflict” by identifying land containing long established industrial land uses with significant residual air emissions. The decision guidelines consider both the impact to the operation of the industrial use and any use proposed to be established within a buffer area and prompts Council to determine a minimum distance that new dwellings should be separated from established industrial use.

The buffer distances are likely based on the *Recommended separation distances for industrial residual air emissions* published by the Environmental Protection Authority (EPA) most recently in 2013. While this is not explicitly stated in ESO4, this document is a policy guideline in the State Planning Policy Framework (e.g. 13.04-2 and 17.02-2).

Discussion

The issue of sensitive land uses in the buffer zone of industrial land uses is noted in several recent VCAT cases:

In **Sutherland v Mildura Rural CC [2015] VCAT 1132**, the Tribunal considered an application for the use and development of a leisure and recreation facility (go-kart hire) on land adjoining a veterinary clinic (equine animal keeping). It was noted that the veterinary clinic was an historic use, operating before the land was zoned Industrial 3 Zone (IN3Z). In the absence of the ESO4, the Tribunal relied on the purposes of the IN3Z to avoid inter-industry conflict and ensure the safety and amenity of adjacent, sensitive land uses. The Tribunal decided that in the absence of an acoustic assessment, the level of impact to the existing sensitive use could not be established. Council's decision was set aside and no permit was granted.

In **BSFW Investments Pty Ltd v Mildura Rural CC (Further Correction) [2017] VCAT 191**, an enforcement notice was sought for the development of land for storage and animal treatment (2 sheds and paddocks) in association with an existing veterinary clinic. The Tribunal found that the 1988 planning permit authorised the use of a veterinary surgery and animal hospital over the entire subject land, and the as-built improvements on the land were generally in accordance with the relevant endorsed plans.

In **Morgan v Mildura Rural CC [2014] VCAT 1503**, the application to recommence operation of the Mildura abattoir and construction of a new building around the waste area and a car parking area was considered by the Tribunal. The use had not been operational since 2004.

It is noted that the proposal is subject to ESO4 (Incompatible Land Use Buffer Area) and a 500-metre buffer from the abattoir is required under the requirements of the *Recommended separation distances for industrial residual air emissions* published by the Environmental Protection Authority (EPA) referenced in the State Planning Policy Framework (SPPF).

Strategic support for the use of the ESO to specify buffer distances to deal with negative externalities is also provided by the Advisory Committee into Major Hazard Facilities. From its Terms of Reference, its primary tasks were to:

... provide advice to the Minister for Planning about improvements to land use planning for areas surrounding major hazard facilities (MHF), in order to better manage the interface areas between existing and new development and land used for MHF.

And to make recommendations on:

Issues to be addressed for each of Victoria's 40 registered MHF and principles about how the land use planning system can assist in managing risks and any adverse impacts and principles for applying land use buffers more broadly to other uses with adverse amenity potential.

While Advisory Committee was examining major hazards facilities and not lower-intensity industrial activities with adverse amenity potential, many of the recommendations and principles discussed within its Final Report can be drawn upon to justify and develop a draft ESO schedule for Mildura to define buffer distances.

Pages 27 to 34 contain a detailed discussion on the potential use of zones and overlays to specify appropriate buffer distances within the planning scheme, including the following discussion in relation to:

"... the use of the ESO through Schedule 1 - Port of Melbourne Environs (ESO1) in the Maribyrnong Planning Scheme which seeks to manage potential conflicts between land in the port environs and the adjoining Port of Melbourne. The ESO1 includes a statement

of environmental significance that identifies the environs around the Port of Melbourne and that land in the overlay should not be developed in a way that would compromise the protection and expansion of the port. Similarly the environmental objectives of the ESO1 seek to minimise land use conflicts and to ensure that land use surrounding the port does not constrain the operation and development of the port. Relevantly, permits are required for buildings and works associated with certain types of land uses including accommodation, childcare centres, education centres, places of assembly and offices as well for the subdivision of land." (Page 32).

The Advisory Committee concludes that: *"the use of existing tools, and particularly the ESO with appropriate schedules, should be able to produce an acceptable outcome, namely to control development near MHF."*

What was not established from the previous review of the Mildura Planning Scheme in 2014 was which industries should be protected through the application of the ESO, in addition to the abattoir, concrete batching plant and concrete crushing plant. Council, possibly through community consultation, should identify additional industrial activities which could be included in an amendment ESO4.

Evaluation

The EPA has suggested that Council consider applying the Environmental Significance Overlay around larger industry and intensive animal industries to protect their buffers for future expansion and operation. Currently EPA policy and the SPPF (and Clause 52.10) provides strong statutory guidance for the establishment of new industrial uses and the protection of any existing sensitive (urban) uses. Conversely, the ESO appears to offer better protection for established industrial uses from encroachment from sensitive (urban) land uses through the creation of buffer distances.

This VPP approach has been applied by other Councils:

- Mitchell Shire Council's ESO5 – Kilmore Wastewater Management Facility Buffer Area ensures that any development in this buffer area will not compromise the ongoing operation and potential future expansion of the wastewater facility, while making landowners aware of the buffer area. Decision guidelines prompt Council to consider the proximity of the proposed use to the buffer area, the number of persons expected to use the site and the length of time they will stay, in order to ultimately determine if the residual air emissions from the wastewater facility will inhibit the proposed use.
- A similar situation applies to the Eastern Treatment Plant across the municipal boundaries of Frankston and Kingston, which is protected through the ESO in both local government areas.
- Goldfields Shire Council's ESO2 'Air Emissions Buffer' provides the same mutual protection for an abattoir and waste water plant. Of note in this schedule is that buffer areas and distances are required to be reviewed over time to ensure their scope is sufficient.
- As identified above, the Advisory Panel for Major Hazards Facilities noted Maribyrnong's use of the ESO to manage the potential conflicts between the Port of Melbourne and surrounding residential areas.

Given the clear support for the use of the ESO to protect industrial uses arising from Advisory Committee reports and practices at other municipalities – as well as the existing practice within the Mildura Planning Scheme – it would appear reasonable to expand this approach to protect other, existing industries.

Consideration should still be given on a case by case basis as to whether the ESO is the most appropriate tool under the VPPs to prevent land use conflict between industries and nearby, sensitive land uses.

Recommendation

An ESO can be used to provide a buffer distance around land uses with adverse amenity potential. This would have the effect of protecting the existing use from encroachment by new incompatible land uses that may restrict its ongoing operation or expansion, as well as notifying surrounding landowners that development within this overlay/buffer area has the potential to be impacted by negative externalities (air emissions, noise, light spill, etc.). When used this way, the ESO has the potential to mutually protect both parties and minimise land use conflict.

Accordingly, it is recommended that Council:

- Identify additional industries/activities within Mildura that would benefit from the creation of a buffer distance around their existing operation, including those industrial uses highlighted in the recent VCAT cases, and any others identified through community consultation.
 - Calculate appropriate buffer distances for each type of activity, with reference to guidelines from the EPA and Clause 52.10.
 - Review the ESO4 'Incompatible Land Use Buffer' planning provision, with reference to the draft schedule produced by Major Hazards Facilities Advisory Committee, particularly to expand the list of permit requirements beyond dwellings to include the following:
 - Accommodation
 - Child care centre
 - Education centre
 - Place of assembly
 - Hospital
 - Subdivide land.
- Add the expanded list of industrial activities to Clause 21.07-1 'Avoiding land use conflicts' of the Mildura MSS.



STATE POLICY
CONTEXT

4.0 State Policy Context

4.1 Overview

The State Government has conducted a significant amount of planning reform since the previous Mildura Planning Scheme Review in 2014. Broadly this has included:

- Legislative changes to the *Planning & Environment Act 1987* and associated instruments.
- New strategies & policies.
- Victoria wide amendments to the Victoria Planning Provisions (VPPs).
- The introduction of new, or the modification of existing Planning Practice Notes or and Ministerial Directions.

Review Kit

This chapter will address the following questions as outlined in the *Continuous Improvement Review Kit 2006*:

- Does the planning scheme further the objectives of planning in Victoria?
- Does the planning scheme advance the strategic directions in the SPPF and adequately implement State Policy applicable to the municipality?
- Does the MSS respond to or further the directions in Melbourne 2030 or other relevant State policies?
- Have any issues emerged with the MSS since any previous review?
- Are there any inconsistencies with State policy?

Key Considerations

- *Planning & Environment Act 1987*
- Metropolitan Planning Strategy
- Regional Growth Plan
- Smart Planning Program
- VicSmart
- Other State Policies
 - Wind Farms
 - Bushfire
 - Native Vegetation
 - Infrastructure Contributions.

4.2 Planning & Environment Act 1987

The *Planning and Environment Act 1987* (the Act) sets out the procedure for preparing and amending the Victoria Planning Provisions and planning schemes. It also contains the trigger for a review of the planning scheme within 12 months of the adoption of a Council plan in Section 12B(1).

Amendments

The Act has also undergone several amendments since the last review as described below. Due to their broad application, they are unlikely to have a direct impact on this Review, although they do impact the implementation of the objectives for planning in Victoria.

Amendment	Purpose
21/2013: Growth Areas and Miscellaneous	Expands the role of the Growth Area Authority for the declaration of growth areas and the criminal liability of bodies corporate and clarifies responsibility for the ongoing administration and enforcement of permits issued under Division 6 of Part 4 of the Act.
3/2013: General	Implements Government election commitments and introduces process improvements and red tape reductions, abolishes the Development Assessment Committees and establishes the Planning Application Committee.
40/2014: Building a Better Victoria (State Tax and Other Legislation Amendment)	Among other things, the purpose of this Act is to impose a levy for the privilege of making certain planning permit applications. Part 6 of this Act comes into operation on 1 July 2015.
30/2015: Recognising Objectors	To require responsible authorities and the Victorian Civil and Administrative Tribunal to have regard to the number of objectors in considering whether a permit application may have a significant social effect.
35/2015: Infrastructure Contributions	To provide for a new system for levying and collecting contributions towards the provision of infrastructure and make related consequential amendments.
7/2018: Public Land Contributions	Introduces a land contribution model for the Infrastructure Contributions Plan (ICP) system which enables land for public purposes to be provided as part of an infrastructure contribution when land is developed, replacing the monetary public land component of the standard levy.

4.3 Metropolitan Planning Policy

Plan Melbourne is the Victorian Government's metropolitan planning strategy designed to guide future growth of Melbourne to the year 2050.

While it primarily applies to metropolitan Melbourne, the key messages expressed by the principles and objectives of Plan Melbourne are broadly applicable to other towns and regional centres. The Loddon Mallee North Regional Growth Plan is applicable to Mildura and reflects this.

Plan Melbourne 2014 was refreshed by the State Government in 2017 to ensure it addressed issues previously omitted, such as climate change, housing affordability and transport priorities.

The table below shows how Plan Melbourne 2017-2050 has changed since Plan Melbourne 2014:

Plan Melbourne 2014	Plan Melbourne 2017-2050
9 strategic principles	9 principles
6 outcomes and objectives	7 outcomes
41 directions	32 directions
118 initiatives	90 policies
334 actions	112 actions

The broad objectives of Plan Melbourne 2017-2050 are:

- A productive city that attracts investment, supports innovation and creates jobs;
- Providing housing choice in locations close to jobs and services;
- Providing an integrated transport system that connects people to jobs and services and goods to market;
- A distinctive and liveable city with quality design and amenity;
- A city of inclusive, vibrant and healthy neighbourhoods;
- A sustainable and resilient city.
- And that Regional Victoria is productive and sustainable and supports jobs and economic growth.

Amendment VC106

Amendment VC106 came into effect in May 2014 and implemented Plan Melbourne: Metropolitan Planning Strategy 2014 and the eight (8) regional growth plans.

The amendment removed clauses relating directly to Melbourne 2030 from the SPPF and replaced them with clauses directly relating to the objectives of Plan Melbourne 2014.

Outside of metropolitan Melbourne, the changes to the policy objectives are somewhat limited to the introduction of the Loddon Mallee North regional growth plan, which was introduced to the Mildura Planning Scheme formerly in Clause 11.13 and now distributed throughout the integrated Planning Policy Framework (PPF) by Amendment VC148.

The objectives and strategies outlined in these Clauses seek to enhance and diversify the agricultural economy and protect strategic areas of agricultural significance.

It also seeks to facilitate growth of Mildura as a regional city incorporating nearby settlements and consolidating development particularly in the Central Business District (CBD). New waste and resource recovery processes are supported and encouraged.

Amendment VC134

Amendment VC134 came into effect in March 2017 and introduced updated policies and strategies in accordance with (the refreshed) Plan Melbourne 2017-2050: Metropolitan Planning Strategy.

The amendment made changes to the structure and layout of the SPPF and removed (former) Clause 11.05-2 'Rural productivity' which sought to manage development in rural areas and promote agriculture and rural production.

The policy objectives previously included in (former) Clause 11.05-2 are still included elsewhere in the PPF and have a strong presence in the MSS and LPPF of the Mildura Planning Scheme.

4.4 Regional Growth Plan

The Loddon Mallee North Regional Growth Plan 2014 was in draft format and given some consideration during the previous planning scheme review in 2014. It has since been implemented alongside Plan Melbourne 2014.

The vision for this plan is to promote a region with vibrant, innovative, sustainable and connected communities offering a diversity of lifestyles, building on heritage, natural environment and agricultural landscapes.

The key principles of the Loddon Mallee Regional Growth Plan are to:

- Manage population growth;
- Strengthen communities;
- Collaborate to achieve the region's goals;
- Ensure food, water and energy security;
- Strengthen and diversify local economy;
- Improve education and training outcomes;
- Protect and enhance the natural and built environment; and
- Improve infrastructure.

Mildura is identified as one of the main population centres in this region, expected to experience the bulk of growth over the next 30 years. It is also identified as a strategic business centre along the border of Victoria and New South Wales, at the intersection of a number of major transport routes.

As the regional city for Loddon Mallee North, Mildura will have an expanded role as a major service provider, recreation centre and tourism destination. Expansion of the city's health and education sectors will be encouraged, and attracting new businesses and employment into the area will also be important. The city will see industrial and residential growth, as will nearby Irymple, Merbein and Red Cliffs. Through Mildura's continued growth, Ouyen's role as a service provider for rural industries and remote settlements will be reinforced.

4.5 Smart Planning Program

The Smart Planning program was introduced by the Victorian State Government on 1 July 2016 and is the first funded review of Victoria's planning system in more than 20 years.

Smart Planning seeks to reform Victoria's planning regulations to make the planning system more efficient, accessible and transparent. The reform aims to:

- Address inconsistent and contradictory planning controls
- Make planning regulation easier to understand and interpret
- Lead to more effective and consistent decision making
- Reduce compliance and processing costs
- Reduce assessment times for some planning permit applications.

The two-year program runs from July 2016 to June 2018 and comprises two stages: 'Improve' and 'Reform', with potential for a third stage, 'Transform' to follow.

Improve

The first stage, Improve, was completed in early 2017 and is described as "*immediate regulatory improvements and beginning the task of building better engagement mechanisms and supporting infrastructure.*"

Amendment VC142 is a product of the Improve stage, and the first of two amendments from the Smart Planning program. It was approved by the Minister and gazetted on 16 January 2018. It addresses issues that have been in the planning system over a long period of time, and aims to deliver the following improvements:

- Removal of redundant or excessive provisions and permit requirements for low impact matters
- Clarification of unclear provisions and removal or relocation of some administrative requirements to reduce the complexity of planning schemes
- Updated planning provisions to reflect the contemporary needs of businesses
- Use of contemporary land use terms and removing out-of-date references, to ensure schemes are current.

Reform

The second stage, Reform, was completed mid-2018, and “*builds on the Improve stage, further simplifying planning regulation and delivering online planning solutions that improve accessibility and transparency, and make it easier to interact with the planning system.*”

A discussion paper entitled ‘Reforming the Victoria Planning Provisions’ was released for public feedback between 16 October 2017 and 4 December 2017 and received over 250 submissions. It focussed on the five (5) proposed changes to the VPP to be introduced via the Reform stage of the Smart Planning program:

- A simpler VPP structure with VicSmart assessment built in;
- An integrated planning policy framework;
- Assessment pathways for simple proposals;
- Smarter planning scheme drafting; and
- Improve specific provisions.

Amendment VC148 came into effect in July 2018. The Amendment is considered ‘generally’ policy neutral, but still made a significant restructure of the Victoria Planning Provisions (VPP) to make them simpler and clearer. In summary, the Amendment:

- Introduces a new Planning Policy Framework (PPF)
- Enables the future introduction of a Municipal Planning Strategy (MPS)
- Simplifies the VPP structure by:
 - Restructuring particular provisions
 - Integrating VicSmart into applicable zones, overlays and particular provisions
 - Consolidating operational and administrative provisions
- Amends specific zones, overlays and particular provisions to improve their structure and operation, and to support the future translation of Local Planning Policy Frameworks (LPPFs) to the MPS and PPF
- Introduces a new Specific Controls Overlay to replace Clause 52.03 Specific Sites and Exclusions

- Deletes outdated particular provisions
- Deletes permit requirements for low-impact uses in industrial zones
- Reduces car parking requirements for uses in commercial areas and for land within walking distance of high-quality public transport.

While the Amendment is ‘generally’ policy neutral, some policy that may have formerly been local or regional policy has been introduced as state policy.

The changes to car parking requirements only apply to the Principal Public Transport Network (PPTN) which is concentrated in metropolitan Melbourne and extends into some outer suburbs, but does not impact Mildura.

Council will be required to consolidate their Local Policy (contained within Clause 22) into the new Planning Policy Framework in conjunction with resources provided by DELWP.

Transform

Dependant on funding, Transform is the potential third stage of Smart Planning reform. While Improve and Reform focus on a planning system that is more responsive to current needs, Transform is an opportunity to consider the potential challenges over the next 30 years.

4.6 VicSmart

VicSmart was introduced to the VPPs in September 2014, and provides a streamlined assessment process for straightforward planning permit applications. This guarantees the applicant:

- A 10 day permit process.
- Applications are not advertised.
- Information to be submitted with an application and what council can consider is pre-set.
- The Chief Executive Officer for the council or the delegate decides the application.

Classes of applications are identified in the planning scheme under Clause 59. The following are the types of applications that can be made under VicSmart if they meet the checklist criteria:

1. Realign a boundary between two lots
2. Subdivide land into lots each containing an existing building or car parking space
3. Subdivide land with an approved development into two lots
4. Construct a front fence in a residential zone
5. Construct a building or works in a zone (other than rural zone)
6. Construct buildings or works in an overlay
7. Remove, destroy or lop one tree
8. Minor subdivision, minor buildings and works, painting or tree lopping in a Heritage Overlay
9. Minor subdivision or buildings and works within a Special Building Overlay
10. Display a sign in a commercial, industrial zone or special purpose zone
11. Reduce a car parking requirement
12. Two lot subdivision in a rural zone
13. Construct a building or works in a rural zone
14. Extension to one dwelling on a lot in a residential zone

Amendment VC114

Introduced the VicSmart planning permit process, allowing for certain applications to be fast tracked (which were formerly set out in Clauses 90-95, and are now integrated into the relevant zone, overlay and particular provisions and in Clauses 71.06, 59.15 and 59.16). This also introduced the 12 state classes of applications (formerly Clause 92, now integrated into the applicable zone, overlay and particular provisions) that will be implemented across all Victorian planning schemes. Local classes can also be specified by council in addition to the state classes in Clause 59.15.

Amendment VC135

This amendment introduces additional classes of application and increases the 'cost of development' threshold of some existing buildings and work classes. These changes included:

- Building and works up to \$1 million in industrial areas
- Building and works up to \$500,000 in commercial and some special purpose areas
- A range of low impact developments in rural areas (up to \$500,000 in agricultural settings and \$250,000 in more sensitive rural settings)
- Small scale types of buildings and works in selected overlays
- Subdivision, advertising signs and car parking.

Amendment VC137

This Amendment further extends new VicSmart classes:

- A single storey extension to a single dwelling

4.7 Infrastructure Contributions

where specific design criteria are met

- Buildings and works up to \$100,000 in residential zones, where not associated with a dwelling.

Amendment VC142

This Amendment further modified VicSmart by:

- Deleting the 'Loading and unloading of vehicles' class of application
- Including additional classes of development under the Heritage Overlay, including an electric vehicle charging station and services normal to a building (other than a dwelling).

Amendment VC148

This Amendment integrated VicSmart into all applicable zones, overlays and particular provisions, and relocated operational and related provisions.

Amendment V9 implemented Victoria's new infrastructure contributions system by introducing a new overlay, Clause 45.10 (Infrastructure Contributions Plan Overlay), into the Victoria Planning Provisions through payment of a monetary levy only, and new provisions were introduced in 2018 by Amendment VC146 that allow for monetary and/or land contributions.

The ICPO will allow a planning authority to incorporate an Infrastructure Contributions Plan (ICP) and impose an infrastructure levy.

Previous reviews of the Mildura Planning Scheme have discussed potential expansion of residential areas being restricted by the availability of infrastructure (particularly stormwater). The new infrastructure contributions system will provide an additional mechanism for Council to finance infrastructure expansion.

Council will need to undertake a major review of its DCPs, noting that the Nichols Point DCP is currently under review.

4.8 Climate Change

The *Climate Change Act* (2017) provides the legislative foundation to manage climate change in Victoria. In conjunction, DELWP has commissioned a review of Victoria's land use planning and building systems to improve the management of natural hazards in the context of climate change.

In the Discussion Paper: Improved management in the planning and building systems of natural hazards in light of climate change, prepared by SGS Economics and dated January 2018, it is highlighted that the gap in most existing hazard mapping and policy is that it reflects existing risk based on historic data and does not project future hazard.

There are a number of hazards to consider in Mildura, including:

- Heat waves;
- Flooding;
- Severe storms;
- Bushfire; and
- Drought.

Plan Melbourne 2017 recognises climate change and the importance of reducing urban heat island temperatures in built up areas. Action 91 in particular sets the goal for a cooler and greener Melbourne.

The Urban Cooling and Greening Workshops Report responds to Action 91 of Plan Melbourne and applies to most regions within metropolitan Melbourne. The overarching goal is to set tree canopy percentage targets, potentially through Land Use Framework Plans.

It is noted that there has recently been significant reform to the bushfire hazard mapping and Council is currently in the process of adopting new flood mapping.

Commonly known as 'the Millennium Drought', Mildura was particularly affected by the worst drought since European settlement in Australia, from 1995-2009. Given Mildura's significant agricultural industry, difficulty in accessing water had far-reaching economic, social and environmental impacts.

An eventual revision to the hazard mapping provisions in planning schemes is likely in the next 4 years. Council should make an allowance to undertake an amendment to address any announced State Government reforms in due course.

The Local Policy at Clause 22.03 (Healthy and Sustainable Neighbourhood Design) considers the changing climate and provides guidance to improve resilience and reduce the impact through initiatives such as more trees in built up areas.

Council should consider ways to increase the level of tree canopy cover in the urban areas of the municipality through the planning scheme. This will reduce the urban heat island effect in built up areas and assist in dealing with, and developing resistance to the hazards associated with climate change.

4.9 Bushfire

There have been a number of Amendments to the VPPs since 2014 which implement bushfire policy.

Amendment VC108

This amendment changed Clause 52.38 (2009 Bushfire) to extend timeframes for continued use of a building for temporary accommodation and Clause 52.39 for extending the timeframe for submitting a site plan for rebuilding a dwelling. This amendment supported Clause 13.05 of the SPPF, which seeks to assist and strengthen community resilience to bushfire.

Amendment VC109

Amendment VC109 introduced a number of exemptions and requirements relating to bushfire, including an exemption for the provision of defensible space for a dwelling approved under the BMO.

Amendment VC119

Amendment VC119 amended Clause 52.38 (2009 Bushfire recovery) to extend the timeframe for continued use of a building for temporary accommodation without a planning permit to 30 September 2018.

Amendment VC131

Amendment VC131 amended Clause 52.19 - Telecommunications facility, to exempt a permit application for a telecommunications facility funded (or partly funded) under the Commonwealth Government's Mobile Black Spot Programme from the notice and review requirements of the Planning and Environment Act 1987. The Mobile Black Spot Programme is important in terms of delivering telecommunications infrastructure to regional areas and providing communication during an emergency, such as a bushfire.

Amendment VC140

Amendment VC140 came into effect in December 2017 and made a significant update to the SPPF at Clause 13.05 (Bushfire).

This amendment is a consequence of Amendment GC13 which updated the Bushfire Management Overlay across Victoria in October 2017, and aims to provide a clearer and more directive policy in relation to settlement patterns that are more resilient to bushfires.

The amendment increases the emphasis on bushfire hazard considerations at the stage of planning settlement patterns. Given the number of recent amendments to the SPPF at 13.05 (Bushfire) the significance of this policy is heightened.

4.10 Wind Energy

There have been a number of Amendments to the VPPs since 2014 which implement wind energy policy.

The LPPF will require review to ensure local policy reflects the changes to the SPPF from these amendments.

Amendment VC107

Amended Clause 19.01-1 (Provision of Renewable Energy) to reference the updated *Policy and Planning Guidelines for Development of Wind Energy Facilities in Victoria*.

Amendment VC113

Amended Clause 52.32 (Wind energy facility) to enable minor amendments to be made to a Wind energy facility planning permit issued prior to 15 March 2011

Amendment VC125

This amendment followed the updated policy and planning guidelines for development of wind energy facilities in Victoria (Guidelines), and amended Clause 19.01-1 (Provision of Renewable Energy) and Clause 52.32 (Wind energy facility) with this update.

4.11 Sustainable Animal Industries

The Animal Industries Advisory Committee (AIAC) was established in 2015 and assisted the Victorian Government in preparing the 'Planning for sustainable animal industries' which provides the strategic direction for land use planning for animal industries. The current reform seeks to implement four (4) of the twelve (12) actions identified:

- Action 3 – a commitment to introduce clear land use definitions for animal industries into the Victoria Planning Provisions.
- Action 4 – a commitment to take a graduated approach to planning controls based on risk.
- Action 7 – a commitment to remove the Piggeries Code of Practice (1992) from the Victoria Planning Provisions.
- Action 12 – a commitment to develop clear guidance to improve the quality of planning permit applications and develop model permit conditions to guide local government.

Amendment VC150

Amendment VC150 introduced these changes in September 2018.

Land use definitions have been introduced for Animal production, Grazing animal production, Intensive animal production, Intensive dairy farm, Pig farm, Poultry farm, Poultry hatchery; while changes have been made to the existing definitions of a Broiler farm and a Cattle feedlot. These definitions separate high and low impact activities to create a graduated, risk-based approach.

Changes have also been made to the permit requirements for various uses associated with animal keeping.

Given the significance of the agricultural industry to Mildura's economy, this reform will assist in simplifying the planning process for lower-impact agricultural uses and these should be further and explicitly encouraged throughout the MSS.

4.12 Planning Practice Notes

Planning Practice Notes (PPNs) are published by the Department of Environment, Land, Water and Planning (DELWP) and “provide ongoing advice about the operation of the Victoria Planning Provisions (VPP) and planning schemes as well as a range of planning processes and topics.” (DELWP 2018).

There are a total of 54 Planning Practice Notes (PPNs) listed on DELWP’s website, with all except two (2) being updated since January 2014, and a large number having been reviewed in 2015 and 2018. Of these 52 PPNs, 33 were found to be potentially relevant to Mildura and the planning scheme review process. A full summary of these PPNs is provided in Appendix B, while key considerations are discussed below:

PPN1: Applying the Heritage Overlay

PPN1 was reviewed in August 2018 and provides guidance on what should and should not be included in the Heritage Overlay Map and corresponding Schedule.

There have been a number of anomalies noted along with submissions from the community that the Heritage Overlay had been applied incorrectly. Council is currently undertaking a review of the Heritage Study that is expected to review the application of the Heritage Overlay in accordance with this PPN.

PPN2: Public Land Zones

PPN2 was reviewed in January 2018 and provides guidance about the appropriate use of the Public Land Zones (Crown Land, land vested in or owned by a Minister, government department, public authority or municipal Council, or land otherwise used for a public purpose).

This PPN should be considered by Council in the future planning of public land.

PPN4: Writing a Municipal Strategic Statement

PPN4 was reviewed in June 2015 and provides guidelines for the compilation of the Municipal Strategic Statement (MSS). It is noted that there has been significant reform to the SPPF since January 2014 and these changes need to be reflected in the MSS.

A key point taken from this PPN is to avoid including statistics that will change frequently in the MSS as they will quickly become outdated. These statistics are used in terms of Mildura’s economy and forecast population growth and the inclusion of these statistics should be reviewed.

PPN8: Writing a Local Planning Policy

PPN8 was reviewed in June 2015 and provides guidelines for the role of the Local Planning Policy Framework (LPPF) and how it should be structured and expressed.

The LPPF consistently refers to the Council Plan 2009-2013 which is significantly outdated, and should be overhauled to reflect the objectives of the Community & Council Plan 2017-2021.

Council should review the structure of the LPPF having regard to PPN8 and the Ministerial Direction: The Form and Content of Planning Schemes.

PPN12: Applying the Flood Provisions in Planning Schemes

PPN12 was reviewed in June 2015 and provides guidance for applying flood provisions to the Planning Scheme.

Council will work in conjunction with the relevant catchment management authority to provide revised flood mapping.

PPN13: Incorporated and Reference Documents

PPN13 was reviewed in September 2018 and explains the role of external documents in planning schemes, and the differences between incorporated and reference documents. It also provides guidance on when a document should be either an incorporated or background document.

Council should review the current list of incorporated and reference documents to ensure they are still relevant and have not become outdated.

PPN17: Urban Design Frameworks

PPN17 was reviewed in July 2015 and provides guidance for the preparation and use of Urban Design Frameworks in urban areas.

Council is in the process of developing Urban Design Guidelines for Deakin Avenue which have been prepared in accordance with this PPN.

PPN18: Planning Considerations for Horticultural Structures

PPN18 was reviewed in April 2017 and provides guidance for Councils about the planning considerations related to horticultural structures to improve the quality of design and environmental outcomes.

It is noted that horticultural uses are of significance in Mildura, demonstrated by their protection through the MOIA incorporated document.

PPN22: Using the Car Parking Provisions

PPN22 was reviewed in June 2015 and provides guidance about the use of car parking provisions in Clause 52.06 and how these rates are calculated.

The Tribunal has considered cases in Mildura, particularly for industrial uses and subject to the DDO4 (Industrial Areas) where car parking has been provided at lower, historic rates. PPN22 outlines that it is unfair *“for an historic shortfall in car parking to be rectified by the applicant”*.

PPN32: Review of Planning Schemes

PPN32 was reviewed in June 2015 and suggests a process for conducting and reporting a planning scheme review. This review is being conducted in line with the revised PPN32.

PPN37: Rural Residential Development

PPN37 was reviewed in June 2015 and provides guidance when planning for rural residential uses and development. It is noted that the recommendations of the Mildura Housing and Settlement Strategy 2013 (MHSS) were gazetted through Amendment C89 in November 2017, after the latest iteration of this PPN.

Mildura has planned and orderly estates for the provision of rural residential development to combat the historic trend for ad-hoc excision of rural properties for low-density residential uses. This is further reinforced by the MOIA incorporated document that restricts this type of development and is reflected in the MHSS.

PPN43: Understanding Neighbourhood Character

PPN43 was released in January 2018 and defines what neighbourhood character is (and is not), and provides guidance for preparing or assessing a permit to meet the neighbourhood character objectives and standards.

The Mildura Planning Scheme relies on Clauses 54 & 55 (ResCode) for the assessment of neighbourhood character, but does not capture what makes the residential areas of Mildura unique or special nor contain preferred future character statements which makes it difficult to apply to the decision making process.

PPN63: Applying for a Planning Permit to Farm Chickens

PPN63 was reviewed in June 2015 and provides guidance on the preparation and assessment of use and development associated with farming chickens, including Environmental Management Plan (EMP) and audit requirements.

While this PPN is very specific, it raises potential conflict in reinforcing chicken farming as a preferred use in the Farming Zone. The MOIA Incorporated Document emphasises a preference for horticultural uses (rather than agricultural more generally) given the presence of irrigation channels.

PPN64: Local Planning for Bushfire Protection

PPN64 was reviewed in September 2015 and most notably provides guidance to assist Council in tailoring their Local Planning Policy framework to include response to bushfire matters.

There has been significant reform to bushfire objectives and strategies in the SPPF through at least six (6) VC amendments since January 2014. It is imperative that local policy is provided where the relevant issues have not already been addressed under State and Regional policy in the PPF.

PPN70: Open Space Strategies

PPN70 was reviewed in June 2015 and provides guidance for the preparation of Open Space Strategies, why they are prepared and the potential inputs and outputs.

Council is currently preparing a review of their Public Open Space Strategy in accordance with this PPN.

PPN83: Assessing External Noise Impacts for Apartments

PPN83 was reviewed in August 2017 and gives guidance for the application of Clause 55.07-

6 (Noise impacts) and Clause 58.04-3 (Noise impacts) in relation to apartment developments.

While apartments are not necessarily a prevailing land use in Mildura, the noise and amenity impacts between residential uses and commercial or industrial uses at sensitive interfaces is an ongoing consideration.

The current noise and amenity considerations for these interfaces are located in Clauses 54 & 55 (ResCode) which of a default standard and does not capture unique or significant interfaces in Mildura (such as Deakin Avenue) which could be better considered in a DDO or equivalent.

4.13 Ministerial Direction

Section 7(5) of the Planning & Environment Act 1987 states: “*The Minister may issue directions or guidelines as to the form and content of any planning scheme or planning schemes.*” and Section 12(B) states that a planning scheme review must give consideration to ministerial directions or guidelines.

The Form and Content of Planning Schemes

The Ministerial Direction for the form and content of planning schemes was gazetted under Section 7(5) of the Act and has been amended three times in the last year, most recently in October 2018 following the adoption of Amendment VC148 which significantly restructure the Victoria Planning Provisions (VPP).

The Ministerial Direction gives twenty-six (26) directions regarding the correct format, layout and content required in all Victorian planning schemes.

Given the currency and number of recent amendments, any proposed changes to the Mildura Planning Scheme must respond to the requirements of this Ministerial Direction.


Amendment VC141

Amendment VC141 updated the VPPs to the style and format based on the revised Ministerial Direction on the Form and Content of Planning Schemes (updated April 2017) issued under section 7(5) of the P&E Act.

4.14 State Amendments

The two types of amendments that have a direct impact on State and Regional planning reform are ‘V’ and ‘VC’ amendments. ‘V’ amendments make changes to the Victorian Planning Provisions (VPPs) only, while ‘VC’ amendments make changes to the VPPs and one or more planning schemes.

Since January 2014, there has been one (1) ‘V’ amendment and thirty-six (36) ‘VC’ amendments (relevant to Mildura). A full list of these amendments is provided in Appendix E.



LOCAL POLICY
CONTEXT

5.0 Local Policy Context

5.1 Overview

MRCC has undertaken significant reform of local planning policy since the previous planning scheme review in 2014, the extent of which needs to be considered as part of this review.

A full summary of new and reformed local planning policy is provided in Appendix F, while a list of ongoing strategic projects currently being undertaken is provided in Appendix G. The most significant are considered in more detail in this chapter.

Review Kit

This chapter will address the following questions as outlined in the *Continuous Improvement Review Kit 2006*:

- Do the LPPF objectives align with land use and development objectives of the Council Plan?
- Since the last review, do changes to the Council Plan require amendments to the LPPF?
- Are there documents that should be included as a local policy (e.g. Advertising Policy or Urban Design Guidelines)?
- Has council reviewed the progress made on strategic gaps and actions identified in the last review?
- Does council have commitments, policies or programs to address particular planning issues that should be included in the planning scheme?
- Does the MSS comply with the Format of Municipal Strategic Statements VPP Practice Note?

Key Considerations

- Community & Council Plan
- Community Health & Wellbeing Plan
- Housing and Settlement Strategy
- Mildura Older Irrigation Area
- Mildura South
- Retail Strategy
- Other Local Policies
- Local Amendments

5.2 Community & Council Plan

The Community & Council Plan 2017-2021 (the 'Council Plan') was developed by Council and involved significant community consultation. It is divided into four main parts: Community, Environment, Economy and Council. Each part contains a set of themes, measurable goals and a list of actions over the next 4 years to achieve these goals.

Community

The Community Safety goal aims to ensure that residents feel safe, are safe and are also well prepared for emergencies. Fourteen (14) actions are identified to deliver increased community safety over a four-year timeframe. Many of the actions revolve around updating, reviewing and implementing council strategies and policies.

Community Development focusses on improving access to facilities, services, activities and educational opportunities, as well as improving inclusivity and public participation. Eleven (11) actions were devised to deliver these goals.

Community Health and Wellbeing aims to ensure that there are high levels of health and wellbeing and lists several measures that can be improved upon. Three actions are listed to deliver higher rates of health and wellbeing.

Community Services focusses on promoting opportunities for young children and supporting them to achieve their full potential, improving access to services for the elderly and disabled. Nine actions are listed to deliver outcomes over a four-year period.

Arts, Culture and Heritage aims to increase access to a range of arts and cultural experiences, develop a community that values and embraces its history and cultural heritage, increase the significance of local indigenous art and culture, and increase access to library services. Five actions are detailed for the four-year period.

Recreation and Sport aims to increase participation in sport and recreational activities and increase access to quality sporting and recreation facilities and programs. Ten actions are identified in order to deliver the goals over a four-year period.

Environment

Environmental Sustainability aims to create a healthy and sustainable environment, conserve natural resources, manage plant and animal pests and educate the community about environmental sustainability. Fifteen actions are identified to deliver on the goals over a four-year period.

Waste aims to create an effective and sustainable waste management service and create a clean and litter free municipality. Five actions are identified to deliver the goals over a four-year period.

Parks aims to create clean, attractive and sustainable parks, gardens, streetscapes, reserves and wetlands. Several measures are identified for improvement and six actions are identified to deliver the goal.

Infrastructure, Assets and Facilities aims to create well maintained road, footpath and drainage systems as well as well-maintained buildings and facilities. Nine actions are identified to be undertaken over a four-year period.

Strategic Land Use aims to develop a long-term land vision, activate and integrate the waterfront with the city, create a safe, sustainable and healthy urban environment and, protect and enhance local character and heritage assets. Ten actions are identified to deliver the goals over a four-year period.

Economy

Economic Development and Tourism focusses on creating a vibrant, diverse, innovative and sustainable economy, investment attraction and job creation, connecting to the global marketplace, making information accessible and, supporting quality tourism services and experiences. Eight actions were identified to deliver the goals.

Events aims to support quality and diverse community events and, develop and support major events and conferences to attract visitors. Six actions have been identified to be completed over a four-year period.

Council

Leadership and Representation aims to deliver results in line with community expectations, effectively respond to the interests of the community and have elected members engage effectively with the community. Five actions are outlined to deliver the goals over the four-year period.

Communication and Engagement aims to communicate and engage effectively with the community and be responsive to community input and feedback. Six actions were identified to deliver the goals.

Customer Service aims to be accessible to all and provide a high level of customer focussed service. Five actions are identified to deliver the goals over a four-year period.

Financial Sustainability aims to meet the community's needs in a financially responsible manner. Eight actions were identified to achieve the goals.

Organisational Management aims for council to become a high performing organisation, effectively manage risk and for council to be an employer of choice. Fourteen actions were identified to assist in achieving the goals over a four-year period.

Strategic Resource Plan

The Strategic Resource Plan (SRP) is included and details the financial and non-financial resources required to achieve Council's strategic objectives.

5.3 Community Health & Wellbeing Plan

The Victorian Public Health & Wellbeing Act 2008 requires Council's to develop a Municipal Public Health and Wellbeing Plan every four years, which must be completed within 12 months of a general election.

The Mildura Community Health & Wellbeing Plan 2017-2021 is a high-level plan that sets the goals and priorities for protecting, improving and promoting health and wellbeing within the municipality.

The Victorian Public Health and Wellbeing Outcomes Framework five domains of health are:

- Victorians are healthy and well
- Victorians are safe and secure
- Victorians have the capabilities to participate
- Victorians are connected to culture and community
- Victoria is liveable

Healthy and Well

The focus of this domain is Physical Health, Mental Health, Health Promotion and Women's Sexual and Reproductive Health. In 2014-2015 the Mildura LGA had the 6th highest rate of registered mental health clients of the 79 participating Local Government Areas. Alcohol consumption and diet are also identified as areas of concern that are addressed through the strategy. An Action Plan containing eleven actions is included, partnering agencies are listed for each action.

Safe and Secure

The focus of this domain is the impacts of Family Violence, Community Safety and Homelessness. Reported incidents of family violence and child abuse were significantly higher in Mildura compared with Victorian medians. Feeling safe in the community and homelessness were also identified as priority areas and addressed through an Action Plan containing seven actions.

Capability to Participate

The focus of this domain is Learning and Education, Developmental Vulnerability and Employment. Ensuring that young people are engaged in employment or study is seen as a priority as it prevents things such as poor health, depression or early parenthood. An Action Plan is included in the plan detailing four actions designed to combat the identified issues.

Connected to Culture and Community

The focus of this domain is Socially Engaged and Inclusive Communities, Connection to Culture and Community, Increase Tolerance of Diversity. Increasing acceptance of diversity is identified as a major goal, particularly of people from multicultural backgrounds and Aboriginal or Torres Strait Islander people. An Action Plan accompanies the domain which includes seven actions to combat the identified issues.

Liveable

The focus of this domain is Resilient and Liveable Communities, Adaptation to Climate Change, Access to Sustainable Built and Natural Environments, Environmental Sustainability. This domain focusses on the correlation between climate and health as well as the importance of connecting with and preserving natural resources. An Action Plan is included in the domain which is comprised of three targeted actions, council is the lead agency on each action.

5.4 Housing & Settlement Strategy

The Mildura Housing and Settlement Strategy 2013 was prepared by Hansen Partnership on behalf of the municipality. The document puts in place a strategic framework accompanied by a set of guidelines to assist strategic planning for housing and settlement. Decisions about rezoning, housing mix, consolidation, infill housing and provision of land for development are considered for each settlement within the municipality through the document. The document is comprised of the following chapters.

Overall Settlement Structure

This chapter identifies the role of townships and outlines key drivers and underlying principles of settlement patterns. Definitions are provided for each of Mildura's settlements which are discussed in more detail later in the document.

Urban Development (Main Urban Area)

This chapter focusses on the key development issues and opportunities in the 'main urban area' which comprises Mildura, Nichols Point and Irymple. The chapter also identifies areas for residential growth and consolidation as well as development staging.

The strategy identifies Mildura South as a future urban area although it is currently considered an existing growth area. Over the last few years the majority of growth has occurred in Mildura South, this is expected to continue as the area has been flagged for short to medium term staging. Infrastructure requirements in the form of stormwater management and drainage are identified as a priority in Mildura South. Council is conscious of avoiding over-reliance on a single growth area like Mildura South to provide for greenfield growth. To combat this a second growth area is identified by the strategy to Mildura's east (between Nichols Point and Irymple). The Strategy identified that planning for Mildura South is quite advanced, however a framework plan for the development of the Mildura East growth area is required.

Urban Development (Other Settlements)

This chapter provides an assessment of other smaller settlements within the municipality and outlines a set of key directions for future development. Social and economic issues are more prevalent in smaller settlements due to their remoteness.

Rural Living and Low Density Development

This chapter sets strategic principles for rural living and low density development areas and identified preferred areas for rezoning and development.

The Strategy identifies that Mildura has sufficient land available for conventional residential development however, there is a need for additional land to be provided to meet the anticipated demand for dwellings on rural living and low density residential lots. It is identified in the Strategy that changes to the MOIA document may have an impact on the supply of larger lots. It is also identified that decisions made in regard to the MOIA will impact the ability of the MHSS to achieve a sustainable settlement pattern. The Strategy states that ongoing monitoring of rural lifestyle lot market is critical due to the introduction of the Rural Living zone and that this may be achieved through the permit tracking system.

Sustainable Suburbs

This chapter outlines strategic principles and policy directions for development design with the aim of ensuring the ongoing health and wellbeing of Mildura residents.

Diversity and Affordability

This chapter identifies the need for greater housing diversity in Mildura. Housing diversity of required to ensure that residents at all stages of life have adequate and affordable housing that suits their needs and lifestyles.

Infrastructure

This chapter explores the provision of infrastructure in growth areas, specifically ensuring adequate provision into the future and development staging.

Implementation

This chapter provides strategic direction regarding the implementation of the Strategy. Approaches to new residential zoning and the ongoing monitoring and evaluation of housing needs and provision are identified in this chapter.

Amendments

Amendment C89 was gazetted in November 2016 and implemented the strategic intent and recommendations of the MHSS.

The Panel Report associated with this Amendment is considered in detail in Section 6.2.

5.5 Mildura Older Irrigation Areas

The Mildura Older Irrigation Area (MOIA) Incorporated Document is listed in the Schedule to Clause 81.01 of the Mildura Planning Scheme.

A review of planning controls for the MOIA was undertaken in 2014, the recommendations of which are included in the revised 2016 MOIA Incorporated document.

The MOIA comprises the older pumped districts of Mildura, Merbein and Red Cliffs located within the Farming Zone.

The MOIA is valued for the role it plays in supporting horticultural activities, which underpin the Mildura economy. The area is also valued for the landscape amenity and rural living opportunities it provides which are a fundamental part of the character and identity of Mildura. For this reason, planning provisions surrounding the MOIA are quite strict. The Document provides guidance and application requirements for subdivisions and dwellings in the MOIA.

Subdivision

Applications for subdivision of land in the MOIA must be accompanied by a written statement addressing criteria set out in the document.

Within the Mildura East Growth Area, the Mildura South Growth Area and the Mildura South By-pass Corridor additional criteria must be addressed.

A list of requirements that must be met for a subdivision application to be approved are included in the document:

- The subdivision must meet the requirements of Clause 35.07-2 and Clause 63; and
- The subdivision must not rely on lots that are disused channel reserves, other utility lots, or lots which are separated (except lots which are abutting and directly aligned on opposite sides of a road or channel reserve) in order to meet the minimum requirements of this incorporated document; and
- The dwelling lot and balance lot created must not be battle-axe lots resulting in fragmentation of farming land, or lots where access is via a carriageway easement or common property driveway; and
- The new boundaries must be positioned

to protect the balance of the land for horticulture; and

- Within the Mildura East Growth Area, the Mildura South Growth Area and the Mildura South By-pass Corridor (Map 2), the subdivision must not compromise the future urban development of the land; and
- An existing dwelling (not including outbuildings) must be set back a minimum of 5 metres from any new boundary, to minimise amenity and environmental impacts to or from adjoining land uses.

Dwellings

Dwellings are allowed in the MOIA with a permit if they abide by the permit requirements. There are different requirements for dwellings on different lot sizes. (0.2-2ha, 2-10ha, 10-20ha). The requirements for ALL dwellings include:

- The requirements of Clause 35.07-2; and
- The dwelling (not including outbuildings) must be set back a minimum of 5 metres from any boundary to minimise amenity and environmental impacts to or from adjoining land uses; and
- The lot must not be a disused channel reserve or other utility lot; and
- The lot must be in a single parcel, except where the parcels are abutting and directly aligned on opposite sides of a road or channel reserve

A table of site specific provisions is included which details individual parcels of land that have special circumstances. The MOIA document includes maps which show specific areas that fall under the MOIA.

Amendments

The MOIA Incorporated Document was updated by Amendment C87, to extend the date by which an application must be made to use and/or develop land for a dwelling on a lot between 0.3 and 1.2 hectares from 10 January 2014 - 9 January 2015.

Amendment C89 implemented the findings of the review of the MOIA planning controls. The Panel Report associated with this Amendment is considered in detail in Section 6.2.

5.6 Mildura South Growth Area

Mildura South has been identified as a growth area for over a decade, and recent strategic work has stemmed from the *Mildura South Strategic Framework Plan 2007*.

Precinct Structure Plan & Urban Design Plan

The Mildura South Urban Design Plan and the Mildura South Precinct Structure Plan (2014) are two separate parts of the same project undertaken by Hansen Partnership on behalf of Council. Mildura South had been identified as a growth area for over a decade when the PSP was written and was anticipated to accommodate the next stage of Mildura's residential growth.

The PSP outlines a future road hierarchy, identifies future commercial and community infrastructure, outlines preferred housing densities and guides open space planning and landscaping.

Consultation with the community and relevant stakeholders was undertaken to inform the preparation of this document.

The PSP plans for two activity centres one 'neighbourhood centre' and one 'convenience centre'. A primary school, active recreation reserve, sporting facilities, community services and public open spaces have all been planned through the PSP. Residential densities will average 15 dwellings per hectare, although areas of higher and lower density housing are indicated in strategic locations.

The Sixteenth Street 'Greenway' that was proposed by the PSP is currently under consideration by DELWP and yet to be implemented to the Planning Scheme.

Development Plan

The Mildura South (Sixteenth and Deakin West) Development Plan (2014) was prepared by Hansen Partnership on behalf of the Council. The Development Plan focusses on the second stage of Mildura South and is based on a Precinct Structure Plan that covers the whole Mildura South Precinct. The plan has five sections structured in the following manner:

- **Section 1** – Describes the intent and context for the Plan, as well as the project process.
- **Section 2** – Contains the main components of the Plan including the Vision and Design Principles.
- **Section 3-5** – These sections identify key elements of the development plan including movement, open space, land uses, densities and residential developments.
- **Section 4** – Provides direction around development timing and development plan implementation.

Recreation Assessment

The Mildura South Recreation Assessment (2013) was prepared by Hansen Partnership on behalf of the Council. The document provides an overview of the required recreation needs for the Mildura South Growth Area. The Assessment seeks to achieve the following:

- Identify existing sporting facilities in the urban area of Mildura (locations, current uses, area and potential for expansion).
- Identify known gaps and issues in the provision of recreation facilities in Mildura.
- Identify principles and criteria for assessing the location of new facilities.
- Identify and assess suitability of potential locations.
- Provide clear recommendations to Council regarding preferred options for addressing the identified gaps.

The Assessment identified that 8-10 hectares of active open space was required to service the Mildura South community. An additional 9 hectares will be required to accommodate drainage needs to the corner of Sixteenth Street and Deakin Avenue. Overall the

5.7 Commercial Areas

Assessment identifies that a minimum area of around 18 hectares will be required in Mildura South regardless of any other associated recreation needs.

Amendments

The Mildura South Urban Design Plan Precinct Structure Plan (2014), the intent of the Mildura South (Sixteenth and Deakin West) Development Plan (2014) and the Mildura South Recreation Assessment (2014) were all implemented into the Mildura Planning Scheme by Amendment C75 in September 2016.

Amendment C100 (Part 1) was recently gazetted in September 2018 and facilitated the implementation of the Mildura South Strategic Framework Plan 2007 and the Mildura South Precinct Structure Plan 2014. The Mildura South (Sixteenth & Deakin West) Development Plan 2014, by rezoning two parcels of Council-owned land from FZ to PPRZ subject to the SMO forms Amendment C100 (Part 2) and has not yet been implemented.

Mildura Retail Strategy Review 2018

The Mildura Retail Strategy Review (2018) sets out the hierarchy of retail centres throughout the municipality:

- Central Business District:
 - Mildura CBD.
- Sub-Regional Centre:
 - Mildura City Gate.
- Neighbourhood Centres:
 - Deakin Avenue; and
 - Mildura South (planned).
- Town Centres:
 - Irymple;
 - Red Cliffs; and
 - Merbein.
- Local Centres (including standalone shops):
 - Various, located throughout urban areas of Mildura
- Homemaker Precinct:
 - Fifteenth Street.

It is noted that the Mildura east growth area will require some form of activity centre as it develops. The retail hierarchy is not currently reflected in the MSS or other parts of the planning scheme.

5.8 Other Local Policies

Draft Invasive Plant and Animal Plan 2015-19

This plan defines Council's strategic vision to implement a framework for ongoing management and mitigation of the impacts of invasive plants and animal species on Council managed land. Invasive plant and animal species are an issue across both rural and urban areas in Mildura as they pose a threat to native species. The document outlines the economic and environmental impacts of invasive species, most of which are introduced, aside from the Narrowleaf Cumbungi. A range of key actions are identified in the document that will be delivered by Council staff in partnerships with stakeholders, land managers and the wider community to better manage invasive plant and animal species.

This Plan is still in draft format and is yet to be implemented within the Mildura Planning Scheme. It contains the strategic justification for to support the request from the a community group to control Cumbungi at Lake Cullulleraine discussed in Section 8.2.

Deakin Avenue

Deakin Avenue is identified at Clause 21.07-2 of the MSS as a significant boulevard in the Mildura urban area and highlights the need for this area to be protected from inappropriate use and development.

The Deakin Avenue Urban Design Guidelines functions as a type of checklist for Council staff, landowners and developers to ensure future development and public realm works contribute to the long term vision for the Avenue.

5.9 Local Amendments

Minor Amendments

Minor amendments to the Mildura Planning Scheme include the following:

- **Amendment C96** – Rezoning of a lot at 107-111 Twelfth Street from PUZ2 (Public Use Zone) to PUZ3.
- **Amendment C90** – Rezoning of land in Etiwanda Avenue (Lot 3) from PUZ1 (Public Use Zone 1 – Service and Utility) to the Farming Zone (FZ)
- **Amendment C87** – Amendment of schedules to former Clauses 52.03 (now 51.01) and 81.01 (now 72.04) to include a revision to the 'Mildura Older Irrigation Area Incorporated Document, Dec 2013' that extends the date by which an application must be made to use and/or develop land for a dwelling on a lot of between 0.3 and 1.2 hectares from January 10th (2014) to January 9th (2015).
- **Amendment C85** – Application of the Farming Zone to former Commonwealth land at 571-585 River Avenue, Merbein South. A Heritage Overlay was also applied to part of the land.
- **Amendment C84** – Rezoning of Lot 1 Benetook Avenue, Irymple from the Farming Zone (FZ) to the Low Density Residential Zone (LDRZ), and applies the Development Plan Overlay (Schedule 2) to the lot.
- **Amendment C81** – Rezoned land at 251 Eleventh Street from the Special Use Zone (Schedule 1 – Private Education and Religious Establishments) to the Business 2 Zone (B2Z).
- **Amendment C79** – Amended the Local Planning Policy and Heritage Overlay to include reference to and information regarding the additional heritage items identified in the Mildura Heritage Study (Stage 2).
- **Amendment C73** – Rezoned part of 557 Cowra Avenue from the Low Density Residential Zone (LDRZ) to the Industrial 3 Zone (IN3Z). Amended the Design and Development Overlay - Schedule 4 (DDO4) and applied the DDO4 to the land.
- **Amendment C68** – This amendment rezones land at 832 Fifteenth Street and 469 San Mateo Avenue, Mildura and introduced a Schedule to the (former) B1Z which is now contained in Schedule 1 to the C1Z, to facilitate the development of a supermarket.
- **Amendment C67** – This amendment applies to land identified in the Mildura Retail Strategy (2010), Irymple Structure Plan (2010) and the Fifteenth and Deakin Structure Plan (2010), and includes commercially zoned land in the town centres of Mildura, Merbein, Irymple and Red Cliffs. The Amendment rezones an assortment of lots across the town centres according to the recommendations of the Structure Plans and the Retail Strategy. The MSS was also amended to reflect the recommendations of the strategic documents.
- **Amendment C64** – This Amendment simplifies and restructures the form and content of the LPPF, updates factual information, reduces the number of local policies by incorporating them in to the MSS, edits the number of reference documents, amends the DDO for the Mildura CBD and airport as well as the Special Use Zone (SUZ7), amends the Salinity Management Overlay and corrects zoning, mapping and overlay anomalies.
- **Amendment C63** – The Amendment rezones land at 782-790 Sandilong Avenue, Irymple from the Business 4 Zone (B4Z) to the Business 1 Zone (B1Z).
- **Amendment C56** – This Amendment applies the Public Acquisition Overlay (PAO) to several lots as a result of the Mildura Recreation Masterplan Review.
- **Amendment C51** – This Amendment fixes errors and anomalies in the heritage overlay Schedule and Heritage overlay mapping.

5.10 Work completed since 2014 Review

Proposed Amendments

There are a number of amendments that have been proposed and are currently undergoing the amendment process. These Amendments aim to implement planning solutions throughout the municipality, the proposed amendments include:

- **Amendment C100** – Will implement the recommendations of the Mildura South PSP and Mildura South Development Plan. This Amendment is currently on Exhibition.
- **Amendment C98** – Revision of the Murray River Flood Mapping. The documentation for this Amendment is currently being prepared. (Note: authorisation has not yet been received by DELWP).
- **Amendment C97** – Will implement the Nichols Point Development Plan outcomes and revise the DCP for land in the new Neighbourhood Residential Zone. A review of DCP anomalies must first be undertaken and Amendment documents prepared.
- **Amendment C95** – Will implement the Deakin Avenue Urban Design Guidelines. This Amendment has been adopted and is currently being considered by the Minister for Planning.
- **Amendment C93** – Would introduce a Public Acquisition Overlay on land required for future stormwater drainage systems. The documentation for this amendment is currently being prepared.

'GC' Amendments

The following are GC Amendments which make changes to multiple planning schemes. Relevant GC Amendments include:

- **Amendment GC39** – Transfers responsibility for issuing planning certificates to the Minister for Planning
- **Amendment GC13** – Updated mapping for the Bushfire Management Overlay
- **Amendment GC08** – Implemented the new General Residential Zone into the Mount Alexander, Macedon Ranges, Mildura, Gannawarra and Central Goldfields Planning Schemes.


The 2014 review of the Mildura Planning Scheme made at least twenty-one (21) recommendations for further strategic work to be undertaken.

Significant work has been undertaken since 2014, including revisions to the MOIA Incorporated Document, the implementation of the Mildura Housing and Settlement Strategy and the preparation of the Deakin Avenue Urban Design Guidelines. Strategic work for at least fourteen (14) of the 21 recommendations have commenced or been completed (66.7%).


However strategic work for seven (7) of these recommendations has not yet commenced.

A detailed analysis of how Council has responded to the recommendations for further strategic work since the 2014 review is contained within Appendix H.

6.0



PANEL
REPORTS



6.0 Panel Reports

6.1 Overview

There have been fifteen (15) Local Planning Amendments since the previous Planning Scheme Review in 2014. Of these, eight (8) included a panel hearing. The matters raised in the associated Panel Reports are summarised in this chapter.

Review Kit

This chapter will address the following questions as outlined in the *Continuous Improvement Review Kit 2006*:

- Are there any matters raised in VCAT decisions, or Planning Panels or Advisory Committee reports that require improvements to the LPPF?

Key Considerations

- Local Planning Amendments
 - Amendment C89
 - Amendment C75
 - Amendment C56
 - Amendment C63
 - Amendment C88
 - Amendment C73

6.2 Local Planning Amendments

Amendment C89

This Amendment implemented the findings of the Mildura Housing and Settlement Strategy 2013 (MHSS) and the Review of Planning Controls for the Mildura Older Irrigated Areas 2014 (MOIA) and some aspects of the previous Planning Scheme Review Report 2014.

The Amendment included rezoning arising from the MHSS which prompted a significant number of submissions.

There is pressure for more consolidated residential development in the Mildura East / Irymple growth area and for different treatment to this interface.

The application of the Low Density Residential Zone (LDRZ) was contested in areas where local policy varied the minimum lot size to be greater than 0.2 hectares.

Key directions from the document relevant to this study include:

- Avoid ad-hoc development in urban and rural areas in favour of carefully planned and orderly outcomes.
- Ensure that sufficient land to meet projected needs across a range of residential housing types is provided in appropriate locations.
- Recognise the need to provide opportunities for 'rural living' and 'low density' residential opportunities and direct these to specific areas where they will not compromise long term agricultural production.
- Improve the diversity of housing on offer in both urban and rural areas
- Encourage residential consolidation in Mildura, particularly in areas close to the CBD
- Improve provision of appropriate housing for older persons.
- Improve access to services and facilities, particularly by active transport.

A number of submissions discussed the need for more land to be zoned to facilitate rural residential development, and the best zone to achieve the desired density in the context of surrounding services.

The Panel made the following further recommendations in order to provide advice to Council on further work arising out of the consideration of submissions on the Mildura Housing and Settlement Strategy:

- Prepare a precinct structure plan (or plans) to guide future development in the Mildura East Growth Area.
- Review the area south west of the Calder Highway between Riverside Avenue and Flora Avenue, Cabarita for possible inclusion in the Low Density Residential Zone.
- Review the conservation values of land at 172 Newton Avenue, Sunnycliffs with a view to considering the land for inclusion in the Rural Conservation Zone or providing some other form of planning protection for the land.
- Review the area around Sunnycliffs Crescent, Red Cliffs for possible inclusion in a Low Density Residential Zone.
- Review the area east of the existing township and north of Nursery Ridge Road, Red Cliffs for possible inclusion in a Low Density Residential Zone.
- Review the suitability of the Stewart land in Dal Farra Road, Koorlong for possible inclusion in a Low Density Residential Zone.
- Prepare a separate amendment to rezone land at the rear of 780 Deakin Avenue, Mildura South to the General Residential Zone.
- Prepare a separate amendment to rezone the Greg Wass Pty Ltd land in Riverside Avenue, Mildura South to the Low Density Residential Zone and consider other appropriate controls for the land.
- Review the content of Clause 22.02, in conjunction with other parts of the local policy and Municipal Strategic Statement, in the next Mildura Planning Scheme review.

The Panel also made recommendations in relation to the proposed changes to the MOIA, however it is noted that some of the proposed changes to the MOIA were undertaken.

Amendment C75

This Amendment was gazetted in September 2016 and implemented the strategic intent of the Mildura South Urban Design Precinct Structure Plan 2014 (MSPSP) and includes the Mildura South (Sixteenth and Deakin West) Development Plan (MSDP) and Mildura South Recreation Assessment 2014 as reference documents.

Submissions raised issues regarding the need for, location of, and design of the proposed Neighbourhood Activity Centre; the use of the Urban Growth Zone for this site; land acquisition; drainage and other open space and vegetation issues.

In consideration of these issues, the Panel determined that only minor changes were needed to the UGZ1, to ensure public consultation of any urban design framework / master plan was undertaken.

The Panel noted that further work needed to be done to design the detail of the NAC. This should consider the linkages with, and potential impacts on, existing residential areas north of Sixteenth Street.

Amendment C56

This Amendment was heard in 2011 and gazetted in October 2014. It sought to apply the Public Acquisition Overlay (PAO) to private land in order to acquire it for the purposes of a Regional Sports Facility.

In this instance, the Panel determined that there was not sufficient strategic justification for the acquisition, which appeared to be subjective and ad-hoc in nature, and the Amendment was abandoned.

While many submissions related to the loss of private property and associated social issues, the Panel Report does refer to the need to review the 2004 Mildura Recreation Reserve Master Plan.

Amendment C63

This Amendment was also heard in 2011 and gazetted in September 2014. It sought to rezone land at 782-790 Sandilong Avenue, Irymple (Lascorp Site) from (the former) Business 4 Zone (B4Z) to (the former) Business 1 Zone (B1Z).

The purpose of the request for rezoning is to establish a supermarket-based centre in Irymple which would include a Woolworths supermarket. The establishment of this use is contentious as there is an existing approval for 'Fishers Supa IGA' on a nearby site, which was first issued in 2005 and had not yet been developed.

The Mildura Retail Strategy (MRS) defers to the Irymple Structure Plan (ISP) for guidance as to the preferred location for a town centre development in Irymple. The ISP notes that there is insufficient catchment to support the development of two supermarket-based centres in Irymple, but does not identify a preferred location.

It was acknowledged that Irymple requires a town centre. The considerations for the development of a second town centre are outlined in the ISP and require economic justification.

The Panel determined that a satisfactory economic case had not been made for the development of a second supermarket and directed that the land should not be rezoned and no permit issued. No additional strategic work was recommended by the Panel in this case.

Amendment C88

Amendment C88 came into effect in August 2014 and changed the Mildura Planning Scheme to allow for the development and operation of a Bioenergy power plant in Carwap Road. Land was rezoned from the Farming Zone to the Special Use Zone - Schedule 10 (SUZ10) to allow this use and the Bioenergy Power Plant Concept Master Plan was added to the planning scheme as an Incorporated Document.

The Planning Panel Report for Amendment C88 states that eight submissions were received regarding the amendment. Issues highlighted in the submissions were to do with surrounding air quality, noise, bushfire risk, traffic and planning context and the works and approval application.

The Bioenergy Power Plant will support the almond and grape industries by providing an accessible waste disposal facility, which will reduce costs for these industries.

The operation of the power plant will result in increased noise levels although the noise levels will comply with the adopted noise management levels.

The plant will be visible from the nearby residential dwellings although the required buildings will be clad and the infrastructure is not considered to be out of character with the other developments in the Carwap region.

Traffic movements to Carwap Road will be increased up to 92 vehicle trips per day in both directions however reports indicate that the road network can accommodate the additional vehicular trips. Traffic and transport management measures will be developed, for the construction phase of the plant.

The proposal is not expected to have any significant adverse environmental effects as the subject site has been cleared of any remnant vegetation aside from 18 scattered trees which will require removal.

The Bioenergy Power Plant will have positive environmental impacts by creating renewable energy from a waste product.

The amendment meets all necessary state and local policy directions and there appear to be no major issues with regard to planning outcomes.

This amendment relates to an individual yet significant development. The proposal appears to meet the objectives of the Loddon Mallee North Regional Growth Plan 2014 (LMNRGP), specifically to “support opportunities for industry to develop new waste and resource recovery processes”.

Amendment C73

This Amendment was exhibited in 2013 and gazetted in March 2014. It deals with the rezoning of land at 57 Cowra Avenue, Mildura from the LDRZ to the IN3Z and application of an amended version of DDO4.

The land is partly developed with low density residential uses along Cowra Avenue, but the balance of the site which abuts land in an industrial zone remained undeveloped.

The Panel Report acknowledged that the zoning of this land appeared to be reactionary and ad-hoc and created an undesirable interface between industrial and residential land.

The Amendment was approved subject to additions to the DDO4 requiring a vegetated buffer along sensitive interfaces to be undertaken in accordance with an overall landscape plan prepared to the satisfaction of the responsible authority and ongoing maintenance.

It is noted that the Amendment has since been abandoned and the subject land is now in the LDRZ1 and has been developed with lots down to 0.2 hectares in size. DDO4 has not been amended and the sensitive interface remains unaddressed.

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VCAT
DECISIONS

7.0 VCAT Decisions

7.1 Overview

The previous Planning Scheme Review in Mildura was completed in 2014 and the background report considered VCAT cases up until December 2012. Since January 2013, there have been 23 cases heard before VCAT. Seven of these cases (7) were appeals against Council's refusal to grant a permit (pursuant to Section 77 of the Act); two (2) were appeals against Council's failure to grant a permit within the prescribed time (Section 79 of the Act); two (2) were appeals against conditions on the permit (Section 80 of the Act); one (1) was an appeal relating to an extension of time (Section 81 of the Act); eleven (11) were appeals from objectors to the application (Section 82 of the Act); and six (6) were seeking declarations from the Tribunal pursuant to Section 149 of the Act.

For appeals against Council's refusal to grant a permit, VCAT affirmed Council's decision and no permit was granted for 6 of these cases (86%) and Council's decision was set aside and a permit was issued in the remaining (1) instance (14%).

For appeals against Council's failure to grant a permit within the prescribed period, VCAT affirmed Council's indication that they would have refused to issue a permit (and therefore no permit was granted) in one (1) instance (50%); and granted a permit the remaining (1) instance (50%) where Council officers recommended approval but Council's decision was to refuse to grant a permit, and the Notice of Decision was not released until after the application for review was made.

For appeals against conditions of the permit, VCAT varied Council's decision in both (2) cases (100%).

For the appeal relating to Council's decision to refuse an extension of time, VCAT affirmed Council's decision and no permit was granted (100%).

For appeals made by objectors, Council's decision was affirmed in one (1) instance (9%); varied in five (5) instances (45%); set aside (and no permit was granted) in four (4) instances (36%) and struck out pursuant to Section 75 of the Act in one (1) instance (9%).

Given the limited number of cases over this time period, it is difficult to qualify emerging trends from a review of these cases. They do, however, provide insight into some of the key issues identified by Council to form part of the Planning Scheme Review, discussed in this chapter (refer to Appendix D):

Review Kit

This chapter will address the following questions as outlined in the *Continuous Improvement Review Kit 2006*:

- Have any issues emerged with the MSS since any previous review?
 - Difficulty in defending policy basis at VCAT
- Does the MSS need simplification or clarification in any area?
 - Is there difficulty in arguing a case in officer reports or at VCAT hearings?
- Are there any matters raised in VCAT decisions, or Planning Panels or Advisory Committee reports that require improvements to the LPPF?

Key Considerations

The following issues have emerged as themes through consideration of the VCAT cases:

- Residential Pressure on Agricultural Land;
- Neighbourhood Character;
- Development along Deakin Avenue;
- Development along Benetook Avenue;
- Amenity and Noise;
- Seasonal Workers' Accommodation;
- Bioremediation Facility;
- Development in Industrial Areas; and
- Public Acquisition Overlay.

7.2 Residential Pressure on Agricultural Land (MOIA)

There is pressure for residential development in the Mildura Older Irrigation Area (MOIA) which applies to large areas of the Farming Zone in Mildura, Merbein and Red Cliffs. MOIA was introduced to protect agricultural land from incompatible land uses and prevent the loss of agricultural land to uses that were not subsidiary to a primarily agricultural use.

In **Cooke v Mildura Rural CC [2014] VCAT 164** the Tribunal considered an application to subdivide one lot into two lots in the Farming Zone and the MOIA incorporated document.

Council officers recommended refusal to grant a permit, which was supported by Council and affirmed by the Tribunal.

The issue of contention was whether or not the proposed subdivision accords with the purpose of the Farming Zone to provide and retain agricultural land, or the purpose of the MOIA incorporated document to protect horticultural land and provide for the growth of the horticultural industry.

In relation to the importance to protect horticultural land within the MOIA, the Tribunal referred to *Roy Costa and Associates v Mildura RCC [2007] VCAT 1244*:

"...the direction given by the scheme is relatively clear, that is, Mildura's irrigated rural land is valuable and must be protected from intrusion from uses that are not linked to or may prejudice its use for horticultural and agricultural production. The fragmentation of re land, the use of such land for purposes unrelated to rural activity, and its subdivision and use in a way that can artificially inflate its value are all threats to its continued viability for rural production. And therefore, as noted by the tribunal in Cufari's case, these are all strongly discouraged by the planning policy framework as set out in the planning scheme."

While the subdivision proposed met the requirements in the MOIA, it did not meet the purpose of the document. The requirement for a Section 173 agreement on the balance lot prohibiting the construction of a dwelling

and the possibility of the total site being unproductive for the remaining lifetime of the current owners were not reasons to persuade the Tribunal that subdivision was appropriate and no permit was granted.

In **Roy Costa Plan & Development v Mildura RCC [2014] VCAT 196** the Tribunal considered an application to construct a single dwelling across two lots within the Farming Zone and the MOIA.

The Tribunal was asked to make a declaration under Section 149A regarding the requirement of the MOIA incorporated document that all lots must be consolidated prior to a permit being issued, unless the size of the lot is between 10 and 20 hectares and the lot was already created via a consolidation of adjoining lots.

This was upheld by Council but contested on the grounds of this requirement being addressed as a condition on the permit. The Tribunal determined that a permit cannot be granted until the lots are consolidated.

In **Zrna v Mildura RCC [2016] VCAT 1822** the Tribunal considered an extension to an existing permit for the subdivision of a parcel of land into three (3) lots creating two lots of 0.4ha and a balance lot.

The Tribunal affirmed Council's decision not to extend the permit.

The applicant was seen to be stalling (with four (4) previous extensions over eight (8) years) until such time as the planning scheme would allow the development of two new dwellings on the smaller lots, which the current permit did not allow. The MOIA currently prohibits the development of a dwelling on a lot between 0.3ha and 1.2ha.

In **Garner v Mildura RCC [2015] VCAT 909** the Tribunal considered an application for the establishment of a transport terminal, including the storage of trucks, a refrigerated truck and trailers hitched to trucks in the Farming Zone and the MOIA.

Council did not issue a permit and VCAT affirmed Council's decision.

7.3 Neighbourhood Character

Two main issues were considered during the hearing: the appropriateness of this use in the Farming Zone given the loss of agricultural land and the impact of noise to the amenity of surrounding properties.

The Tribunal upheld Council's decision to refuse a permit on the basis that the application cannot demonstrate that reasonable amenity will be maintained, or that the use is appropriate for its location having regard to relevant policy and the purpose of the Farming Zone.

Observations:

- The MOIA restricts the development of low density residential uses and fragmentation of larger lots through subdivision;
- The preservation of agricultural land consistently prevails over other strategic considerations;
- The creation of low density / rural residential lots through rural excision is still present, despite the allocation of planned low density residential estates and the introduction of MOIA;
- This type of development has been historically permitted and residual feelings of land use rights are suggested by the length of time some permits have been stalled;

In ***Milard v Mildura RCC [2014] VCAT 135***, the Tribunal considered an application for four (4) detached dwellings on a lot of 1,766m² in the (former) Residential 1 Zone.

Council officers recommended a permit be granted, which Council did not support. The Tribunal set aside Council's decision and a permit was issued.

The issues of contention related firstly to a covenant over the site that restricted the construction of 'flats', and secondly that the proposal was not in keeping with the existing or preferred neighbourhood character, and that there would be unacceptable impacts to amenity from the increase in traffic.

In the first instance, the design of the dwellings was such that they were fenced from each other and could not be considered flats under any reasonable understanding of the term.

In the absence of a Neighbourhood Character Study, the character of the proposal and its surrounds can only be loosely applied. In this instance it was determined that the proposed density and lot size was comparable to the properties proximate to the subject site. Larger sites with detached properties were further from the subject site and have less relevance to the neighbourhood character that should be considered.

No evidence was provided on existing or predicted traffic volumes that would suggest a perceptible increase in traffic numbers as a result of the proposal, or any other issues with the surrounding traffic network and its capacity to accommodate the proposal.

Observations:

- There is no neighbourhood character study incorporated into the Planning Scheme and therefore no existing precincts or preferred character statements. This creates potential for decisions hinging on this criterion to be loosely applied or inconsistent;
- The State Planning Policy Framework (SPPF) encourages the development of well-designed medium-density housing (Clause 16 - Housing);

7.4 Development along Deakin Avenue, Mildura (DDO1)

Deakin Avenue is described at Clause 21.03 as Mildura's main boulevard providing residents and visitors a grand entrance to and exit from the city. All development and use along its route will be sensitive and enhance its visual amenity.

In ***Turken Kumra-Aksara Pty Ltd v Mildura RCC [2017] VCAT 512*** the Tribunal considered an application for the development of a service station and sales building on Deakin Avenue, in the Commercial 1 Zone and subject to Design and Development Overlay - Schedule 1 (DDO1) 'Deakin Avenue'.

Council did not decide the application within the prescribed time, but indicated that they would have refused to grant a permit. The Tribunal affirmed this and no permit was granted.

The key points considered in this case were the suitability of a service station on this site and the arrangement of buildings and landscaping in response to the objectives of the DDO1 and the Deakin Avenue Urban Design Guidelines 2016 (DAUDG).

Both the DDO1 and the DAUDG discourage large paved areas within the front setback. The DAUDG suggests a 5 metre landscape strip to allow for planting of canopy trees to maintain the significant boulevard trees along Deakin Avenue.

The proximate service station could not be used as a precedent for this proposal as significant strategic work has been undertaken since its approval in 2008.

Despite being in the Commercial 1 Zone, where a service station is a Section 2 use (permit required), the Tribunal found that the proposal did not respond to the strategic context of the site and no permit was issued.

Observations:

- Little weight was placed on the DAUDG as it was only a guideline document at the time. It has since been incorporated via a planning scheme amendment and further reinforces good planning outcomes along Deakin Avenue;

- The interface with Deakin Avenue is significantly assessed under existing policy, but other sensitive interfaces (to side streets and adjacent residential zones) are less closely considered and are not subject to strategic studies.
- The outcome of this case assists in discouraging heavy vehicles from using Deakin Avenue and instead using Benetook Avenue as a bypass route.

7.5 Development along Benetook Avenue, Mildura (MOIA)

Benetook Avenue has long been identified as the preferred bypass route for heavy vehicles passing through Mildura. Residential development fronting this route is not considered appropriate and the wide application of the Farming Zone (subject to the MOIA incorporated document) seeks to maintain a non-urban break between Mildura and Irymple.

In **Grasso v Mildura RCC [2014] VCAT 1333**, the Tribunal considered an application for the use of a transfer station and associated 400m² shed within the Farming Zone (and subject to the MOIA incorporated document) on Benetook Avenue.

It was under consideration for the appropriateness of the Farming Zone to support the proposed use, and the impact of off-site amenity impacts (traffic).

Council officers recommended a permit be issued, which was appealed by objectors to the proposal and VCAT set aside Council's decision and no permit was granted.

It was acknowledged that the transfer station assists on a small-scale with waste and resource recovery and its strategic location on Benetook Avenue was a positive benefit. The establishment of a transfer station use on the site, however, represents a loss of agricultural land in the MOIA and an out-of-sequence extension of an industrial use away from land designated for these purposes.

The volume of traffic was expected to be 10-30 vehicles per day plus 2 heavy vehicles, which was determined to be an unacceptable amenity impact on surrounding residential uses.

Ultimately the loss of agricultural land and establishment of an urban use in a rural area was not balanced by the merits of the proposal and the Tribunal did not issue a permit.

In **Keen v Mildura RCC [2017] VCAT 219** the Tribunal considered an application for the use and development for a service station for cars and trucks in the Farming Zone (and subject to the MOIA incorporated document).

Council issued a permit which was appealed by

objectors. Council's decision was set aside by the Tribunal and no permit was issued.

The main consideration of this case relates to the strategic justification of uses that support Benetook Avenue in its role as a bypass route for heavy vehicles being balanced against the loss of agricultural land in the Farming Zone and subject to the MOIA incorporated document.

In this instance, it was Council's view that the proposal had strategic justification to warrant the loss of agricultural land. The Tribunal noted that there is unequivocal policy support for the retention of the highly productive soils in Mildura's irrigation districts for agricultural use and found that the benefit derived from the agricultural land outweighed the benefit generated by the service station.

Observations:

- There are significant areas of land in the IN1Z and IN3Z along the Benetook Avenue truck bypass.
- There is evident demand and potentially need for industrial uses along Benetook Avenue that will act in subservience to its role as a bypass route for heavy vehicles;
- The role as a bypass route is often referred to as appropriate strategic justification for industrial uses, but is overturned for the loss of valuable agricultural land as identified in the MOIA;
- It is already established that residential development fronting Benetook Avenue is not appropriate, therefore increased traffic numbers impacting amenity does not seem like a strong reason to refuse an otherwise appropriate proposal;
- Benetook Avenue is largely adjacent to the Farming Zone and subject to the MOIA, which assists in maintaining a 'non-urban break' between Mildura and Irymple, but heavily constrains uses that support its role as a bypass route.

7.6 Amenity

In ***Morgan v Mildura RCC [2014] VCAT 1503*** the Tribunal considered a proposal to recommence the operation of the Mildura Abattoir (including the existing facility and construction of a new building around the waste area and a car park) in the Farming Zone and Environmental Significance Overlay -0 Schedule 4 (ESO4).

Council issued a permit to which objectors lodged an appeal with VCAT. The Tribunal issued a permit after varying Council's decision to include additional requirements.

The contention in this case surrounded the issue of odour and emissions potentially causing an adverse impact to the amenity of surrounding residential uses (particularly those within 500 metres of the proposed facility). The 500 metre separation distance is recommended by the EPA Guideline No. 1518, however gives provision for mitigation measures if a residential interface falls within this buffer.

While the Tribunal was not persuaded that the abattoir represented an unacceptable risk of amenity impact to the dwellings within the buffer, a requirement was added for an Environmental Management Plan to be submitted to the satisfaction of the Responsible Authority, which must address but is not limited to: noise, dust, stock control and management, odour, maintenance, cleaning and waste management.

In ***Browne v Mildura RCC [2015] VCAT 687*** the Tribunal considered an application for the use and development of a car park in the Commercial 1 Zone.

Council issued a permit and objectors lodged an appeal. The Tribunal varied Council's conditions and issued a permit.

The issue of contention in this case was lighting overspill from the car park floodlights to adjacent residential uses.

It is a well established principle that sites on the interface between zones cannot reasonably expect the same level of amenity as sites that do not have this interface; a balance of competing interests needs to be considered.

The condition Council placed on the permit in relation to floodlighting not having an impact on the amenity of adjacent uses was generalised and the Tribunal varied this condition to require full details of the lighting to be prepared by a qualified lighting engineer and submitted on the plans for endorsement.

In ***Garner v Mildura RCC [2015] VCAT 909*** the Tribunal considered an application for the establishment of a transport terminal, including the storage of trucks, a refrigerated truck and trailers hitched to trucks in the Farming Zone and the MOIA.

Council did not issue a permit and VCAT affirmed Council's decision.

Two main issues were considered during the hearing: the appropriateness of this use in the Farming Zone given the loss of agricultural land and the impact of noise to the amenity of surrounding properties.

The Tribunal upheld Council's decision to refuse a permit on the basis that the application cannot demonstrate that reasonable amenity will be maintained, or that the use is appropriate for its location having regard to relevant policy and the purpose of the Farming Zone.

In ***Sutherland v Mildura RCC [2015] VCAT 1132*** the Tribunal considered an application for the use and development of a leisure and recreation facility (go-kart hire) in the Industrial 3 Zone.

Council issued a permit which was set aside by the Tribunal and no permit was granted.

The key issues considered in this case related to a land use conflict with a sensitive interface between the proposed go-kart facility and the neighbouring equine veterinary clinic. The existing context of the site and adjoining veterinary clinic are well established as the veterinary clinic has been performing on-site equine treatment since 1990. The veterinary clinic had been operating on site since before the land was zoned IN3Z.

One of the purposes of the IN3Z is to avoid inter-industry conflict and ensuring uses do not affect the safety and amenity of adjacent, more

7.7 Seasonal Workers' Accommodation

sensitive land uses. The Tribunal interpreted the latter purpose as relating to adjoining land uses that may be sensitive in nature.

Neither the Council nor the permit applicant undertook any acoustic assessment of the proposed go-kart hire facility, nor provided any details about how the proposal could be established in a manner that responds to its surrounding context and conditions to mitigate off-site impacts.

Observations:

- There appears to be a discrepancy as to when and how an application should provide increased traffic numbers.
- Sensitive interfaces to street frontages and between zones (particularly residential) commonly spark deeper consideration of amenity and noise, however there are no strategic studies for these corridors.
- The Tribunal has varied generalised conditions relating to amenity.

In ***Mildura RCC v Donmez [2016] VCAT 1920*** the Tribunal was asked to make a declaration regarding existing use rights for a compound being used for the purpose of a labour hire and accommodation business in the Farming Zone (and subject to MOIA).

Council provided sufficient evidence to support a finding that the use rights did not exist and the Tribunal determined that the existing land use was unlawful due to the absence of existing use rights or a planning permit.

Council officers have raised concerns that houses being rented for seasonal workers' accommodation are becoming overcrowded and are not registered with Council, and may not have the necessary permits to conduct the use.

Observations:

- The Mildura Planning Scheme Review 2014 outlined further work required, including to review and prepare appropriate policy framework to introduce policy guidelines outlining application requirements and decision guidelines associated with applications for group accommodation in non-urban areas and likewise for applications to use land for Caravan Parks in the Farming Zone;
- Monitoring is required of the location, condition and number of persons residing in seasonal workers' accommodation. Proper registration and acquisition of permits is not being undertaken in some instances.

7.8 Bioremediation Facility

In ***Burns v Mildura RCC [2014] VCAT 1418*** the Tribunal considered an application for the construction and operation of a passive bioremediation facility to treat soils contaminated with petroleum hydrocarbons and a limited range of other volatile and semi-volatile hydrocarbons for re-use as other locations as clean fill or for disposal to landfill; located in the Farming Zone.

Council's planning officers approved the proposal which was appealed by objectors. VCAT affirmed Council's decision to grant a permit but varied the conditions.

The key issues considered in this case was the impact to surrounding agricultural activity, amenity and environmental values; the suitability of this use in the Farming Zone and traffic and access issues.

The Tribunal determined that vapour risks and dust emissions to adjoining land are negligible in worst case scenarios. Risks to ground water have been appropriately mitigated. Given any off-site emissions will be negligible, there will be no significant impacts on surrounding agricultural land or nearby reserves.

The Farming Zone was found to be suitable for this use as it implements the outcomes Clause 19.05-3 of the State Planning Policy Framework which encourages resource recovery. It was also found that the proposal does not require a large amount of buildings and the entire use would not occupy a large portion of the land holding and could be decommissioned to a state suitable for agricultural uses.

"In balancing land use policy and the purposes of the land's zoning, we find that this proposal, while contributing meaningfully to policy outcomes for waste management and resource recovery, poses little risk to achieving agricultural land use and economic development outcomes and will not put at risk natural resource policy outcomes. We therefore do not find there is any strategic planning reason why this proposal could not proceed."

Observations:

- The Farming Zone is less restricted outside the MOIA.
- Uses more suitable than low density residential have better strategic justification to be located in the Farming Zone, provided they do not impact surrounding agricultural uses, do not take up a large footprint and can be decommissioned.

7.9 Development in Industrial Areas (DDO4)

In **Wilson v Mildura RCC [2017] VCAT 742** the Tribunal considered an application to extend an existing workshop and the construction of a storage shed in the Industrial 1 Zone and subject to DDO4.

Council granted a permit for the extension which was contested by an objector. The Tribunal affirmed Council's decision and a permit for the extension was granted.

The main relevant issue discussed in this case is the request for a reduction in the number of car parking spaces required. The extension is to place existing machinery displayed for sale undercover. It was determined that given nature of this extension, it was not likely to significantly increase the amount of visitors to the site and therefore the number of car parking spaces did not need to increase.

In **Nicol Projects v Mildura RCC [2017] VCAT 210** the Tribunal considered an application for the construction of a single storey extension to the front of an existing warehouse building in the Industrial 1 Zone and subject to DDO4.

Council refused to grant a permit which was affirmed by VCAT and no permit was issued.

The key points considered in this case were the suitability of the extension and the proposal's response to the DDO4 in terms of the front setback, building design, landscaping and parking.

In relation to the front setback, the Tribunal member states:

"DDO4 provisions will not bring about a consistent front setback in their current form. Rather it seems to me that there is great potential for variation in front setbacks. This will depend on a range of factors including which site is developed first, whether buildings exist on neighbouring sites, the setbacks of those buildings if they do exist and whether applicants opt to provide an "as of right" setback or, alternatively, pursue an alternative setback. Streetscapes with buildings largely presenting the same or almost identical setback is an unlikely outcome."

The building design of the extension was found to improve the articulation of the existing building and did not have an unreasonable impact to the views or amenity of surrounding uses.

The existing use has four (4) car parking spaces based on the requirements at the time the permit was granted. Today, the use would require approximately ten (10) car parking spaces. The proposed extension would reduce the number of car parking spaces by 1-3 spaces, and it was found that a reduction of two or three spaces would be problematic. Furthermore, landscaping is required to be provided along the street frontage in accordance with the requirements of the DDO4.

Observations:

- The DDO4 does not produce consistent street frontages, but setbacks have been considered in detail in these VCAT cases.
- Buildings constructed historically, before the DDO4 was in effect, may not comply with the current car parking and landscaping requirements. Extensions trigger reconsideration of these provisions on a case by case basis.

7.10 Public Acquisition Overlay

In **Colvinton v Mildura RCC [2009] VCAT 1955** the Tribunal considered an application for a four (4) lot subdivision with common property in the Industrial 1 Zone and subject to DDO4.

Council approved the proposal and the applicant contested Conditions 1 and 3. VCAT considered these conditions to be unreasonable and varied Council's decision and reissued the permit.

The key issues of this case were the validity of conditions 1 and 3. These conditions required the plans to be amended to show a 10 metre wide Public Acquisition Overlay and that this portion of land was to be sold to Council for service infrastructure installation. The Tribunal found this to be unreasonable given the public acquisition overlay is 3 metres wide from the boundary rather than 10 metres, and Council should acquire this land through a more appropriate mechanism than as a condition on this permit.

Observations:

- Issues with the extent and application of the Public Acquisition Overlay are noted in this case and through a submission received identifying a section of the PAO mapped incorrectly.
- The Issues Paper for Special Use Zones 8 & 9 and DDO 10 & 11, prepared by Tract Consultants and dated 15 May 2018 contextualises the PAO as correcting an irregularity in the width of the road reserve on Deakin Avenue, and while the PAO needs to be confirmed formally with VicRoads, it acts as an interim placeholder.





CONSULTATION
FINDINGS

8.0 Consultation Outcomes

8.1 Overview

This Review involves three (3) rounds of consultation as a means of engaging with the community to ensure the planning scheme review considers issues important to the residents of the municipality.

Review Kit

This chapter will address the following questions as outlined in the *Continuous Improvement Review Kit 2006*:

- Have any issues emerged with the MSS since any previous review?
 - Issues raised in consultation
- Does the MSS need simplification or clarification in any area?
 - Have issues been raised in consultation?

Key Considerations

- Consultation Round 1
 - Stakeholder Workshops
 - Written Submissions
- Feedback from Council Officers
- Anomaly Register
- Consultation Round 2
- Consultation Round 3

8.2 Consultation Round 1

Following the commencement of the project, an initial round of consultation was undertaken to engage with stakeholders early to identify key issues and concerns with the Mildura Planning Scheme. This commenced on 27 November 2017 and concluded on 12 January 2018. Consultation consisted of:

- A meeting of the Project Steering Committee.
- A workshop and presentation to Councillors.
- Three other workshops with stakeholders, which involved Council officers & government agencies, the local Development Industry and the general community.
- The opportunity to make written submissions.

Stakeholder Workshops

The five workshops were held on 13 December 2017 and held at the Council offices at the Deakin Customer Service Centre. Notice of the workshops was given via Council's website (on a dedicated project page, and Council's 'Have Your Say' page) and ads placed in the Mildura Weekly newspaper on 1 and 8 December, 2017. Notice was sent directly to the regular users of the planning system inviting them to attend the 'Development Industry Workshop' via letter and / or email dated 1 December 2017. Attendance at the external, public facing meetings was low, while attendance at the internal Council and agency meetings was higher.

The following is a short list of the issues raised at the workshops:

- Need to examine the Design and Development Overlay – Schedule 3 (DDO3), which may contain a redundant planning permit trigger, as it triggers the need for a permit in the Mixed Use Zone but not the applicable residential zone.
- Need to examine the permit triggers in the DDOs. Despite being focused on built form outcomes, they are currently triggering permits for subdivision.

- Need to examine key VCAT decisions (see Section 7.5) particularly relating to a service station on Benetook Avenue, and other VCAT decisions which have upheld the principle of protecting agricultural land. Desire from one regular user to review the mandatory requirements in DDO9.
- Need to look at relevant Panel decisions (see Section 6.2).
- The need to examine Group accommodation in the non-urban areas. This was raised by a number of people in the different workshops. Opinions about the issues differed. Some felt that the past practice of including pickers huts on properties should be recognised. Producers should not be restricted by bus routes or the provisions of the Farming Zone. Others felt concern that this shouldn't become cheap accommodation. Others suggested the need to look at the different models of provision; for instance, 'Shared Accommodation' where if the numbers are high this could start to impact on adjoining property owners (20+ people, backpackers partying all night etc.). Need for more direction around this issue. Perhaps rather than looking at habitable rooms, the focus should be placed on the maximum number of people. Some people expressed the opinion that the Budget Accommodation policy should be removed, and the approach adopted in Swan Hill applied locally.
- Examine the need for more rural living opportunities in areas currently included in the Farming Zone, particularly around some of the 'clumps' of housing around 16th and 17th streets.
- Related to the above, whether spot rezonings should be supported in some instances?
- Need to consider appropriate locations to establish major solar electricity generation activities; locations which do not conflict with the use of productive agricultural land (particularly the MOIA). But equally, not locating such facilities on low-value agricultural land which often has native, remnant vegetation.
- Whether the planning scheme should support higher density (3 storey) development in the CBD (shop top living) and ways to encourage this to generate vibrancy in the city.
- A review of policy guiding the location of supermarkets through-out Mildura, and to address the movement of businesses from the CBD to Centro. Examine development around 15th street; there is some community angst about the establishment of 'big box retailing' in this area.
- Examine opportunities around online planning.
- Review the settlement strategy for Mildura to ensure that land is being released in the right areas, such as Nichols Point. This would assist in 're-centring' the town.
- Review the outcomes from Amendment C89 and the creation of 'stranded lots' which people can't build on. Need for review of state imposed policies and a desire for locally appropriate policies.
- Need to upgrade dirt roads.
- Investigate the establishment of new farming areas.
- Examine opportunities for planning scheme to encourage better siting of structures for solar access, and incorporation onto existing sheds. Can there be policies that require solar panels for properties to be net energy producing?
- Need to examine how the planning scheme can distinguish between 'industry' and 'horticulture' in rural areas. It was felt that the planning system doesn't control 'creeping industrial uses' – those that become bigger over time – that are not related to the productive use of the land.
- Can the planning scheme assist in attracting industry to the municipality? Perhaps a technology park?
- More strategic work and policy required around the future development of the Irymple area.

- Need to examine some of the outcomes of Amendment C89, and the establishment of residential land near industrial areas.
- A strong desire from Council to see the proposed strategic work program including recommendations; timelines aligned with priorities; estimates of the time required for some projects, as well as an assessment of likelihood of success of reform projects, particularly some of the difficult spot rezonings.
- Need to review policies within the scheme that deal with renewable energy. Some discussion around the role of hydrogen generation and emerging new technologies.
- Need to examine and include policy references to the Mildura Future Ready project. Support these and other job creation projects.
- Need to examine policies within the scheme relating to flooding, climate change, extreme weather events and storm water management (this didn't occur post-2011 floods). This may have implications for changes in the settlement pattern.
- Need to look at the work of the Catchment Management Authorities (CMAs), which are currently producing development guidelines to provide a consistent approach. Could be an opportunity to include policies within the planning scheme?
- There are a number of issues relating to environmental management that need to be examined, including native flora; discouraging roadside grazing, creation of firebreaks on the roadside, and; Regent Parrot. Need for stronger policy around sustainability in the built environment.
- Need for better protection and identification of recycling and waste facilities through buffers.
- Need to resolve the policy ambiguity around the heavy truck by-pass route as there has been a substantial increase in freight through the town. This may require an upgrade to the freight system.
- Need for policy to reference the Sunraysia Modernisation Project.
- Should look at new and emerging communities within Mildura, as there has been an increase in families with English as a Second Language (ESL). Look at policies around public and private housing and Places of Worship.
- There was a desire to revisit and examine the zoning of several specific sites (many of which have been raised in written submission. See Section 6.2).
- Suggestion that the planning scheme be streamlined and include more flexibility and discretionary uses (subject to approval of the built form).
- Some regular users liked the certainty that the structure plans provided, but these could be improved through better sequencing. Irymple is an example of this.
- Some regular users expressed the opinion that the planning scheme is clear and that you get an idea of what it is seeking to achieve. Although more could be done with local policy.
- In relation to the settlement strategy, one user believed there should be multiple fronts for development to put downward pressure on land prices by increasing supply. This suggests there is a land affordability issue driven by restrictive land supply policies, for both residential and commercial land.

Written Submissions

Council facilitated a round of consultation for the Mildura Planning Scheme Review in November 2017. People were invited to make written submissions by Friday the 12 January 2018, although submission received later than this date have been considered as part of this report. Sixteen (16) submissions were received during this time and their key messages are summarised below.

Cumbungi at Lake Cullulleraine

Cumbungi is one of the common names for *Typha domingensis*, described in the Draft Invasive Plants and Animals Plan (2015-2019) as a native reed-like plant that grows in Lake Cullulleraine and is considered to be an invasive species due to its ability to survive on limited resources, reproduce in large numbers and out-compete other native species to minimise species diversity.

Two (2) submissions were received requesting the monitoring and control of Cumbungi in Lake Cullulleraine. Reasons for this request were cited as a decline in the quality of the lake's aesthetic, safety, recreational use and environmental diversity

A recommendation was made to include a schedule in the Particular Provisions of the Planning Scheme in Clause 52.17 and / or an exemption to allow for management and control of Cumbungi at Lake Cullulleraine.

The draft Invasive Plans and Animals Plan 2015-2019 clearly articulates the issue and offers management and control solutions at Lake Cullulleraine.

Accommodation outside Urban Areas

One (1) submission was received requesting a review of the Budget Accommodation Policy to support accommodation uses within the Farming Zone to facilitate on-site accommodation for seasonal workers.

Zoning of Hattah Township

One submission was received in relation to the zoning of the township of Hattah, which Council acknowledges was rezoned from the Rural Zone to Public Conservation and Resource Zone (PCRZ) in 1999 and has not changed since. Council has advised that an investigation is required to confirm an appropriate alternative zone for all or part of the township.

There does not appear to be a strategic study underway to confirm appropriate zoning for the township of Hattah. It is important to note that this area is within the Bushfire Prone Area and Bushfire Management Overlay (BMO) which suggests it is not appropriate for residential development.

Zoning of Cabarita Township

One (1) submission was made regarding the zoning within the township of Cabarita, to the south-west of Mildura. Part of the request is for rezoning from the Farming Zone to the Low Density Residential Zone.

The submission also relates to a small area of C1Z that covers part (but not all) of two lots. It is requested that this commercial land be retained to provide for the growing local population in Cabarita.

The Mildura Housing and Settlement Strategy provided the strategic justification for the quantity and location of low density residential land in Mildura, and noted that no additional land is required to meet future demand.

Further strategic work may be required to determine if the area of C1Z land in Cabarita is required, noting that it is not considered in the Mildura Retail Strategy (2010), but further strategic work is being undertaken and is near completion.

Merbein South Growth Area

One (1) submission was made to establish a Merbein South Growth Area. Council has advised that the identification and establishment of growth areas was determined as part of the Mildura Housing and Settlement Strategy (MHSS) and implemented through Amendment C89, but could warrant further consideration under the Planning Scheme Review.

Goulburn Murray Water Assets

Mildura's municipality is outside the irrigation district of Goulburn Murray Water (GMW) however the municipality contains some of their significant infrastructure and assets, the submission requested that the appropriate planning tools and provisions are in place to protect these assets.

Zoning and Overlay Changes

The majority of submissions received during this period of consultation were at least partly in relation to requests for changes to the zoning or overlays on individual properties. Eight (8) of the submissions made these requests in relation to approximately seventeen (17) individual properties.

Eight (8) of these properties (currently within the Farming Zone) were requested to be rezoned to one which allows for less restrictive low density residential development (such as the GRZ, LDRZ and RLZ).

Two (2) properties along Benetook Avenue currently in the Farming Zone are recommended for rezoning to Industrial Zone 3 (I3Z).

Three (3) properties within the General Residential Zone - Schedule 1 (GRZ1) adjacent to the Commercial 1 Zone (C1Z) in San Mateo Avenue, Mildura were requested to be rezoned to one of the Commercial Zones in order to expand the existing commercial area.

Two (2) properties currently in the Farming Zone were requested to be rezoned to the Rural Conservation Zone.

One (1) property in the Urban Floodway Zone (UFZ) was requested to be rezoned to the General Residential Zone to facilitate earthworks and a townhouse development.

Council has made a submission for a lot currently in the GRZ1 to be rezoned to the PUZ1 to facilitate the construction of a public car parking area to service the existing medical precinct.

The final property appears to have had the Public Acquisition Overlay applied to part of the boundary of some residential properties in error, in which case this may form a zoning / mapping anomaly.

There is continued pressure for industrial uses along Benetook Avenue to strategically service it as a heavy vehicle bypass route.

It is evident that the majority of these properties are in the Farming Zone (approximately 71%), of which many were requesting rezoning that would allow some form of residential development (67%). Despite the relatively small number of properties to consider, it is evident that there is a trend to push for more development in the Farming Zone than the planning scheme currently allows.

Additional anomalies are considered in Section 8.4, and a summary of the submissions received including the parcels of land to which they apply can be found in Appendix J.

8.3 Feedback from Council Officers

Ongoing feedback has been received from planning and other officers within MRCC regarding the Mildura Planning Scheme Review, including the following:

- Salinity Management Overlay (SMO) - exemption for a Salinity Action Statement for a single dwelling excision;

Currently, any permit issued for subdivision of land must include a condition requiring the applicant to provide a Salinity Action Statement prior to the certification of the plan of subdivision for land identified as having Moderate to Very High Risk (inclusive). A number of larger balance lots remain undeveloped due to this costly requirement.

Further strategic work needs to be undertaken to determine the necessary requirements for addressing salinity risk in the most cost effective manner, to ensure the requirements are not overburdening applicants and deterring development.

- Caravan park and tourist accommodation provision

Council land (e.g. sports ovals) are used as overflow tourist accommodation (caravan park, camping, etc.) during events, as the existing caravan parks do not have capacity for the spike in demand. This may require an update to Council's Budget Accommodation Policy.

- Group Accommodation in non-urban areas (discussed in Section 3.4);
- Vegetation Protection Overlay (VPO) particularly in urban areas, to retain mature trees;

The VPO is currently very scarce in urban areas throughout the municipality. Other tools within the Planning Scheme to protect vegetation and trees include the ESO, SLO, HO and DDO. These tools are applied more liberally throughout the municipality. Further strategic work into the presence and significance of Council's tree assets should be conducted to determine where these trees are not already protected to consider them for inclusion in a VPO (or other tools mentioned above as appropriate).

The provision of tree protection control links back to the discussion of climate change and in particular reducing the urban heat island effect.

- Other kinds of landscaping requirements in urban areas to ensure canopy trees are planted in private property;

In a similar fashion to the previous point, Council should conduct further strategic work in the form of a landscape or neighbourhood character study to determine areas where vegetation make a significant contribution to character and warrant local controls.

- Design and Development Overlay - Schedules 6, 7 and 8 - no guidance for subdivision but triggers a permit;

These Schedules to the DDO all relate to Obstacle Height Areas associated with Mildura Airport. The Design objective relates only to building height and provides guidance for buildings and works only. In this instance, the Schedules should be amended to include an exemption for subdivision of land.

- LDRZ - A shed (outbuilding) requires a permit if it is over 100m², however this is not required in the GRZ.

The Schedule to the LDRZ allows for the specification of the "[d]imensions above which a permit is required to construct an outbuilding", and Schedules 1 and 2 of the LDRZ specify an area of 100 square metres. The template for the Schedule to the General Residential Zone (GRZ) does not contain the same ability to specify this threshold in terms of a permit trigger. It does, however allow Council to vary the requirements of Clause 54 and 55 and provide decision guidelines including the siting and design of structures to avoid large sheds at the front of properties.

- Caravan park and tourist accommodation provision

The previous Planning Scheme Review (2014) identified the need to include reference to the Municipal Early Years Place 21010 - 2013 in the MSS. This has since been replaced by the Municipal Early Years Plan 2015-2018 and should be reflected in the MSS, especially the objective to prepare a Child Friendly Cities and Communities implementation plan.

8.4 Anomaly Register

- Zoning of the township of Hattah;

Through recent conversations with property owners within the Hattah area, Council staff have identified that this area is included in the Public Conservation and Resource Zone (PCRZ). Yet some properties in this area are privately owned, which could indicate that some properties in this area are in the incorrect zone, given that public use zones should not be applied to privately owned land.

Council should investigate the zoning and land ownership details of properties in this area to determine whether the PCRZ has been inappropriately applied, and if so, determine what the appropriate zone is for this area. Such a change would require a planning scheme amendment. Given the administrative nature of the amendment, it could be undertaken as a 20(4) amendment as part of a broader 'anomalies' amendment.

Mildura Rural City Council provided an anomaly register which contained thirty-four (34) reported anomalies in the Planning Scheme. The anomalies broadly related to zoning, overlay, mapping and clerical issues.

Clerical issues such as typos, formatting errors and inconsistencies between zones and schedules accounted for twelve (12) of the reported anomalies (35.3%).

Overlay issues accounted for ten (10) of the reported anomalies (29.4%) and most commonly related to incorrectly labelled sites that fall under an Overlay, especially the Heritage Overlay on sites that did not warrant significant heritage value, which should be addressed as part of the review of the Mildura Heritage Strategy (currently underway).

Zoning issues accounted for nine (9) of the reported anomalies (26.5%) and most commonly related to areas of private land that had been mistakenly zoned as part of public land, such as PUZ, PPRZ, PCRZ or RCZ. Apparent errors in zoning and overlay mapping have also resulted in Tribunal hearings and submissions.

Mapping issues accounted for three (3) of the reported anomalies (8.8%) and related incorrectly mapped Overlays (particularly the Heritage Overlay as described above).

Recommendations

- Amend the anomalies identified in the anomaly register as part of the Planning Scheme Amendment associated with this review, with particular attention to zoning and overlay anomalies that have resulted in Tribunal hearings and submissions; and
- Continue to monitor the Planning Scheme for anomalies through the next review period.

8.5 Consultation Round 2

Due to the low attendance at the first round of consultation for the external workshops, a different approach was adopted for the second round. The purpose of the second of consultation was to gain feedback on the initial research and directions identified within the Preliminary Analysis & Emerging Issues Report (August 2018). This document was prepared for Council's consideration, and a project bulletin summarising the key directions within the report was prepared and placed on Council's website.

The second round of consultation was held in September and October 2018. Interested parties had the opportunity to make written submissions and/or request an interview with Council staff and the consultant team.

Interviews

Seven (7) interviews were conducted over two days on Tuesday, 25 September and Wednesday, 26 September 2018 in Council's offices in Mildura. A further interview was conducted by phone on 12 October 2018. A summary of the interviews is contained in Appendix K. In summary, these were as follows:

- A specific concern about the zoning of a property in Karadoc Avenue, Irymple, where the owners would like to see the property developed, possibly for a hospice. The property is within the UGB but is still subject to the Farming Zone.
- The owners of a 0.7ha property on the Sturt Highway, South Merbein would like to be able to build a house on their land, but are unable due to the provisions for the MOIA Incorporated Document.
- A resident in close proximity to a property subject to recent applications for a solar facility highlighted the lack of siting and design guidance within the Mildura Planning Scheme (in fact planning schemes throughout Victoria), and the potential impact on the residential amenity of adjoining residents this could cause.
- In raising concern about the construction of a substantially raised trotting track on an adjoining property, a resident highlighted that a planning permit may not be required for major earthworks and the importation of fill in the Farming Zone, despite the potential for amenity impacts.
- Another interviewee made a number of suggestions relating to the future of the Mildura Mall, establishment of freight node near the Mildura airport, the route of a potential truck bypass, and the water security issues facing Mildura in the face of climate change.
- Another submitter made representation in relation to a large number of rezoning requests for properties, which are not the focus of this review. Other issues raised concerned the need to revisit the small lot issue in the MOIA, a conflict in strategic direction for properties near the corner of Benetook and Fifteenth Street, and the potential for a review of smaller settlements not addressed in the Mildura Housing and Settlement Strategy, such as Sunny Cliffs.
- The owners of a property at Karadoc Avenue, Irymple would like to be able to build a house, but are prevented by a section 173 agreement on the land, despite the location of the property in the Mildura East Growth Area.
- Another submitter is seeking a potential rezoning for a property on Seventh Street, Mildura. As highlighted elsewhere in this Review, the zoning of land in some sections of Precinct G of the Mildura CBD should be reviewed.
- An owner sought clarification about whether there was any strategic support for rezoning the front of their property at Flora Avenue, Mildura.
- Finally, an owner of a property at Fourteenth Street, Mildura would like to develop their property, which would first require rezoning. The property is part of the Mildura East Growth Area.

Other meetings

On Tuesday, 25 September a meeting was also held with Council's Statutory Planning team, at which they reiterated and expanded upon many of the issues raised in Section 8.3 above. On the 25 September a meeting was held with the regional office of the Department of Environment, Land, Water and Planning (DELWP), at which a number of issues already addressed in this review were discussed, particularly the recent history of the MOIA Incorporated Document.

Written Submissions

A total of fourteen (14) written submissions were received during the consultation period. Many of the stakeholders who participated in the interview sessions made submissions and therefore, these issues are repeated.

One submission advocated for a Mildura heavy-vehicle bypass route including freight railway realignment and a new bridge, including suggested routes and locations. Regional Road Victoria made a submission suggesting the review of the Mildura Transport for Regional Development (May 2005) document. It is noted that this document recommends the long-term implementation of a heavy-vehicle bypass route. Due to the age of the document, a review would ensure the strategic justification for such a large project is still valid.

Submitters also advocate for the return of a passenger rail service from Melbourne to Mildura. It is noted that Council's website describes a feasibility study exploring the economic, health and social benefits to passenger rail should be prepared.

The lack of consistent design and development in Langtree Mall was the concern of one submission, noting that community consultation geared towards the appearance and layout of Langtree Mall would be beneficial. The suggestion was made to activate and connect Bowrings Lane to the shopping area.

The Environment Protection Authority (EPA) made a similar submission to the previous

Planning Scheme Review in 2014, where they suggested the Environmental Significance Overlay be used to protect sensitive land use buffers. This issue is described in detail in section 3.6. EPA's submission is accompanied by a list of sites of interest to the EPA that may require a separation distance / buffer.

The Loddon Mallee Waste and Resource Recovery Group made a detailed submission regarding the existing and former landfill sites spread throughout the municipality. They identified potential issues with the existing policy controls and the need for Council to consider rezoning a number of sites to PUZ6 or apply the Environmental Audit Overlay (EAO). A list of these sites and the associated recommendations is provided in Section 11.5.

A number of recommendations were made for the ongoing improvement of the township of Irymple. Other than rezoning of specific sites, which is not the focus of this review and has been discussed at length in the Panel Report for Amendment C89, suggestions for Irymple include:

- Safety concerns at the roundabout on Cowra Avenue.
- Need for a library / multi-purpose building.
- Need for a visitors' welcoming centre with car parking for caravans and other vehicles.
- Need for further consideration of a gateway, particularly to deter uses such as billboards.

Recommendations

In relation to the above submissions, it is recommended that Council:

- Prioritise the revision of the Irymple Structure Plan (2012) as a first year action within its 4 year Strategic Planning Work program.
- Consider increasing the resources and funding available to expedite the preparation and approval of the 4 year Strategic Planning Work Program.

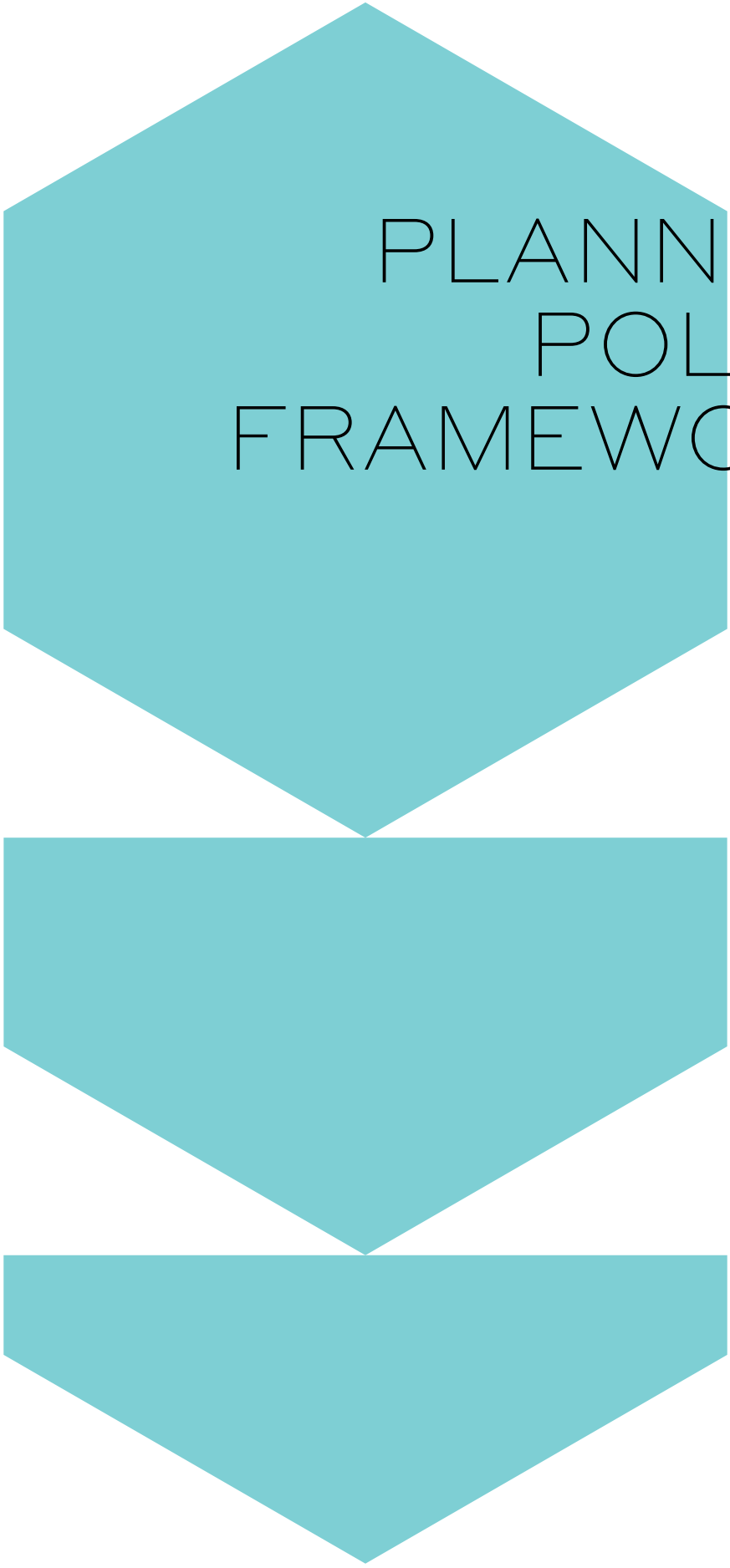
- Review the draft 'Solar Energy Facilities - Design and Development Guidelines' and consider making a submission to DELWP. As a minimum, Council's submission should seek stronger criteria concerning the establishment of uses on irrigated land, and the possible need for minimum setback distances from boundaries and nearby dwellings.
- Investigate and consider the merits of amending the schedule to the Farming Zone to specify a standard for major earthworks that would trigger the need for a planning permit.
- Consult with the Lower Murray Water regarding the water vulnerability of Mildura, particularly in light of projected weather patterns in light of climate change.
- Review the Fifteenth Street Structure Plan and the Industrial Land Strategy which are providing differing strategic directions for the property at Lot 1, Benetook Avenue.
- Add a review of the Sunny Cliffs residential area to its strategic work program, along with any other smaller residential areas not addressed as part of the Mildura Housing and Settlement Strategy.
- Prioritise the preparation of the drainage strategy and framework plan for the Mildura East Growth Area.
- Support the McCarthy's request to the Minister for Planning for the cancellation of the section 173 agreement applying to their property, given the medium term strategic intent to rezone this area to residential.
- Investigate the merits of rezoning the designated growth areas, to remove them from the provisions of the MOIA Incorporated Document. A combination of zones and overlays could be utilised to recognise the strategic intent of this area to transition to residential/urban uses over time, yet prevent that development occurring until the necessary strategic work has been carried out.
- Consider the future zoning of the areas currently zoned General Residential and Commercial 1 Zone and part of Precinct G as shown in the 'Mildura CBD Plan, 2007', and that Council refer consideration of this matter to the Mildura CBD Plan revision project that is currently underway.
- Review the Mildura Transport for Regional Development (May 2005) document to ensure the strategic justification and best option(s) for a heavy-vehicle bypass route are still valid;
- Prepare a feasibility study investigating the economic and social benefits of a passenger railway service between Melbourne and Mildura to assist with advocating to the State Government for funding and assistance;
- Prepare Urban Design Guidelines for Langtree Mall, ensuring community engagement to facilitate suggestions such as activating and connecting Bowrings Lane to the shopping area;
- In conjunction with EPA, determine the appropriate separation distances / buffers of the identified sites of interest and apply the ESO if appropriate;
- In conjunction with LMWRRG, consider the list of existing and former landfill sites in Section 11.5 for rezoning to PUZ6 and / or applying the EAO.

8.6 Consultation Round 3

The third round of community consultation will involve the public exhibition of this draft Mildura Planning Scheme Review Report; the purpose of which is to:

- Inform the community about the status of the review.
- Involve the community and stakeholders in reviewing the draft Review report, by inviting them to make submissions.
- Ensure all submitters know that their submissions have been received and considered, and that their input is valued.

The Planning Scheme Review will be amended as required following public exhibition.



PLANNING
POLICY
FRAMEWORK

9.0 Planning Policy Framework

9.1 Overview

The State Planning Policy Framework (SPPF) and structure of the Victoria Planning Provisions (VPPs) has undergone significant change since the commencement of this Planning Scheme Review.

Amendment VC148 was gazetted on 31 July 2018 and:

- Introduces a new Planning Policy Framework (PPF);
- Enables the future introduction of a Municipal Planning Strategy (MPS);
- Simplifies the VPP structure by:
 - Restructuring particular provisions;
 - Integrating VicSmart into applicable zones, overlays and particular provisions; and
 - Consolidating operational and administrative provisions.

The PPF and MPS will eventually replace the SPPF and LPPF (including the Municipal Strategic Statement (MSS) and Local Planning Policy (LPP)). The Mildura Planning Scheme will be reviewed in its current state, which contains the updated PPF and existing MSS and LPP.

Review Kit

This chapter will address the following questions as outlined in the *Continuous Improvement Review Kit 2006*:

- Does the planning scheme further the objectives of planning in Victoria?
- Are there clear links between the SPPF and the LPPF?
- Is there repetition or conflict in the MSS, such as between housing and settlement policies?

Key Considerations

To audit the Planning Policy Framework in the Mildura Planning Scheme, the role, structure and content of the following aspects will be considered in this chapter:

- Planning Policy Framework (PPF);
- Municipal Strategic Statement (MSS); and
- Local Planning Policy (LPP).

9.2 Planning Policy Framework

The Planning Policy Framework (PPF) has been updated by the State Policy Reforms discussed in Chapter 4, and restructured by Smart Planning Reform and Amendment VC148.

Role

The role of the PPF is:

- To provide a clear and consistent framework within which decisions about the use and development of land can be made.
- To express state, regional, local and community expectations for areas and land uses.
- To provide for the implementation of State, regional and local policies affecting land use and development.

Structure

The structure of the PPF is best represented by the diagram in Figure 1 on the following page.

In its current state, the PPF does not contain any local content as the Planning Scheme still contains a separate MSS and LPP. It should be noted that a clause number followed by an S denotes State policy, while being followed by an R denotes Regional policy. When the current LPPF is integrated into the new PPF format, these clause numbers will be followed by an L.

Discussion

A potential structure of the new PPF, including local policy, is provided in Appendix M. This structure is based on the broad theme of Clauses rather than specific content of objectives and strategies and should be for reference only, as DELWP are still releasing guidance material and will provide assistance to Council in restructuring the PPF.

Recommendation

- With assistance and resources from DELWP, transition the LPPF of the Mildura Planning Scheme into the new (post-VC148) PPF format.

Settlement 11	11.01 Victoria 11.01-1 Settlement	11.02 Managing Growth 11.02-1 Supply of Urban Land 11.02-2 Structure Planning 11.02-3 Sequencing of Development	11.03 Planning for Places 11.03-1 Activity Centres 11.03-2 Growth Areas 11.03-3 Peri-urban Areas Settlement 11.03-4 Coastal Settlement 11.03-5 Distinctive Areas and Landscapes 11.03-6 Regional and Local Places
Environmental and Landscape Values 12	12.01 Biodiversity 12.01-1 Protection of Biodiversity 12.01-2 Native Vegetation Management	12.02 Coastal Areas 12.02-1 Protection of Coastal Areas 12.02-2 Coastal Crown Land 12.02-3 Bays	12.03 Water Bodies and Wetlands 12.03-1 River Corridors, Waterways, Lakes and Wetlands 12.04 Alpine Areas 12.04-1 Sustainable Development in Alpine Areas
Environmental Risks and Amenity 13	13.01 Climate Change Impacts 13.01-1 Natural Hazards and Climate Change 13.01-2 Coastal Inundation and Erosion	13.02 Bushfire 13.02-1 Bushfire Planning	13.03 Floodplains 13.03-1 Floodplain Management
Natural Resource Management 14	14.01 Agriculture 14.01-1 Protection of Agricultural Land 14.01-2 Sustainable Agricultural Land Use 14.01-3 Forestry and Timber Production	14.02 Water 14.02-1 Catchment Planning and Management 14.02-2 Water Quality 14.02-3 Water Conservation	14.03 Earth and Energy Resources 14.03-1 Resource Exploration and Extraction
Built Environment and Heritage 15	15.01 Built Environment 15.01-1 Urban Design 15.01-2 Building Design 15.01-3 Subdivision Design	15.01-4 Healthy Neighbourhoods 15.01-5 Neighbourhood Character 15.01-6 Design for Rural Areas	15.02 Sustainable Development 15.02-1 Energy and Resource Efficiency
Housing 16	16.01 Residential Development 16.01-1 Integrated Housing 16.01-2 Location of Residential Development 16.01-3 Housing Diversity 16.01-4 Housing Affordability 16.01-5 Rural Residential Development 16.01-6 Crisis Accommodation and Community Care Units 16.01-7 Residential Aged Care Facilities		
Economic Development 17	17.01 Employment 17.01-1 Diversified Economy 17.01-2 Innovation and Research	17.02 Commercial 17.02-1 Business Development 17.02-2 Out-of-centre Development	17.03 Industry 17.03-1 Industrial Land Supply 17.03-2 Industrial Development Siting 17.03-3 State Significant Industrial Land
Transport 18	18.01 Integrated Transport 18.01-1 Land Use and Transport Planning 18.01-2 Transport System	18.02 Movement Networks 18.02-1 Sustainable Personal Transport 18.02-2 Public Transport 18.02-3 Road System 18.02-4 Car Parking	18.03 Ports 18.03-1 Planning for Ports Environments 18.03-2 Planning for Port Environments
Infrastructure 19	19.01 Energy 19.01-1 Energy Supply 19.01-2 Renewable Energy 19.01-3 Pipeline Infrastructure	19.02 Community Infrastructure 19.02-1 Health Facilities 19.02-2 Education Facilities 19.02-3 Cultural Facilities 19.02-4 Social and Cultural Infrastructure 19.02-5 Emergency Services 19.02-6 Open Space	19.03 Development Infrastructure 19.03-1 Development and Infrastructure Contribution Plans 19.03-2 Infrastructure Design and Provision 19.03-3 Water Supply, Sewage and Drainage 19.03-4 Stormwater 19.03-5 Telecommunications 19.03-6 Waste and Resource Recovery

Figure 1. Restructured Planning Policy Framework (VC148)

9.3 Municipal Strategic Statement

The Municipal Strategic Statement (MSS) forms part of the Local Planning Policy Framework (LPPF) of the Mildura Planning Scheme. Guidance on the role, structure and content of the MSS is provided in Planning Practice Note 4: Writing a Municipal Strategic Statement (PPN4).

Role

PPN4 describes the role of the MSS as the local strategic direction of the planning scheme, including:

- **Municipal profile:** regional context of the municipality;
- **Key issues and influences:** land use and development challenges;
- **Vision and strategic framework plan:** key directions and overall strategic vision;
- **Objectives and strategies** and how they will be implemented; and
- **Local area plans:** guidance for specific areas.

Amendment VC148, as part of the Smart Planning Reform involved a restructure of the Planning Policy Framework and the introduction of the Municipal Planning Strategy (MPS) which will replace the MSS. Advisory Note 71 (AN71) explains that councils will be required to introduce a Municipal Planning Strategy (MPS) at Clause 20 of the Planning Scheme with the form and content outlined in the Ministerial Direction. Further information and assistance will be provided by DELWP, and this process will occur mutually exclusive of the current Planning Scheme Review.

This review will focus on the structure and content of the existing MSS in accordance with the requirements of PPN4: Writing a Municipal Strategic Statement, as updated in May 2017, with forethought to the eventual transition to a Municipal Planning Strategy.

Structure

The MSS of the Mildura Planning Scheme is structured as follows:

21.01	Municipal Profile
21.02	Key Influences and Issues
21.03	Vision and Strategic Framework
21.04	Settlement and Housing
21.05	Environment
21.06	Natural Resource Management
21.07	Built Environment and Heritage
21.08	Economic Development
21.09	Transport and Infrastructure
21.10	Local Areas

The structure of the MSS follows the guidance within PPN4. The MSS does not use the exact same themes as the (former) SPPF, but each theme (between 21.04–21.09 inclusive) can be related to a corresponding clause within the SPPF.

Clause 21.04 (Settlement and Housing) relates to both Clauses 11 and 16 of the SPPF; Clause 21.05 (Environment) to Clauses 12 and 13; and Clause 21.09 (Transport and Infrastructure) to clauses 18 and 19.

AN71 notes that the MPS will support but not form part of the PPF, which indicates there is less importance on ensuring the structure of the MSS aligns with the PPF. It is possible that this refers to Clauses 21.01 to 21.03, while Clauses 21.04 to 21.10 may be contained within the eventual PPF. Refer to Appendix L for the potential restructure of local content to align with the new PPF, pending further guidance material and assistance from DELWP.

Content

Municipal Profile

The objectives of this clause are identified in PPN4 as follows:

The municipal profile should be a short description of the municipality that may include a regional context. Detailed information about a municipality should be found in the Council Plan or Community Development Plan. Try not to include information that becomes outdated regularly or adds little benefit to planning decision making.

The municipal profile in Clause 21.01 discusses the geographical context, urban areas, population, environmental characteristics, native vegetation, parks, cultural heritage, economy, transport infrastructure and issues that have emerged from recent studies within the municipality.

Statistics have been included regarding the forecast population growth, percentage of new dwellings to be located in the 'Main Urban Area' and the economic value of the region. Some of these statistics are already outdated and are not recommended to be included in the MSS.

The discussion of key issues emerging from recent studies is also information that could quickly become outdated, should Council undertake significant strategic work in these areas. This information may be better suited to Clause 21.02 - Key Influences and Issues.

Key Influences and Issues

The objectives of this clause are identified in PPN4 as follows:

"Clearly identify the key issues and influences affecting the municipality, from a regional and local perspective, that the planning scheme must address. Both opportunities and constraints should be addressed. There should be a clear link between the issues facing the municipality and the objectives and strategies of an MSS. If possible, use headings to convey the issue or influences. There is no need to state how the issue will be addressed as this will occur in the

themes section. There is also benefit in using consistent headings with those that will be used under the themes."

Clause 21.02 conveys the key influences and issues under headings:

- Land uses
- Built form and amenity
- Environment
- Economic development
- Infrastructure

These headings loosely correspond to the themes which follow in Clauses 21.04-21.09 however this could be strengthened by renaming and reorganisation of the headings. The reflection of the objectives and strategies of this clause will be considered under each of the themes to follow.

Vision and Strategic Framework

The vision is described by PPN4 as:

A statement or description of the type of place a council seeks to create. The vision statement can be one concise statement or a set of statements that support the strategic framework plan.

Council's vision is: "Making this the most liveable, people friendly community in Australia" which continues to reflect the vision of the current *Community & Council Plan 2016-2021*. Reference to the year 2025 could be removed to ensure longevity.

The Council Plan is referred to as containing commitments that will progress toward achievement of the vision, however the reference is to the *Council Plan 2009-2013* which is outdated, along with the commitments to achieve Council's vision.

A land use planning vision is also provided, which complements the broad vision by providing a picture of how the municipality will look and function in 2032, organised by the same headings used in Clause 21.02. Again, these headings loosely correspond with the themes, but this link could be strengthened by renaming

and reorganising these headings.

The Strategic Framework Plan is described by the PPN4 as:

The spatial representation of the key strategic directions and key issues of the municipality and should have clear links to the objectives and strategies of the MSS. The strategic framework plan should be supported with statements that express the strategic directions shown on the plan.

Council's Strategic Framework Plan contains three (3) maps, which are supported by statements contained within the land use planning vision. Some references on the map may be outdated, or could be updated to reflect current terminology such as Mildura South and the MOIA.

The reflection of the objectives and strategies of the Strategic Framework Plan in the themes will be considered under each of the themes to follow.

Settlement and Housing

Clause 21.04 (Settlement and Housing) was updated recently in November 2016 via Amendment C89, which implemented the strategic intent of the Mildura Housing and Settlement Strategy (discussed further in Section 6.2).

Further strategic work identified in this Clause which is underway or remains outstanding includes:

- Update and implement the Ouyen Structure Plan.
- Prepare a masterplan for the Sixteenth Street Greenway, including landscape guidelines.
- Prepare a masterplan for the Sixteenth and Ontario Activity Centre.
- Determining the suitability of utilising land which has been subject to long term agricultural spraying for residential development.
- Setting up a designated 'housing working

group' to monitor and advocate for housing diversity within Mildura.

Environment

Parts of Clause 21.05 (Environment) was updated recently in September 2016 via Amendment C75, and the balance updated in March 2013 by Amendment C64.

Further strategic work identified in this Clause which is underway or remains outstanding includes:

- Prepare an appropriate planning scheme amendment to assist in the protection of Regent Parrot habitat.
- Complete accurate mapping of all remnant vegetation in the municipality to enable its inclusion in the Vegetation Protection Overlay.
- Prepare a Surrounds Strategy for areas at the interface of public and private lands in order to maintain the integrity of boundary areas for parks and reserves.
- Introduce new flood mapping and controls with accurate data.

Natural Resource Management

Clause 21.06 (Natural Resource Management) was updated recently in November 2016 via Amendment C89. It discusses the issues facing rural land in the municipality and pressure from residential and other land uses on the MOIA and NIA.

The issue of residential pressure on agricultural land is discussed in detail in Section 3.4.

Further strategic work identified in this Clause which is underway or remains outstanding includes:

- Prepare policy guidelines for applications to use land for 'Group accommodation' in non-urban zones.

Discussion and recommendations for policy guidelines for group accommodation in non-urban zones are provided in Section 3.4.

Built Environment and Heritage

Clause 21.07 (Built Environment and Heritage) was also updated recently via Amendment C89. It seeks to avoid land use conflicts through appropriate location of sensitive land uses, including residential uses, provides guidance for development along Deakin Avenue and the wide array of heritage places throughout the municipality.

The strategic work identified in this Clause which has been completed.

Economic Development

Clause 21.08 (Economic Development) was updated in 2014 and 2016 via Amendments C64 and C89. It considers the major drivers behind the local economy, which include: agriculture, tourism, retail / commercial and industrial.

The reference documents cited throughout this Clause are dated and should be considered for review, including:

- Mildura Economic Profile 2009
- Mildura Industrial Land Use Strategy (and subsequently updated in 2006)

The Mildura Retail Strategy 2010 has been reviewed (Mildura Retail Strategy Review 2018) and it is expected that this Clause will be updated with the strategic intent of this document in due course.

Transport and Infrastructure

Clause 21.09 (Transport and Infrastructure) was updated most recently by Amendment C89 and deals with the roads, railways, airports and public transport (predominantly buses) that service the municipality. The Mildura Airport Special Use Precinct is also considered

It notes that Council has adopted the recommendations of the Mildura Transport Plan for Long Term Regional Development (May 2005). This document discusses large transport and infrastructure initiatives that are yet to be undertaken, such as the establishment of a heavy-vehicle bypass route parallel to a

realigned freight railway line.

The heavy-vehicle bypass route, freight railway and return of passenger rail services are the topic of several submissions, as noted in Section 8.0 and Appendix J.

Further strategic work identified in this Clause which is underway or remains outstanding includes:

- Prepare Development Contributions Plans as required.

This is further discussed in Section 4.7 and relates to the Development Contribution Plan Overlay in Section 11.5.

Local Areas

Clause 21.10 (Local Areas) was also updated in 2016 via Amendment C89 and focuses on local implementation of the objectives and strategies set out in earlier Clauses of the MSS. The areas considered are:

- Main Urban Area (Mildura, Irymple and Nichols Point);
- Fifteenth Street and the Mildura-Irymple transition area;
- Cabarita;
- Merbein;
- Red Cliffs; and
- Ouyen.

The objectives of each area are described and accompanied by a Structure Plan and all future development must be generally consistent with key directions within these plans. No further strategic work is identified, but detailed actions for local area implementation are set out for each area.

Recommendations

- Await further advice and support material from DELWP regarding the preparation of a Municipal Planning Strategy;
- Remove references to outdated and / or changing statistics from the MSS;
- Change reference to the current Council Plan and update the commitments to reflect the current version;

- Update strategic framework plan to show Mildura South, Mildura East, MOIA, etc. (which are shown but not labelled) corresponding with the land use planning vision points;
- Update and implement the Ouyen Structure Plan.
- Prepare an Amendment to implement the strategic intent of the Mildura Retail Strategy Review 2018 and ensure the retail hierarchy is clearly reflected in the MSS (or the new PPF) and consistent reference to these areas is provided throughout the Planning Scheme.
- Prepare a masterplan for the Sixteenth Street Greenway, including landscape guidelines.
- Prepare a masterplan for the Sixteenth and Ontario Activity Centre.
- Determine the suitability of utilising land which has been subject to long term agricultural spraying for residential development.

The Loddon Mallee Waste and Resource Recovery Group provided detailed recommendations to improve the effectiveness of the planning scheme, as follows:

- Amend Clauses 21.02, 21.08 and 21.09 of the MSS to better identify and protect landfills and waste and resource recovery facilities, including the development of objectives and strategies, as appropriate.
- Amend Mildura Main Area Framework Plan in Clause 21.10 to identify the Mildura Landfill and the 200m buffer that has been previously accepted for the site;
- Add the following recommended text to the MSS:
 - Waste and resource recovery infrastructure provides an essential service to manage the municipalities waste. If not managed appropriately this infrastructure and activities can affect the amenity, liveability, health and safety of local communities through

impacts from odour, dust, noise, litter, gas emissions and the release of pollutants into surface and groundwater.

Land use planning can ensure adequate buffers and planning mechanisms are in place to protect communities and the environment from these adverse amenity impacts and enable facilities to operate efficiently. Appropriate zoning, creating adequate separation between industrial and sensitive uses, and using planning overlays are some of the mechanisms used to establish these buffers. Land use planning plays an important role in preventing incompatible land uses being established near waste and resource recovery facilities, which could affect the operating life and functionality of a site. Resource recovery is also an important part of the WRR system, and should be encouraged in appropriate locations. If not managed properly, the materials going to landfill can have a significant impact on communities and environment now and in the long term. They also contain valuable resources which, if recovered, would create jobs, add value to the Victorian economy and minimise potential adverse impacts to community, environment and public health."

- Include the following documents as 'Policy Guideline Documents' in the planning scheme to assist decision makers mitigate potential impacts into the future:
 - Recommended Separation Distances for Industrial Residual Air Emissions (EPA Publication 1518, 2013)
 - Best Practice Environmental Management – Siting, Design, Operation and Rehabilitation of Landfills (EPA Publication 788.3, 2015 – the Landfill BPEM)
 - Assessing planning proposals near landfills (EPA Publication 1625, 2016)

9.4 Local Planning Policies

The Local Planning Policy (LPP), along with the MSS, forms part of the LPPF of the Mildura Planning Scheme. Guidance on the role, structure and content of the LPP is provided in Planning Practice Note 8: Writing a Local Planning Policy (PPN8)

Role

PPN8 describes the role of the LPP as guiding how discretion in a zone, overlay of a particular provision should or will be exercised. LPPs can be area-based, such as within a particular zone; or theme-based, such as for a particular use or structures over a certain height.

Structure

The Mildura Planning Scheme contains three (3) clauses and is structured as follows:

- 22.01 Budget Accommodation
- 22.02 Heritage
- 22.03 Healthy and Sustainable Neighbourhood Design

Content

Budget Accommodation

This local policy at Clause 22.01 (Budget Accommodation) applies to any higher density commercial accommodation use. It deals with the land use conflicts that arise when the various uses listed as some form of budget accommodation establish in wholly residential neighbourhoods. This local policy seeks to provide a variety of accommodation options for tourists and seasonal workers while setting out clear guidelines to ensure the amenity of surrounding residents is not unreasonably compromised.

The issue of budget accommodation being established in rural / farming areas is discussed in Section 3.4.

Heritage

This local policy at Clause 22.02 (Heritage) applies to applications in the Heritage Overlay (refer to Section 11.3). It deals with the protection of areas of heritage value and ensures new development is of a high quality and complementary nature.

Council has noted that a review of the Heritage Study is currently underway, and it is expected that upon completion, the Heritage Overlay and this Local Policy will be updated to reflect these findings.

Healthy and Sustainable Neighbourhood Design

This policy applies to the subdivision and development of all land in the municipality. It focuses on environmental sustainability and recognises the need to be resilient to changing climate conditions including the increases in extreme weather events.

It should be noted that vegetation is repeatedly noted as an important factor in improving sustainability and resilience, however the Vegetation Protection Overlay (VPO) is sparsely applied, along with the Heritage Overlay on very significant trees or avenues. Refer to Section 11.2 for further discussion on the potential to enhance the local content of the Mildura Planning Scheme to better implement this local policy.

Recommendations

- Review and update (as appropriate) the:
 - Mildura Economic Profile 2009
 - Mildura Industrial Land Use Strategy (subsequently updated in 2006)
- Implement the strategic intent of the Heritage Study Review to the Local Policy at Clause 22.02 (Heritage) upon its completion.

The Loddon Mallee Waste and Resource Recovery Group provided detailed recommendations to improve the effectiveness of the Planning Scheme, and have suggested that they could:

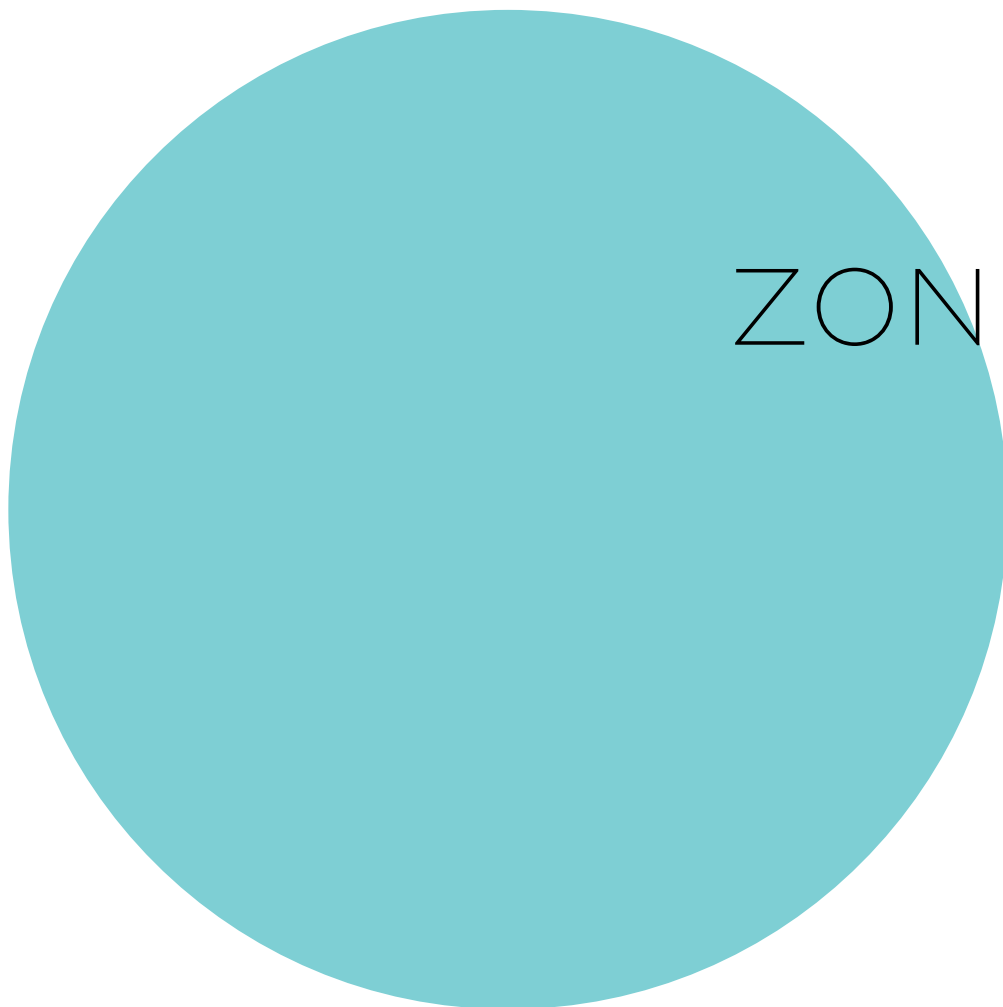
- Assist Council with the development of a local planning policy that contains:
 - Objectives and statements of policy to protect all waste and resource recovery facilities in the City;
 - Information to be provided by applicants;
 - Decision guidelines.

This policy should be included in Clause 22 of the Planning Scheme, but a Council adopted policy for internal use may be an appropriate interim measure.



10.0

ZONES



10.0 Zones

10.1 Overview

Review Kit

This chapter addresses the following questions as outlined in the Continuous Improvement Review Kit 2006:

- Assess the VPP implementation tools (local planning policies, zones, overlays)
 - Are the VPP tools successful in achieving the objectives, strategies and desired outcomes?
 - Are there any VPP tools used that are no longer useful or effective? Should these be modified or deleted from the planning scheme?
 - Are the tools clearly linked to the objectives and strategies in the LPPF (are they strategically driven or do they provide for a strategic outcome)?

Key Considerations

This chapter will consider the structure and content of the following zones:

- Residential Zones;
- Industrial Zones;
- Commercial Zones;
- Rural Zones;
- Public Land Zones; and
- Special Purpose Zones.

10.2 Residential Zones

Structure

The structure of the Residential Zones (Clause 32) in the Mildura Planning Scheme is:

Clause		Schedules
32.03	Low Density Residential Zone (LDRZ)	2
32.04	Mixed Use Zone (MUZ)	1
32.05	Township Zone (TZ)	1
32.08	General Residential Zone (GRZ)	1
32.09	Neighbourhood Residential Zone (NRZ)	1

Content

With the exception of the LDRZ and NRZ, all residential zones contain a default Schedule with no local content.

The Schedules to the LDRZ were introduced during this review period by Amendment C89 in November 2016. Schedule 1 to the LDRZ varies the VPP to require a permit for outbuildings above 100m², which is replicated in Schedule 2 along with the addition of a minimum subdivision area of 0.4 hectares on land in Cabarita, Irymple, Merbein (north) and Mildura (Lake Hawthorn and Flora Avenue north).

The NRZ was also introduced during this review period by Amendment C89 and varies the VPP to require a minimum lot size for subdivision of 1,800 square metres, minimum landscaping of two (2) canopy trees per dwelling, maximum front fence height of 0.5 metres and decision guidelines to consider DPO6 (Nichols Point Neighbourhood Residential Area) where relevant and consistency with the character of the area.

Discussion

The Mildura Housing and Settlement Strategy (MHSS) was implemented into the Mildura Planning Scheme in November 2016 through Amendment C89 which updated the current Schedules that contain local content.

10.3 Industrial Zones

Community feedback has identified some issues with the provision of LDRZ2 land in Irymple, as well as the need for additional residential land to be provided in the Mildura East / Irymple growth area, rather than the currently prioritised Mildura South growth area. These issues are considered in detail by the Panel Report associated with Amendment C89 discussed in Section 6.2.

The potential for providing Schedules to the MUZ that outline land use objectives is discussed in detail in Section 3.2.

Recommendations

- Consider the potential for a Neighbourhood Character Study to provide local content for the NRZ and GRZ and protect the existing and preferred neighbourhood character of the municipality.
- Apply Schedules to the Mixed-Use Zone in accordance with the detailed recommendation in Section 3.4.

Industrial land in the municipality is largely contained within the suburbs of Mildura, Irymple, Merbein and Red Cliffs.

Structure

The structure of the Industrial Zones (Clause 33) in the Mildura Planning Scheme is:

Clause		Schedules
33.01	Industrial 1 Zone (IN1Z)	1
33.03	Industrial 3 Zone (IN3Z)	1

Content

Both Industrial Zones contain a default Schedule with no local content.

Discussion

It was raised during consultation that there are several ageing industrial areas throughout the municipality that are not being taken up and developed.

The Mildura Industrial Land Use Strategy was published in 2003 and the size and location of industrial areas in the municipality warrants further strategic review.

Recommendations

- Review the Mildura Industrial Land Use Strategy to determine the amount and location of industrial land required.

10.4 Commercial Zones

Commercial land in the municipality is largely contained within the suburbs of Mildura, Irymple, Merbein and Red Cliffs.

Structure

The structure of the Commercial Zones (Clause 34) in the Mildura Planning Scheme is:

Clause		Schedules
34.01	Commercial 1 Zone (C1Z)	1
34.02	Commercial 2 Zone (C2Z)	-
34.03	Commercial 3 Zone (C3Z)	-

Content

The Schedule to the C1Z was introduced to the (former) Business 1 Zone by Amendment C68 in 2011, and was reformed to the Commercial 1 Zone by Amendment VC100 in 2013. The schedule requires specific maximum leaseable floor area for office and shop uses for 832 Fifteenth Street and 469 San Mateo Avenue, Mildura. There are no Schedules to the C2Z or C3Z.

Discussion

The Mildura Retail Strategy 2010 was implemented into the Planning Scheme via Amendment C67 in 2011. Significant changes in the planning and development for retail areas in Mildura resulted in the need for a review of this Strategy.

The Mildura Retail Strategy Review was conducted in 2018 and provided a suite of recommendations, including a new vision and objectives for Mildura's retail areas.

Recommendations

- Implement the recommendations of the Mildura Retail Strategy Review 2018 via a Planning Scheme Amendment to update the vision and objectives of Mildura's Commercial Zones.

10.5 Rural Zones

Rural Zones, and particularly the Farming Zone, are applied to the majority of the municipality and provide for agricultural activities throughout the municipality.

Structure

The structure of the Rural Zones (Clause 35) are:

Clause		Schedules
35.03	Rural Living Zone (RLZ)	1
35.06	Rural Conservation Zone (RCZ)	3
35.07	Farming Zone (FZ)	1
35.08	Rural Activity Zone (RAZ)	1

Content

Schedule 1 of the RLZ applies to small patches of land near Merbein and Cardross. It varies the requirements of the VPP to allow subdivision down to 1 hectare and removes the permit requirement for a dwelling on lots down to 0.4 hectares.

Schedule 1 to the RCZ applies to land near the Woorlong Wetlands and varies the requirements of the VPP to allow subdivision down to 1-3 hectares (instead of the 40ha specified in the VPP). No permit is required for extensions to dwellings and outbuildings of up to 100m² or agricultural buildings up to 150m². Schedule 2 to the RCZ applies to part of the Wyperfield National Park and varies the VPP to only allow subdivision of 100ha.

Schedule 3 to the RCZ was introduced in the current review period by Amendment C89. It applies to land that forms a buffer between urban areas and the Murray River near Johnsons Bend and varies the VPP by allowing subdivision down to 4ha.

The Schedule to the FZ was altered in the current review period by Amendment C89 to add a note that the MOIA incorporated document may apply, and has otherwise operated historically since 2009.

10.6 Public Land Zones

Schedule 1 to the RAZ was also introduced via Amendment C89 and applies to a small area of land in Mildura. It varies the header provision to allow subdivision down to 1 hectare and sets minimum setback distances.

Discussion

PPN37: Rural Residential Development, provided in June 2015, notes that rural residential land uses require special consideration as they may have impacts greater than traditional urban uses. These considerations were discussed in the MHSS in detail, where it was determined that Mildura had provided an adequate amount of planned, orderly rural residential land for the lifetime of the Strategy, taking into consideration the ambitious population growth forecasts.

Most Schedules that contain local content in the rural zones were provided or updated by Amendment C89 associated with the MHSS. The Panel Report for this Amendment provides sound justification for the application of zones and provision of local content.

The issue of protecting agricultural land from encroaching urban activities in the Farming Zone and subject to the Mildura Older Irrigation Area (MOIA) incorporated document is discussed in detail in Section 3.4.

Recommendations

- Amend the local content to the Rural Zones in accordance with the discussion in Section 3.4.

Structure

The structure of the Public Land Zones (Clause 36) in the Mildura Planning Scheme are:

Clause		Schedules
36.01	Public Use Zone (PUZ)	1
36.02	Public Park and Recreational Zone (PPRZ)	1
36.03	Public Conservation and Resource Zone (PCRZ)	1
36.04	Road Zone (RZ)	-

Content

The schedule to the PUZ contains local content, however all other Schedules have no local content and are default Schedules.

The Schedule to the PUZ were introduced during this review period by Amendment C88 in August 2018. This schedule requires public land at Mildura and Yelta Railway (associated with the Bioenergy Power Plant, Carwarp) to be in accordance with the incorporated document 'Bioenergy Power Plant Concept Master Plan, Carwarp 14 May 2014'.

Discussion

PPN2 (Public Land Zones) notes that:

Land should not be automatically included in a public land zone simply because it is public land. There will be situations where a public land zone is not the most appropriate zone. Examples include roads and remnant parcels of public land in rural areas. In such cases the use of other zones and overlays may appropriately recognise the purpose for which the land is reserved.

A number of submissions noted there are anomalies in the Planning Scheme where the PUZ has not been updated to reflect the change to private ownership of formerly public land.

Recommendations

- Review land in the PUZ to ensure is has not been automatically included simply because it is (or was formerly) public land, concentrating first on properties identified during consultation

10.7 Special Purpose Zones

Structure

The structure of the Special Purpose Zones (clause 37) in the Mildura Planning Scheme is:

Clause		Schedules
37.01	Special Use Zone (SUZ)	10
37.02	Comprehensive Development Zone (CDZ)	1
37.03	Urban Floodway Zone (UFZ)	1
37.07	Urban Growth Zone (UGZ)	1

Content

The Schedule to the UFZ is the only default Schedule with no local content.

- SUZ1: 'Private Education and Religious Establishments'; SUZ2: 'Tourist Precincts'; SUZ4: 'Mildura Hospital'; SUZ5: 'Essential Service Utilities' SUZ6: 'Red Cliffs Caravan Park' were all introduced prior to the last review period and were most recently updated by Amendment VC37 in January 2006.
- SUZ3: Mildura Marina was introduced prior to the previous review period under Amendment C61 in February 2010.
- SUZ7: Mildura Airport was introduced in the last review period under Amendment C64 in March 2014.
- SUZ8: Mildura - Irymple Urban Transition Area was introduced prior to the last review period under Amendment VC63 in July 2010.
- SUZ9: Mildura - Irymple Urban Transition Area was introduced historically in 2008 by Amendment C38.
- SUZ10: Bioenergy Power Plant, Carwarp was introduced in this review period under Amendment C88 in August 2014.
- CDZ1: Mildura Golf Resort Redevelopment Masterplan was introduced in the previous review period under Amendment C66 in August 2012.

- UGZ1: Mildura South Precinct Structure Plan - Activity Centre was introduced in this review period under Amendment C75 in July 2016.

Discussion

PPN3 (Applying the Special Use Zone) was updated in May 2017 and notes that the number of zones and complexity of planning requirements should be kept to a minimum. It provides the following test to determine if the SUZ should be applied to land:

A Special Use Zone can be considered when either:

- *an appropriate combination of the other available zones, overlays and local policies cannot give effect to the desired objectives or requirements*
- *the site adjoins more than one zone and the strategic intent of the site, if it was to be redeveloped, is not known and it is therefore not possible to determine which zone is appropriate.*

Application of the Special Use Zone is not appropriate when an alternative zone can achieve a similar outcome, with appropriate support from local policies and overlays.

PPN3 goes on to explain that the SUZ should not be used to give effect to master plans for uses such as schools and hospitals, and that the IPO or DPO is the appropriate tool to encourage master planning.

The Mildura Planning Scheme contains a large number of Schedules to the SUZ and it is important to consider if it is being applied correctly.

SUZ1 (Private Education and Religious Establishments) sets out the requirements for a master plan for private school developments, which is generally against the advice set out in PPN3. The IPO or DPO is recommended for development that encourages master planning.

PPN3 advises that a Local Policy should be used to guide or promote decisions about specific

uses or locations, without the need to apply the SUZ. This could be the case for SUZ2 - 4, 6 and 10 which relate to specific uses or locations.

With the recent restructure of the PPF under Amendment VC148, it is possible that these Schedules could be translated into local policy that would then be reflected in the PPF. A potential structure of the PPF is provided in Appendix L and includes the possible relocation of these Schedules, if they can form part of a local policy.

Recommendations

- Rezone the relevant areas of land in the SUZ1 to either the IPO or DPO to encourage master planning of private schools using the correct mechanism of the Planning Scheme;
- Undertake further strategic work with assistance from DELWP to determine if Schedules to the SUZ can be contained within Local Policy and translated into the new PPF structure, or otherwise updated in the accordance with new guidelines currently being prepared by DELWP.





OVERLAYS



11.0 Overlays

11.1 Overview

Review Kit

This chapter will address the following questions as outlined in the Continuous Improvement Review Kit 2006:

- Assess the VPP implementation tools (local planning policies, zones, overlays)
 - Are the VPP tools successful in achieving the objectives, strategies and desired outcomes?
 - Are there any VPP tools used that are no longer useful or effective? Should these be modified or deleted from the planning scheme?
 - Are the tools clearly linked to the objectives and strategies in the LPPF (are they strategically driven or do they provide for a strategic outcome)?

Key Considerations

- Environmental and Landscape Overlays
- Build Form Overlays
- Land Management Overlays
- Other Overlays

11.2 Environmental and Landscape Overlays

Structure

The structure of the Environmental and Landscape Overlays (Clause 42) are:

Clause		Schedules
42.01	Environmental Significance Overlay (ESO)	4
42.02	Vegetation Protection Overlay (VPO)	2

Content

All schedules in Clause 42 have local content, and all of them - except VPO2 - have been introduced prior to the current review period.

- ESO1: Murray River Corridor was most updated during the previous review period under Amendment C44 in June 2010.
- ESO2: Mildura Waste Water Treatment Plant and Reuse Centre was most updated during the previous review period under Amendment C44 in June 2010.
- ESO3: Merbein Mushrooms Buffer Area was most updated during the previous review period under Amendment C44 in June 2010.
- ESO4: Incompatible Land Use Buffer Area was most updated during the previous review period under Amendment C44 in June 2010.
- VPO1: Roadside Vegetation Protection Area was most updated during the previous review period under Amendment C44 in June 2010.
- VPO2: 107-111 Twelfth Street, Mildura was most updated during this review period under Amendment C96 in November 2016.

Discussion

The need to identify and protect important industries requiring buffer distances through the application of the ESO is one of the issues discussed in Section 3.6. This tool is generally appropriate, however consideration should be given on a case by case basis as to whether the ESO is the most appropriate tool under the VPPs to prevent land use conflict between industries and nearby, sensitive uses.

Clause 22.03 (Healthy and Sustainable Neighbourhood Design) applies to the subdivision and development of all land in the municipality and seeks to improve environmental sustainability. It refers to the importance of vegetation and canopy tree cover to reduce the urban heat island effect and improve the municipality's resilience to the effects of climate change.

The ESO is widely applied to land surrounding waterways and important ecological areas in the municipality, but the urban areas generally have sparse vegetation controls.

The Loddon Mallee Waste and Resource Recovery Group noted that ESO1 is currently applied over the Mildura Landfill and surrounds; however, this relates to the Murray River Corridor. In order to adequately protect WRR infrastructure, and reduce additional residential encroachment that may be subject to amenity impacts, an ESO or similar could be applied to ensure more appropriate outcomes in this regard. Alternatively, Council could improve the content of Development Plan Overlay (DPO3) in Flora Avenue to ensure that buffers between the landfill and dwellings are maximised.

There may be an opportunity to amend the Development Plan Overlay (DPO3) that applies to this site to ensure developer considers landfill risks and future residents are made aware of potential amenity impacts prior to purchasing the land.

Recommendations

- Identify additional industries/activities within Mildura that would benefit from the creation of a buffer distance around their existing operation, including those industrial uses highlighted in the recent VCAT cases, and any others identified through community consultation.
- Calculate appropriate buffer distances for each type of activity, with reference to guidelines from the EPA and Clause 53.10.
- Review the ESO4 'Incompatible Land Use Buffer' planning provision, with reference to the draft schedule produced by Major Hazards Facilities Advisory Committee, particularly to expand the list of permit requirements beyond dwellings to include the following:
 - Accommodation
 - Child care centre
 - Education centre
 - Place of assembly
 - Hospital
 - Subdivide land.
- Add the expanded list of industrial activities to Clause 21.07-1 'Avoiding land use conflicts' of the Mildura MSS.
- In conjunction with LMWRRG, review ESO1 to better protect waste and resource recovery infrastructure.
- Undertake an Urban Forest Strategy, Tree Study or similar strategic work to bolster the vegetation protection controls in urban areas

11.3 Heritage and Built Form Overlays

Structure

The structure of the Heritage and Built Form Overlays (Clause 43) are:

Clause		Schedules
43.01	Heritage Overlay (HO)	1
43.02	Design and Development Overlay (DDO)	12
43.04	Development Plan Overlay (DPO)	6

Content

The Schedule to the Heritage Overlay was introduced in the review period under Amendment C82 in April 2017.

All DDOs contain local content:

- DDO1: Deakin Avenue was introduced in this review period under Amendment GC8 in June 2014.
- DDO2: Town Entrances was introduced in this review period under Amendment GC8 in June 2014.
- DDO3: Mildura Central Business District (CBD) was introduced in this review period under Amendment GC8 in June 2014.
- DDO4: Industrial Areas was introduced in the previous review period under Amendment C44 in June 2010.
- DDO6: Mildura Airport - Obstacle Height Area No. 1 was introduced in the previous review period under Amendment C64 in March 2014. Triggers an application for structures taller than 4m above natural ground level.
- DDO7: Mildura Airport - Obstacle Height Area No. 1 was introduced in the previous review period under Amendment C64 in March 2014. Triggers an application for structures taller than 20m above natural ground level.

- DDO8: Mildura Airport - Obstacle Height Area No. 1 was introduced in the previous review period under Amendment C64 in March 2014. Triggers an application for structures taller than 40m above natural ground level.
- DDO9: Benetook Avenue Precinct was introduced in this review period under Amendment GC8 in June 2014.
- DDO10: Fifteenth Street Special Use (Business) Precinct was introduced prior to the last review period under Amendment C38 in October 2008.
- DDO11: Fifteenth Street Special Use (Community Uses) Precinct was introduced prior to the last review period under Amendment C38 in October 2008.
- DDO12: Fifteenth and Deakin Structure Plan Area was introduced in the last review period under Amendment C67 in May 2013.
- DDO13: Irymple Structure Plan Area was introduced in the last review period under Amendment C67 in May 2013.

All DPOs also contain local content:

- DPO1: Residential Areas was introduced prior to the previous review period under Amendment C44 in June 2010, and allows two-lot subdivision down to 4,000m² and requires a s173 Agreement to ensure that the lot cannot be subdivided further.
- DPO2: Low Density Residential Areas was introduced prior to the previous review period under Amendment C42 in November 2007.
- DPO3: Ontario-Flora Development Area was introduced in the previous review period under Amendment C66 in August 2012.
- DPO4: Irymple Low Density Residential Area was introduced in this review period under Amendment C89 in November 2016.
- DPO5: Cabarita Low Density Residential Area was introduced in this review period under Amendment C89 in November 2016.
- DPO6: Nichols Point Neighbourhood Residential Area was introduced in this review period under Amendment C89 in November 2016.

Discussion

The anomaly register identifies some sites that have a heritage status which may be unwarranted. It is understood that the Mildura Heritage Study is currently being reviewed and changes to the Heritage Overlay may form part of the outcome of that study.

DDOs 6-8 are all titled Mildura Airport - Obstacle Height Area No. 1 and set the height limits to which an application is required to be considered against the relevant plans associated with the Mildura Airport. This is the standard practice adopted by other municipalities (e.g. DDO4 & DDO5 in Kingston City Council), however they should denote different areas, as below:

- DDO6: Mildura Airport - Obstacle Height Area No. 1
- DDO7: Mildura Airport - Obstacle Height Area No. 2
- DDO8: Mildura Airport - Obstacle Height Area No. 3

This will provide users of the Planning Scheme with a better ability to discern the difference between these Schedules and the associated triggers for structure height.

In Amendment C73 (considered in Section 6.2), changes to DDO4 were recommended to apply additional requirements to land proposed to be rezoned from LDRZ to an industrial zone that would then have a sensitive interface with residential uses. The requirements were for setbacks, a vegetated buffer and an acoustic fence. The rezoning was ultimately abandoned, but a sensitive interface remains.

Recommendations

- Adopt the findings and recommendations of the review of the Mildura Heritage Study, including any relevant update to the Heritage Overlay in accordance with PPN1;
- Amend DDO6, DDO7 and DDO8 to include an exemption from a permit requirement for subdivision of land (in accordance with the discussion in Section 8.3).
- Amend the titles of DDO7 and DDO8 as follows:
 - DDO7: Mildura Airport - Obstacle Height Area No. 2
 - DDO8: Mildura Airport - Obstacle Height Area No. 3
- Consider amending DDO4 to include the requirements for setbacks, vegetation buffers and acoustic fencing for sensitive interfaces between industrial and residential land uses along Cowra Avenue (which was previously approved but ultimately abandoned under Amendment C73).

The Loddon Mallee Waste and Resource Recovery Group provided detailed recommendations to improve the effectiveness of the Planning Scheme, as follows:

- Pursue the proposed changes to the zones and overlays as per the site specific recommendations in the LBSP Land Use Planning Project Final Report, prepared by Centrum Town Planning (as follows):
 - Improve the content of Development Plan Overlay (DPO3) in Flora Avenue to ensure that buffers between the landfill and dwellings are maximised.

11.4 Land Management Overlays

Structure

The structure of the Land Management Overlays (Clause 44) are:

Clause		Schedules
44.02	Salinity Management Overlay (SMO)	1
44.03	Floodway Overlay (FO)	1
44.04	Land Subject to Inundation Overlay (LSIO)	1
44.06	Bushfire Management Overlay (BMO)	-

Content

Schedules to the FO and LSIO have no local content and contain default schedules.

The schedule to the SMO was last updated during the previous review period under Amendment C64 in March 2014.

Discussion

An issue with the local content in SMO1 was raised by Council Officers and is discussed further in Section 8.3.

Recommendations

- Undertake further strategic work to determine if a Salinity Action Statement is the most cost-effective way of managing the risk of salinity on potential development sites, to ensure this is not an onerous requirement on applicants.

11.5 Other Overlays

Structure

The structure of the Other Overlays (Clause 45) are:

Clause		Schedules
45.01	Public Acquisition Overlay (PAO)	1
45.02	Airport Environs Overlay (AEO)	2
45.03	Environmental Audit Overlay (EAO)	-
45.06	Development Contribution Plan Overlay (DCPO)	3
45.09	Parking Overlay (PO)	1

Content

The schedule to the PAO contains local content, and was introduced in the previous review period under Amendment C64 in March 2014. There are 3 PAO areas listed in the schedule with Purpose of Acquisition details.

Schedule 1 and 2 to the AEO list the requirements of each schedule, and were introduced prior to the previous review period under Amendment VC37 in January 2006.

The DCPO schedules contain the following local content:

- DCPO1: Infrastructure Works was introduced prior to the previous review period under Amendment VC37 in January 2001.
- DCPO2: Infrastructure Works was introduced in this review period under Amendment GC8 in June 2014.
- DCPO3: Infrastructure Works was introduced prior to the previous review period under Amendment C38 in October 2008.

Schedule 1 to the Parking Overlay applies to the area of the Mildura CBD, was introduced in the previous review period under Amendment C64 in March 2014.

Recommendations

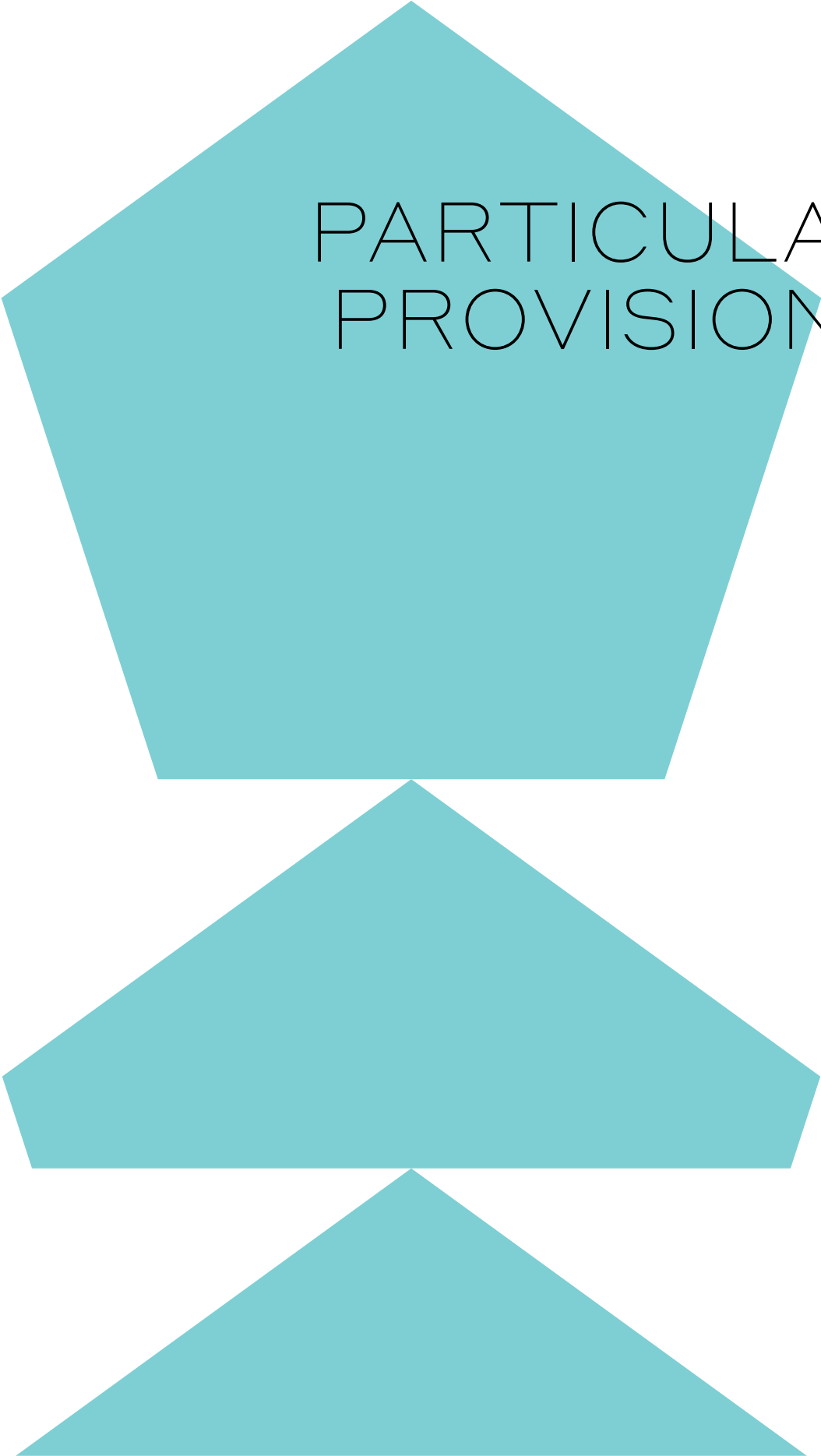
The Loddon Mallee Waste and Resource Recovery Group provided detailed recommendations to improve the effectiveness of the Planning Scheme, as follows:

- Pursue the proposed changes to the zones and overlays as per the site specific recommendations in the LBSP Land Use Planning Project Final Report, prepared by Centrum Town Planning (as follows):
 - Monitor the review of the Irymple Structure Plan to ensure consideration of buffers to the Anda site.
 - Boinka Hard Waste Compound
 - apply the EAO
 - Cowangie Hard Waste Compound
 - rezone transfer station and former landfill to PUZ6
 - Cullulleraine Transfer Station
 - rezone transfer station and former landfill to PUZ6
 - Lindsay Point Transfer Station - rezone to PUZ6 subject to further investigations into tenure arrangements and ownership. If not rezoned, apply EAO.
 - Meringur Transfer Station - rezone to PUZ6 If use is ongoing. If not rezoned, apply EAO.
 - Mittyack Transfer Station
 - rezone to PUZ6
 - Murrayville Transfer Station
 - rezone to PUZ6
 - Nangiloc Transfer Station - Consider rezoning transfer station and former landfill to PUZ6, subject to further investigations into need to close road and consideration of ongoing use. Apply EAO if site not rezoned to PUZ6.
 - Ouyen Landfill and Transfer Station - rezone to PUZ6
 - Tutye Hard Waste Compound - apply EAO
 - Underbool Transfer Station
 - Rezone to PUZ6
 - Walpeup Transfer Station - Rezone to PUZ6, if not rezoned, apply EAO
 - Werrimull Transfer Station - Consider rezoning site to PUZ6, subject to further investigations into need to close road and prospect of closing the facility. If site not rezoned, apply EAO.



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PARTICULAR
PROVISIONS

12.0 Particular Provisions

12.1 Overview

Providing more local content to the Particular Provisions was one of the main issues identified in the previous Planning Scheme Review. This is discussed in detail in Section 3.3. The recommendations include:

- Modify the schedule to Clause 52.17 to exempt the removal of Cumbungi at Lake Cullulleraine and its riparian zone from the need for a planning permit.
- If the dry stone walls identified within the Mildura Heritage Study are found to be locally significant, then modify the schedule to Clause 52.37 to require a permit for their alteration or removal.

A number of other modifications to the schedules within the Particular Provisions may be appropriate, but the following further strategic work is required to first evaluate the need for change and provide sufficient strategic justification for a future planning scheme amendment:

- As part of the review of the Mildura Public Open Space Strategy, Council should consider the different mechanisms currently requiring the contribution of public open space (such as the DCPs) and evaluate the effectiveness of Council's existing policies to gain contributions commensurate with the demand generated by individual developments. Following adoption of the revised strategy, Council should evaluate whether an amendment to vary the schedule to Clause 52.01 is required.
- As a small exercise, Council could review the number of planning permit applications received over the past 4 years for native vegetation removal, and examine whether a) there is a geographic concentration in a particular area and b) whether the number of applications in the area is significant. If these two conditions are met, Council could consider preparing a native vegetation precinct plan to provide a more holistic approach to vegetation management.

- If supported by Council, further research and analysis could be conducted into the impacts of gambling within the municipality, with a view to exploring whether a more comprehensive strategy for the municipality is required. If a strategy were to be developed, it should consider modifications to the schedule to Clause 58.28, in conjunction with policy to be included elsewhere within the Mildura Planning Scheme, as part of a broader set of actions to reduce the impacts of gambling on the local community.

Amendment VC148

It should be noted that Amendment VC148 introduced the next stage of Smart Planning Reform to the VPP and restructure the Particular Provisions. Any recommendations to prepare or apply local content to the Particular Provisions should be considered in the context of these changes and noting that additional work is required with assistance and resources from DELWP to properly translate Planning Schemes into the new format.



CONCLUSION

13.0 Conclusion

13.1 Overview

Following Council's adoption of this report, the Mildura Planning Scheme Review 2018 will be complete. It will fulfil Council's legislative requirements under section 12B(1) of the *Planning and Environment Act 1987* (the Act).

The purpose of the review has been to audit the performance of the Mildura Planning Scheme; to enhance its effectiveness and efficiency in achieving the objectives of planning in Victoria, as well as State and local planning objectives. It addresses:

- What has been achieved since the last review?
- Where are we now?
- Where to from here?

This Review has been conducted in accordance with 'Planning Practice Note 32: Review of Planning Schemes' and the associated 'Continuous Improvement Tool Kit 2006'.

Analysis undertaken has included:

- A review of reforms undertaken by the State Government over the past 4 years, which includes changes to the Act, significant new strategies and policy reforms, changes to and the introduction of Planning Practice Notes and Ministerial Directions, and VC amendments.
- A review of new policies and strategies undertaken by the Council over the past 4 years, including the 19 planning scheme amendments and associated 8 Panel reports.
- A review of the 23 VCAT decisions that have been determined over the past 4 years.
- An audit of the local provisions of the Mildura Planning Scheme, including the MSS, local policies, schedules to zones, schedules to overlays and the local content of Particular Provisions.
- Two (2) rounds of consultation with the community and stakeholders, that has seen 14 workshops and interviews, and 31 submissions. A third round of consultation will be undertaken when this draft report is publicly exhibited.
- A review and assessment of the five issues identified in the previous (2014) review.

What has been achieved since the last review?

In four years since the previous Mildura Planning Scheme Review conducted in 2014, there has been a significant amount of planning reform and change. In summary this has included:

- Eight (8) amendments to the *Planning & Environment Act 1987*, including the introduction of the Infrastructure Contributions system which prompted the need for Council to review their Development Contribution Plans.
- The introduction of a number of major policy reforms, including Plan Melbourne Refresh; VicSmart, Smart Planning, Infrastructure Contributions reform, introduction of the Climate Change Act, Wind Energy, Sustainable Animal Industries Reform, Bushfire, plus many others. Each of the listed reform programs have some relevance to the Mildura Planning Scheme.
- Many of these reforms have involved State Government initiated planning scheme amendments, of which there have been 37 (V or VC) amendments.
- 52 Planning Practice Note changes, an average of one a month over the period; 33 of which are potentially relevant to Mildura.
- In addition to State Government initiated planning reform, Council itself has been active in undertaking strategic work and ensuring that the planning scheme maintains its strategic focus and reflects the aspirations of the community and Council. Over the past four years: Council has undertaken the following:
 - Given effect to 14 of the 21 actions identified in the previous planning scheme review.
 - Prepared and implemented a number of strategic policies, including the Community & Council Plan 2017-2021; Mildura Housing and Settlement Strategy 2013; Mildura Older Irrigation Areas (MOIA) Incorporated Document (August 2016); Draft Invasive Plant and Animal Plan 2015-2019.

- Has undertaken nineteen (19) local amendments, which has involved eight Panels.

Of particular note was the Mildura Housing and Settlement Strategy, which provided a comprehensive, clear, logical approach to settlement within the municipality. This was implemented via Amendment C89 in November 2016, which also implemented the outcomes from the review of the MOIA policies and the associated Incorporated Document. The policies around the protection of productive agricultural land from encroaching urban-style land uses has been consistently contested over the past decade (and beyond). Pressure remains to revisit these policies today.

Also significant was Amendment C75 which implemented a range of strategic planning documents for the Mildura South growth area. This provided much needed strategic guidance to facilitate and coordinate the growth of this area, which contains much of the 15-year land supply for the township.

There have been a relatively low number of planning application appeals (23) considered by VCAT since the 2014 Review. As a general statement, VCAT has tended to support Council's decisions which indicates that the current scheme provides a strong basis for statutory decision making.

Where are we now?

On the basis of this review, the following observations are made about the Mildura Planning Scheme:

- Council has undertaken regular planning scheme reviews since the introduction of the new format planning scheme in 1999.
- Consequently, the structure of the Planning Scheme, particularly the LPPF, is clear, well ordered, logical and clearly articulates strategic directions.
- No feedback was received from the community or stakeholders that suggested that the planning scheme is failing or flawed. Feedback from submitters raised concerns about a range of relatively minor matters, important to the owners of specific

properties, but these concerns do not indicate any fundamental, structural concern within the local planning framework.

- On the basis of the above, the Mildura Planning Scheme appears to enjoy support from Council and the community and reflect their aspirations for the municipality.
- Until the recent introduction of Smart Planning, the Local Planning Policy Framework (LPPF) was consistent with an industry best practice approach to structure. A similar comment is made about the structure and content of local provisions to zones and overlays.
- It establishes clear policy objectives for different areas of the municipality. The recent work and implementation of the MHSS and the Review of the MOIA policy assist greatly in this regard, as does the structure and content of Clause 21.10 'Local Areas'.
- Effective and appropriate use is made of Victoria Planning Provision (VPP) tools to implement State and local policy objectives.
- Recent changes to the Practice Note regarding the application of the Special Use Zone may require Council to consider how the SUZ1 has been applied to several private schools. Consideration should be given to the use an alternative zone.
- There is a lack of strategic guidance for the planning of the Mildura East Growth area, although Council are aware of this gap and the need to undertake this work.
- The MSS references the objectives of an outdated Council Plan. While the overall direction may not have changed significantly, users of the Planning Scheme may have more confidence in the content of the MSS if the references and objectives are directly reflective of the most recent Community & Council Plan 2017.
- Other plans and strategies that are out of date and should be considered for review include:
 - Industrial Land Use Strategy 2006: to determine the extent and location of industrial land, particularly in Mildura.

- Mildura Economic Profile 2009: to update many of the outdated statistics driving economic development policy.
- Transport for Regional Development 2005: to explore the viability of the long-term recommendations made for a heavy-vehicle bypass route, additional bridge, parallel freight railway and other large infrastructure projects such as the return of passenger railway between Melbourne and Mildura.
- Mildura Recreation Reserve Masterplan 2004.
- Development Contribution Plans: in light of the introduction of the Infrastructure Contributions system introduced to the Act in 2015.
- There is a lack of implementation of the intent of the Local Policy at Clause 22.03 (Healthy and Sustainable Neighbourhood Design) in terms of more controls to facilitate vegetation protection, enhancement and establishment to improve resilience to climate change throughout the relevant local provisions in zones and overlays.
- A number of plans and strategies that have recently been completed, or are nearing completion, have not yet had their strategic intent incorporated into the Planning Scheme. The inclusion of this strategic work will alleviate some of the current issues and gaps, they include:
 - Draft Invasive Plant and Animal Plan 2015-2019
 - Review of the Mildura Heritage Strategy
 - Mildura Retail Strategy Review 2018
 - Review of the Mildura CBD Plan 2007
 - Review of the Public Open Space Strategy 2003
- There are clear linkages between State policies and local policies. This is demonstrated by the notional restructure of the Mildura LPPF against the new Planning Policy Framework (PPF) shown in Appendix L, with no glaring omissions or 'orphaned' local provisions.

- On the basis of the analysis of VCAT decisions, anecdotal feedback from Council and the community, the Mildura Planning Scheme appears to be effective in implementing the objectives and strategies within the scheme.
- Content within the planning scheme remains relevant and addresses issues that continue to be challenges within the municipality, such as the protection of agricultural land, the encouragement of economic development and growth area planning.

Overall, the Mildura Planning Scheme is up-to-date and performing well, and provides a strong basis for addressing the emerging challenges identified within this review.

Where to from here?

Although there are many actions identified within this Review (see the Work Program), a number of them can be grouped together to show the fundamental challenges with significant implications for the municipality and Council.

Climate Change

At a State Government level there is an increasing emphasis (introduction of the Climate Change Act (2017), Plan Melbourne actions, updates to state policy framework) on preparing for the impacts of climate change. Through this review, a number of issues were identified that relate to climate change, such as water security, bushfire and flood risk mapping, the urban heat island effect, and preparing for extreme weather impacts. Given the latest projections from the International Panel on Climate Change (IPCC), it is suggested that Council prioritise strategic work related to these topics and prepare adaptation strategies that seek to improve the resilience of the community and the local built form to future hazards.

Economic Development

The growth of the local economy is vital to the liveability and resilience of the community. The Mildura Planning Scheme already contains a strong focus on the importance of protecting horticultural and agricultural production, supporting emerging industries, and providing

quality infrastructure. Mildura differs from many regional areas in that it continues to grow and expand. Council should continue to focus on these opportunities to expand and encourage the growth of local employment opportunities, and a review of the Industrial Land Use Strategy would assist in this regard, as would encouraging opportunities for tourism, in addition to the continued protection of productive (irrigated) agricultural land. Council's aspiration to become the solar capital of Australia is both a climate adaptation strategy and an economic growth strategy. But this strategy should not come at the expense of losing productive agricultural land in the MOIA and NIA.

Planning reform

As can be seen from this report, the past 4 years has seen an incredible amount of planning reform initiated by the Victorian Government. The sheer scale of reform has been difficult to digest and comprehend, let alone the effort required to respond and implement this reform at a local level. This is a trend that is likely to continue for at least the next 2 to 3 years, as every Planning Authority (council) works with DELWP to give effect to Smart Planning by completely re-writing their local policies (MSS and LPPs) as a first step; followed by a requirement to update the local content (schedules) to all zones and overlays. These are legislative requirements that will consume a significant proportion of all councils' planning teams, particularly their strategic planning teams.

Growth area planning

Many of the submissions received from stakeholders and the community highlighted the need for further strategic planning in relation to the Mildura East Growth area, as well as areas of Irymple, and the need to revise some of the Development Contributions schemes currently in place. Council is well aware of the need to undertake this strategic work, which would respond to many long-standing requests from residents. It is thus recommended that Council prioritise the preparation of this strategic work. The constraints on this are the capacity and resources of Council.

Resourcing

The demands on the time and resources of a councils' team of planners are extensive and growing. These can be summarised broadly as follows:

- As highlighted above, they are required to respond to State Government planning reforms as they arise; not just through implementation, but often through active contributions via submissions or participation in regional working groups.
- As with many external facing areas of Council, planners provide a basic customer service role to answer questions and requests for help from the public (via phone, via email, over the counter, or online).
- To remain effective, all planners should undertake regular professional development to maintain their skills and ensure their knowledge remains current.
- There are then requirements on all employees to participate in general staff training (OH&S, information technology training in new systems, equal Opportunity, purchasing, conflict of interest, interview selection, etc.).

All of the above detracts from the amount of time available for a council's strategic planning team to undertake its core role, the preparation, management and implementation of strategic planning policies and undertaking planning scheme amendments.

As shown in this Review, there is a significant amount of work facing the Council over the next 4 years, and the existing team of 3 EFT strategic planners face a significant challenge in delivering this ambitious work program. More detailed analysis of the resources required to deliver this work program is required to enable Council to make a decision about prioritising this work program given existing staffing and resource constraints.

13.2 Further Strategic Work

Council has already identified further strategic work to be undertaken in the MSS of the Mildura Planning Scheme, detailed below:

Settlement and Housing (21.04)

- Update and implement the Ouyen Structure Plan.
- Prepare a masterplan for the Sixteenth Street Greenway, including landscape guidelines.
- Prepare a masterplan for the Sixteenth and Ontario Activity Centre.
- Determining the suitability of utilising land which has been subject to long term agricultural spraying for residential development. (This has been addressed in a report entitled: 'Residual Effects of Spraying on Soil in Horticultural areas identified for future residential use').

Environment (21.05)

- Prepare an appropriate planning scheme amendment to assist in the protection of Regent Parrot habitat.
- Complete accurate mapping of all remnant vegetation in the municipality to enable its inclusion in the Vegetation Protection Overlay.
- Prepare a Surrounds Strategy for areas at the interface of public and private lands in order to maintain the integrity of boundary areas for parks and reserves.
- Introduce new flood mapping and controls with accurate data.

Natural Resource Management (21.06)

- Prepare policy guidelines for applications to use land for 'Group accommodation' in non-urban zones.

Transport and Infrastructure (21.09)

- Prepare Development Contributions Plans as required.

13.3 Work Program

The Work Program is made up the recommendations throughout this report and provides guidance for the strategic work and Amendments to the Planning Scheme that should be undertaken over the next four years:

No.	Recommendation	Clause(s)	Report Section	Priority	Anticipated (financial) year of delivery
01	Adopt the report as the review required pursuant to section 12B(1) of the <i>Planning and Environment Act 1987</i>	-	All	High (immediate)	2019
02	Forward the report to the Minister for Planning as required by section 12B(5) of the <i>Planning and Environment Act 1987</i>	-	All	High (immediate)	2019
03	Progress the local elements of the State Government Smart Planning Program including restructuring the Local Planning Policy Framework (LPPF) to the new Planning Policy Framework (PPF) and preparation of a Municipal Planning Strategy with assistance and resources provided by DELWP.	21 & 22	4.5	High (immediate)	2019 - 2020
04	Prepare a Planning Scheme Amendment to rectify identified anomalies in the Mildura Planning Scheme.	-	8.4	High (immediate)	2019 - 2020
05	Prepare a Planning Scheme Amendment to introduce four (4) Schedules to the Mixed Use Zone (MUZ), and broad policy guidance to the MSS, to achieve the land use objectives for each area.	21.04 21.10 32.04	3.2 10.2	Medium	2019 - 2020
06	Prepare a consolidated document that addresses the locations for the control of Cumbungi at Lake Cullulleraine, including the preferred methods, monitoring and evaluation requirements	21.05 52.17	3.3 8.2	Medium	2020 - 2021
07	In the review of the Mildura Public Open Space Strategy currently underway, Council should consider the different mechanisms currently requiring the contribution of public open space (such as the DCPs) and evaluate the effectiveness of Council's existing policies to gain contributions commensurate with the demand generated by individual developments. Following adoption of the revised strategy, Council should evaluate whether an amendment to vary the schedule to Clause 52.01 is required.	52.01	3.3	Medium	2021 - 2022
08	Review the number of planning permit applications received over the past 4 years for native vegetation removal, and examine whether a) there is a geographic concentration in a particular area and b) whether the number of applications in the area is significant. If these two conditions are met, Council could consider preparing a native vegetation precinct plan to provide a more holistic approach to vegetation management.	52.16 52.17	3.3	Medium	2022 - 2023
09	Conduct further research and analysis into the impacts of gambling within the municipality, with a view to exploring whether a more comprehensive strategy is required. If a strategy were to be developed, it should consider modifications to the schedule to Clause 58.28, in conjunction with policy to be included elsewhere within the Mildura Planning Scheme, as part of a broader set of actions to reduce the impacts of gambling on the local community.	58.28	3.3	Medium	2022 - 2023
10	Vary Clause 22.01 'Budget Accommodation' to expand its scope to provide more explicit policy guidance in relation to all forms for seasonal worker accommodation, particularly 'Group Accommodation' and 'Camping and Caravan Parks'.	22.01	3.4	High	2020 - 2021
11	Update the MSS (or equivalent provisions in the new PPF) to include reference to, and support for, the Sunraysia Modernisation Project and renewable energy facilities. Council should also consider developing a renewable energy strategy to provide clear support and strategies for establishing the municipality as the centre of Australia's solar industry'.	21.01 21.02 21.03 21.05 21.06 21.08 21.09	3.5	High	2021 - 2022
12	Continue with the major review of the existing Development Contribution Plans (DCP) in light of the recent State Policy reform to the Infrastructure Contribution System, and prepare the subsequent Planning Scheme Amendment(s) to modify the MSS and relevant sections of the Planning Scheme.	21.09 45.06 53.01	4.7	Medium	2019 - 2020

No.	Recommendation	Clause(s)	Report Section	Priority	Anticipated (financial) year of delivery
13	As a priority action, undertake further strategic work to implement the intent of the Local Policy at Clause 22.03 (Healthy and Sustainable Neighbourhood Design), including but not limited to an Urban Forest Strategy / Tree Study to apply vegetation protection controls; or a Neighbourhood / Landscape Character Study to introduce precinct-based controls that include vegetation, to increase tree canopy and build the resilience of the urban areas of Mildura to urban heat island effects.	Various	4.8 8.3 9.4 11.2	High	2020 - 2021
14	Prepare a Planning Scheme Amendment to implement the strategic intent of the Mildura Retail Strategy Review 2018 and ensure the retail hierarchy is clearly reflected in the MSS and consistent reference to these areas is provided throughout the Planning Scheme.	21.08 21.10 34	5.7 9.3 10.4	High	2019 - 2020
15	Once completed, prepare a Planning Scheme Amendment to implement the strategic intent of the Mildura Heritage Study, including the removal of any known anomalies from the Heritage Overlay and updating the MSS and Local Policy.	21.07 22.02 43.01 52.37	3.3 11.3	High	After 2023
16	Continue with further work to design the detail of the Mildura South Neighbourhood Activity Centre, ensuring it considers the linkages with, and potential impacts on, existing residential areas north of Sixteenth Street.	21.04	5.8 6.2	Medium	2019 - 2020
17	Undertake a review of Design and Development Overlay – Schedule 4 (DDO4) to determine if the sensitive interfaces between industrial and residential land is adequately protected, and reconsider adding the local policy that was historically proposed as part of Amendment C73.	21.07 43.02 (DDO4)	6.2 11.3	High	2021 - 2022
18	Progress strategic work to determine if the area of C1Z in the township of Cabarita is required.	34.01 (C1Z)	8.2	Low	After 2023
19	Undertake strategic work to determine the scope of requirements necessary for subdivision in the Salinity Management Overlay, particularly surrounding the exemption from a Site Capability Report when excising an existing dwelling, but still containing a requirement for a Salinity Action Statement for the entire parent parcel.	44.02 (SMO1)	8.3 11.4	Medium	2020 - 2021
20	Prepare a Planning Scheme Amendment to Schedules 6, 7 and 8 to the Design and Development Overlay (DDO) to describe Schedules 7 and 8 as Areas 2 and 3 respectively and add an exemption for subdivision of land.	43.02 (DDO6, 7 & 8)	8.3 11.3	High	2019 - 2020
21	Prepare a Planning Scheme Amendment to update the MSS with reference to the objectives and commitments of the current Community and Council Plan 2017 and remove references to outdated and / or frequently changing statistics where possible to preserve relevance and currency.	21	9.4	High	2019 - 2020
22	Update the Strategic Framework Plan map to show and label the Mildura South growth area, Mildura East / Irymple growth area and MOIA.	21.03	9.4	High	2019 - 2020
23	Ensure the Mildura Economic Profile 2009 is reviewed and update the MSS to provide a more recent description of Mildura's economy.	21.08	9.4	High	After 2023
24	Review the Mildura Industrial Land Use Strategy (last reviewed 2006) and update the MSS to provide a more recent description of Mildura's industries and determine the extent and location of industrial land required now and into the future.	21.08	9.4 10.3	Medium	2020 - 2021
25	Review land in the PUZ to ensure it has not been automatically included simply because it is (or was formerly) public land, concentrating first on properties identified during consultation.	36.01 (PUZ)	8.5 10.6	High	2019 - 2020
26	Undertake further strategic work to identify land in the SUZ1 which is subject to the master planning or private schools and prepare a subsequent Planning Scheme Amendment to rezone in accordance with PPN3 (Applying the Special Use Zone).	37.01 (SUZ1)	10.7	Medium	After 2023
27	Add the recommended wording to the MSS provided by the Loddon Mallee Waste and Resource Recovery Group (LMWRRG)	21	9.3	High	2019 - 2020

No.	Recommendation	Clause(s)	Report Section	Priority	Anticipated (financial) year of delivery
28	Review the Irymple Town Structure Plan 2012 with regard to the expansion of residential land in Irymple (particularly near existing schools, transport and other facilities) and development of a hospice.	-	8.5	High	2019 - 2020
29	As a high priority, that Council in conjunction with DELWP convene a working group with the FPMAC to develop a short report that recommends appropriate planning provisions that can be included in the Mildura Planning Scheme for the purpose of acknowledging the Traditional Owners of the land. This submission should form part of the Terms of Reference for the Working Group. Following completion of this report, Council should consider: <ul style="list-style-type: none"> - Advocating to DELWP for potential changes to State and/or Regional PPF. - Undertaking a specific amendment to the Mildura Planning Scheme to implement the recommended changes. 	-	New submission	High	2020 - 2021
30	Consider increasing the resources and funding available to expedite the preparation and approval of the 4-year Strategic Planning Work Program	-	8.5	High	Ongoing
31	Review the draft 'Solar Energy Facilities - Design and Development Guidelines' and consider making a submission to DELWP. As a minimum, Council's submission should seek stronger criteria concerning the establishment of uses on irrigated land, the cost of delivering water to irrigation customers, and the possible need for minimum setback distances from boundaries and nearby dwellings.	-	8.5	Medium	2019
32	Investigate and consider the merits of amending the schedule to the Farming Zone to specify a standard for major earthworks that would trigger the need for a planning permit.	35.07	8.5	High	2021 - 2022
33	Consult with the Lower Murray Water regarding the water vulnerability of Mildura, particularly in light of projected weather patterns in light of climate change.	-	8.5	High	
34	Review the Fifteenth Street Structure Plan and the Industrial Land Strategy that are providing differing strategic directions for the property at Lot 1, Benetook Avenue.	-	8.5	High	2020 - 2021
35	Review the investigation areas (including the Sunny Cliffs residential area) identified within Mildura Housing and Settlement Strategy, along with any other smaller residential areas not addressed as part of the MHSS.	-	8.5	Medium	After 2023
36	Prioritise the preparation of the drainage strategy and framework plan for the Mildura East Growth Area.	-	8.5	High	2019 - 2020
37	Subject to the completion of the necessary strategic work within designated growth areas, support requests to the Minister for Planning for the cancellation of the section 173 agreements restricting the use of land for dwellings, given the medium-term strategic intent to rezone these areas to residential.	-	8.5	Medium	2022 - 2023
38	Following the completion of the necessary strategic work, investigate the merits of rezoning the first stages of designated growth areas, to remove them from the provisions of the MOIA Incorporated Document. A combination of zones and overlays could be utilised to recognise the strategic intent of this area to transition to residential/urban uses over time, yet prevent that development occurring until the necessary strategic work has been carried out.	-	8.5	Medium	2022 - 2023
39	Consider the future zoning of the areas currently zoned General Residential and Commercial 1 Zone and part of Precinct G as shown in the 'Mildura CBD Plan, 2007', and that Council refer consideration of this matter to the Mildura CBD Plan revision project that is currently underway.	32.08 34.01	8.5	Medium	2019 - 2020

No.	Recommendation	Clause(s)	Report Section	Priority	Anticipated (financial) year of delivery
40	Undertake work to formally identify and/or designate the Mildura heavy-vehicle bypass route including community consultation and a future work program for the better establishment and improvement of this route, ensuring the concerns raised in these submissions are considered through this process.	21.09	8.5	Medium	After 2023
41	Undertake study investigating the economic and social benefits of a passenger railway service between Melbourne and Mildura to assist with advocating to the State Government for funding and assistance consistent with the <i>Mildura Future Ready Strategy</i> .	-	8.5	High	2021 - 2022
42	Prepare Urban Design Guidelines for Langtree Mall, ensuring community engagement to facilitate suggestions such as activating and connecting lanes to the shopping area;(CBD Plan)	-	8.5	Medium	2021 - 2022
43	In conjunction with engagement and collaboration with the EPA, Council undertake the following actions to better utilise the ESO to protect important industries (on a case-by-case basis): <ul style="list-style-type: none"> Identify additional industries/activities within Mildura that would benefit from the creation of a buffer distance around their existing operation. Calculate appropriate buffer distances for each type of activity, with reference to guidelines from the EPA and Clause 52.10. Expand the list of sensitive uses. Update the MSS (or equivalent provisions in the new PPF) to include the expanded industrial activities. 	42.01	3.6 8.5 11.2	High	2020 - 2021
44	Undertake a review of the zoning of the Hattah township to ensure it reflects the private ownership of properties and the presence of a bushfire hazard in this area. Consider an amendment if any discrepancies are identified.	-	8.3	Medium	2019 - 2020
45	Council to undertake further strategic work to identify or encourage any appropriate opportunities for limestone extraction to assist with the forecast shortfall identified in the Extractive Resources in Victoria: Demand and Supply Study 2015-2050 in Clause 21.02 (Key influences and issues). This could also be reflected in 21.06 (Natural Resource Management) and 21.08 (Economic Development).	-	New submission	Medium	2022 - 2023
46	Make note of feedback received regarding issues in the Special Use Zone (SUZ) – Schedules 8 & 9 for inclusion in Council's next review of the SUZ (noting that this has been reviewed as recently as 2018).	-	New submission	Low	After 2023
47	Review the objectives and structure of SUZ-8 in relation to the encouragement of 'tourist related activities'.	-	New submission	Low	After 2023
48	Amend the MSS to ensure the importance of considering bushfire hazard is reflected, without replicating the State provisions of the PPF, by ensuring: <ul style="list-style-type: none"> Urban growth is in lower risk locations Urban design is used to support bushfire safety Roadsides, riparian zones and reserves do not provide "wicks" for bushfire hazard to move between rural and urban areas Revegetation does not increase the overall fuel to bushfire hazard Adequate water supply, including for fire service requirements is provided for future growth areas. 	-	New submission	Medium	2019 - 2020

No.	Recommendation	Clause(s)	Report Section	Priority	Anticipated (financial) year of delivery
49	Continue to provide support for the Mallee Catchment Management Authority to revise flood mapping and ensure consideration is given to rezoning the Urban Floodway Zone (UFZ) on land where there is no longer a flooding hazard.	-	New submission	Low to medium	2019 - 2020
50	<p>Note and consider rezoning requests to a residential zone during any future review of the Mildura Housing and Settlement Strategy, noting that the intent of this strategy was implemented relatively recently by Amendment C89. Areas generally for consideration should include but not be limited to:</p> <ul style="list-style-type: none"> - Kings Billabong - Mildura East - Cabarita 	-	New submission	Low	After 2023
51	Monitor the ongoing development of industrial land along Benetook Avenue and adjacent residential land in the context of DDO9, and review this provision if and when poor outcomes are achieved.	-	New submission	Low	2019 - 2020
52	<p>Implement the recommendations of the LBSP Land Use Planning Final Report, prepared by Centrum Town Planning:</p> <ul style="list-style-type: none"> - Monitor the review of the Irymple Structure Plan to ensure consideration of buffers to the Anda site. - Boinka Hard Waste Compound - apply the EAO - Cowangie Hard Waste Compound - rezone transfer station and former landfill to PUZ6 - Cullulleraine Transfer Station - rezone transfer station and former landfill to PUZ6 - Lindsay Point Transfer Station - rezone to PUZ6 subject to further investigations into tenure arrangements and ownership. If not rezoned, apply EAO. - Meringur Transfer Station - rezone to PUZ6 if use is ongoing. If not rezoned, apply EAO. - Mittyack Transfer Station - rezone to PUZ6 - Murrayville Transfer Station - rezone to PUZ6 - Nangiloc Transfer Station - Consider rezoning transfer station and former landfill to PUZ6, subject to further investigations into need to close road and consideration of ongoing use. Apply EAO if site not rezoned to PUZ6. - Ouyen Landfill and Transfer Station - rezone to PUZ6 - Tutye Hard Waste Compound - apply EAO - Underbool Transfer Station - Rezone to PUZ6 - Walpeup Transfer Station - Rezone to PUZ6, if not rezoned, apply EAO - Werrimull Transfer Station - Consider rezoning site to PUZ6, subject to further investigations into need to close road and prospect of closing the facility. If site not rezoned, apply EAO. 	-	New submission	Medium	2019 - 2020
53	Undertake a Horticultural Sustainability Development Strategy and include discussion of the requirements and long-term viability of the MOIA Incorporated Document in accordance with the resolution made on 9 July 2015 as a result of the Panel Hearing associated with Amendment C89.	-	New submission	Medium	2019 - 2020



APPENDICES