



# ISIS PLANNING

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## **MILDURA PLANNING SCHEME REVIEW**

**Prepared by Isis Planning on behalf of the  
Mildura Rural City Council**

**March 2010**

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## EXECUTIVE SUMMARY

This report documents the second review of the new format Mildura Planning Scheme. It addresses the:

- Findings of the first planning scheme review conducted in 2003;
- State government initiatives since the 2003 review;
- Reviews Councils continuous improvement program comprising planning scheme amendments completed and under preparation and its further strategic work program;
- Documents Councils strategic context in the Council Plan and other strategies;
- Consultation outcomes;
- The effectiveness of the MSS
- How the MSS implements State Planning Policy;
- The effectiveness of local planning policies;
- The status of the further current strategic work program and identifies gaps;
- Documents any new major strategic issues facing Council;
- Matters that require the attention of the Department of Planning and Community Development; and
- Attaches a consultant report that documents a review of internal planning processes.

Consultation has been extensive at the preparation and draft review stages of the project. These stakeholders will once again be an important input to the preparation of the new planning scheme.

A series of conclusions and recommendations are identified.

There are not many new strategic issues facing the municipality however there remain significant planning challenges in rural issues, climate change, general urban land supply issues, implications of college lease land and planning for development beyond 2030. The recent release of the recommendations of the Mildura Planning Taskforce has now provided a consistent policy approach to the Mildura Older Irrigated Areas issue for all parties. This significant undertaking has run parallel with this review and it is appropriate this final review report incorporates the recommendations of the Taskforce.

There is a key recommendation to review the Local Planning Policy Framework both in structure and content in line with best practice for drafting planning schemes in Victoria. Many of the local planning policies are recommended to be subsumed into the MSS.

The new Council Plan has been adopted and there is a need to align the LPPF with the direction of this new Plan.

A new set of further strategic work requirements have been identified and are designed to build on the significant amount of strategic work completed by Council since the 2003 review.

A number of adopted strategic reports need to be introduced into the planning scheme. It has been recommended that a significant amendment to the planning scheme be prepared to introduce all recommendations of this review report.

A separate report was prepared to review the internal planning processes of the Mildura Planning Unit. Chapter 17 includes the executive summary and recommendations from this report and completes a number of requirements for a planning scheme review.

# 1. INTRODUCTION

This review report represents the second review of the Mildura Planning Scheme since the introduction of the new format planning scheme in December 1999. The review was conducted in two parts. A desk top review (Stage 1) of the planning scheme was conducted initially. Stage 2 comprised a full review of additional submissions, a review of the zones and overlays and their schedules and the preparation of a single final review report. This report documents the full review of the Mildura Planning Scheme.

Once adopted by Council this report will constitute a key element of the planning scheme review and provide the basis for a planning scheme amendment to implement changes to the Local Planning Policy Framework (LPPF) including the Municipal Strategic Statement (MSS) and local policies.

The planning scheme review process has included consultation with Council Staff and key stakeholders as well as a detailed desk top review of relevant reports and strategic documents.

## 1.1 Scope of the review

To place this review in context, the new format planning scheme was approved on 22<sup>nd</sup> December 1999 and has been operating for nearly ten years. Section 12B of the *Planning and Environment Act 1987* requires Council to regularly review the planning scheme. The (then) Department of Infrastructure's October 2001 Practice Note (*The MSS and Three-Year Review*) established that a three year review report was to be completed which:

- Identifies the major planning issues facing the municipality;
- Demonstrates how the Municipal Strategic Statement (MSS) implements State Planning Policy;
- Assesses the strategic performance of the scheme;
- Documents the strategic work that has been completed or carried out since the approval of the scheme and any additional work required to strengthen the strategic direction of the planning scheme;
- Articulates the monitoring and review which has been carried out;
- Outlines the consultation process and its outcomes;
- Makes recommendations arising from the review including:
  - suggested changes to the objectives and strategies of the Local Planning Policy Framework.
  - suggested changes to the use of Victoria Planning Provisions tools to achieve the strategies and ensure the objectives and desired outcomes are being met;
  - new strategic work necessary to support future policy development or changes to the provisions of the scheme;
  - suggested changes to improve operational and process practices;
  - identifying any data on planning permit applications, or other data, that may need to be collected to inform the next review.

As a result of changes made in the *Planning and Environment (General Amendment) Act 2004*, the Minister now requires the Review Report to address the entire planning scheme and not just the MSS; which is to commence following the adoption of a new Council Plan. A Review Report must specifically address (in addition to the MSS and strategic matters listed above):

- The application and performance of the zones in the scheme;
- The application and performance of the overlays in the scheme;
- The detail of the schedules in the scheme.

This report now documents the full review of the planning scheme.

## **1.2 Project Group**

An internal project group was established to guide the review of the planning scheme. This consisted of;

- Peter Douglas, Strategic Planning Manager;
- Rachael Attwood, Strategic Planner;
- Rebecca Mouy, Statutory Planning Manager; and
- Sarah Nickas, Senior Regional Planner, Department of Planning and Community Development.

The assistance of this group in guiding the completion of this review is much appreciated.

## **1.3 Organisational Structure**

Developments Services has until recently incorporated both statutory and strategic planning functions under the Manager Development services. In 2008 a review of the department recommended a restructure to provide for a Manager Statutory Planning and a Strategic Planning Manager.

The Strategic Planning Manager is responsible for this review and the Manager of Statutory Planning was responsible for the planning process review report which informed chapter 17 of this report.

## 2. PREVIOUS PLANNING SCHEME REVIEW FINDINGS

### 2.1 The Mildura Planning Scheme (1999)

The new format planning scheme was approved on 22<sup>nd</sup> December 1999. While it was approved nearly a year after the introduction of the Department of Infrastructure (DoI) Practice Note on the *Format of Municipal Strategic Statements*, in February 1999, much of the base work was developed prior to this Practice Note. As with other Councils there was little effective guidance as to the structure and content of the LPPF and a range of approaches were adopted by a variety of Council at that time. The Mildura Planning Scheme adopted a theme based approach based on the State Planning Policy Framework (SPPF).

The review below identifies further strategic work commitments arising from the new format Panel Report, the approval letter from the Minister for Planning and the current MSS. These are in bold highlight below with Council's then (2003 review) response and boxed observation from the 2009 review.

- a) **That the retail strategy be finalised and an appropriate amendment to the planning scheme be prepared.**

#### 2003 Review comment

The Mildura Retail Strategy 2000 was completed and formed the basis of a comprehensive planning scheme amendment that has been approved. A further amendment relating to the B1 Zone on Fifteenth Street is currently being considered by Council. Further analysis of the supply of B4 zoned land along Fifteenth Street is currently being undertaken. This study may result in a further planning scheme amendment.

#### **2009 Planning Scheme Review Response**

The amendment referred to is Amendment C6 which was approved on 28<sup>th</sup> March 2002. Since this time Amendment C29 (Parts 1 and 2) have been approved (10<sup>th</sup> February 2005 and 2<sup>nd</sup> March 2006) that introduced the recommendations of the *Review of the Mildura Retail Strategy 2000*.

Amendment C29 Pt 1 made changes to the retail/commercial parts of the MSS and rezoned the MADEC site to Business 2 Zone (B2Z).

Amendment C29 Pt 2 rezoned land as a result of the retail review report including Fifteenth Street as a bulky goods precinct, land for the extension of Mildura Centro Plaza and industrial and low density residential rezonings.

A new retail strategy review is a current Council project.

- b) **That there be a review of Rural Living land, the Stage 3 Urban Growth Areas, and the inter-urban break between Mildura and Irymple.**

#### 2003 Review comment

The LDRZ and RLZ review was completed in 2001. It is currently being updated and its recommendations reviewed. A residential growth strategy has recently been commissioned. A review of the Mildura-Irymple urban break was completed in 2001 and although no firm position was adopted by Council, it will be further considered as part of the residential strategy.

#### **2009 Planning Scheme Review Response**

Amendment C28 was approved on 21<sup>st</sup> July 2005 and introduced the recommendations from the first planning scheme review and in particular the *Rural Residential Study Review October 2003* that addressed rural residential land supply and demand. This review report recommends an update of this review based on the MOIA strategy and perception of a lack of land supply.



Amendment C28 also introduced the recommendations of the *Review of Mildura and Irymple Residential Land Strategies November 2003* that addressed residential land supply and demand. This review report acknowledges Council is preparing a new retail strategy and town structure plan for Irymple.

Amendment C38 was approved 30<sup>th</sup> October 2008 and introduced the recommendations of the Mildura/Irymple Interface Study. This study updated and reviewed the 2001 report and now represents Councils position

- c) **That the airport masterplan be finalised and an appropriate amendment to the planning scheme be approved.**

2003 Review comment

The Masterplan has been completed and a planning scheme amendment is being prepared.

**2009 Planning Scheme Review Response**

Amendment C20 (approved 23<sup>rd</sup> November 2006) introduced the recommendations of the *Mildura Airport Masterplan 2000- 2015, Beca Simmons December 2005*. This amendment rezoned the airport to SUZ7, made changes to the MSS, introduced Design and Development Overlays, amends ESOs, and deletes 3 and introduces 3 incorporated documents.

- d) **That Council work with other relevant authorities (in particular DNRE and the CMA) to develop the provisions of the planning scheme relating to land management.**

2003 Review comment

None provided.

**2009 Planning Scheme Review Response**

This is a very general directive from the panel with no specifically targeted project. This requirement should be deleted in lieu of more specific and ongoing projects where the support of the CMA is required.

- e) **That inconsistencies in the boundaries of flood related zones and overlays be addressed as more detailed flooding information becomes available.**

2003 Review comment

Work completed by the CMA but yet to be included in the planning scheme.

**2009 Planning Scheme Review Response**

This work is still not part of the planning scheme however a planning consultant has been engaged to prepare the planning scheme amendment. This consultant is awaiting the latest version of the maps to start the amendment preparation.

- f) **That Council give high priority to its heritage work, particularly the identification, protection and management of Aboriginal cultural heritage.**

2003 Review comment

This issue has not been progressed because of more pressing priorities. Council acknowledges the need to address these matters and the commitment to do so should be carried over to the new MSS.

#### **2009 Planning Scheme Review Response**

Council recognizes the importance of Aboriginal heritage and has introduced a GIS layer on their systems for cultural heritage mapping. It is noted however the new Aboriginal Heritage Act 2006 provides greater protection of sites of importance at the application stage than under previous legislation.

In regard to post contact heritage Stage 1 of the former Walpeup Shire heritage study has been completed and Stage 2 is to commence in 2010.

- g) **That Council resolve technical issues and inconsistencies associated with the Heritage Overlay schedules and prepare an appropriate amendment to the planning scheme.**

#### **2003 Review comment**

No comment provided.

#### **2009 Planning Scheme Review Observation**

Amendment C51 has been prepared to address this issue. Authorisation has not been requested yet.

- h) **That Council prepare an amendment to the planning scheme in accordance with a submission from Mr Beasy to rezone land in Cureton Avenue.**

#### **2003 Review comment**

None provided

#### **2009 Planning Scheme Review Observation**

Roy Costa and Associates lodged a submission on behalf of Mr Beasy as part of the new format Mildura Planning Scheme in 1999. The land was proposed to be rezoned part Special Use Zone part Tourism Zone. The submission detailed that Mr Beasy's land should be rezoned from part Industrial 1 Zone part Tourism Zone to all Industrial 1 or Industrial 3 Zone. The Panel recommended that the land be rezoned all Industrial 1 Zone and that surrounding land be similarly rezoned as the Industrial 3 Zone application was inappropriate. The land has since been subdivided and it was rezoned Industrial 3 Zone (C3), not Industrial 1 as recommended by the panel. This requirement can now be deleted.

- i) **In addition the Minister indicated that the Departments regional office would work with Council to develop an approach to College lease lands that recognises the financial interests of the Mildura schools and at the same time encourages efficient utilisation of urban land.**

#### **2003 Review comment**

Although initial discussions were held, no progress was made on the issue. There is scope for this matter to be further pursued and for the State to take a lead role.

#### **2009 Planning Scheme Review Observation**

Little progress has been made on this issue. It is an important issued as some of the College lease land is strategically positioned in commercial areas or urban growth areas and has the potential to impede orderly planning for these areas. Council has established an informal working party to further this issue and the Departments regional office should be contacted to discuss this issue.

## 2.2 The First Review Report (2003)

Section 12A(5) of the *Planning and Environment Act 1987* originally required a Council to review its MSS at least once every three years. The Mildura Planning Scheme was approved on 22<sup>nd</sup> December 1999, with its three year anniversary in December 2002. Council commenced its first three year review process shortly after this date and adopted the review report in October 2003.

The review recommended:

- That the structure of the MSS be amended to achieve greater consistency with the structure recommended in the Practice Note.
- That Clause 21.02 be deleted.
- That the information in Clause 21.02 be updated and edited to form the basis of a new Clause 21.01, Municipal Profile. That a new Clause 21.02 Key Influences be created that draws on updated material from elsewhere in the MSS and describes the key influences on the future of the municipality.
- That the information in Clause 21.03 be reviewed and updated.
- That Clause 21.04 be updated and reviewed with particular emphasis on deleting unnecessary material and ensuring that objectives, strategies and means of implementation conform with their intended purpose.
- That the Monitoring and Review processes be reviewed in accordance with the intended outcomes in the Practice Note and in light of Council's practical experience over the life of the planning scheme.
- That clause 22 be updated and reviewed to ensure that the policies assist in exercising discretion within the planning scheme.

This review report was implemented by Amendment C28. In relation to the LPPF, all recommendations were supported by the Panel with minor modifications.

## 2.3 Conclusions

The new format planning scheme and its first review identified improvements and further strategic work to be included in future work programs.

This 2009 review has audited the recommendations and Councils actions. The review finds that the majority of the recommendations have been addressed either through further strategic work or new work items in the current review term. The review does however identify a limited number of issues that remain unaddressed (section 2.1).

These should be retained and carried forward and key government agencies as identified should be consulted with to assist in completing these actions.

### 3. STATE INITIATIVES SINCE THE LAST REVIEW

Since the first review report in October 2003 there has been a number of State initiatives introduced. These can be categorised as policy or process based initiatives.

#### 3.1 Process initiatives

The *Cutting Red Tape in Planning* report was released in August 2006 and was intended to streamline planning processes in the Victorian Planning System. The initial action arising from the report was Amendment VC40 which removed the need for a planning permit for various minor matters including:

- Minor works associated with a dwelling including those currently captured by the heritage provisions or the small lots provisions of the scheme;
- Minor works in business areas.

Other outcomes of the report have been a review of the Heritage Overlay and a fast track process for some planning scheme amendments.

#### ***Making local policy stronger***

Action 10 from the above report focused on making local policy stronger.

The report concluded that after ten years of operation the application of some components of the Victoria Planning Provisions needed immediate clarification and action. The key issues identified were:

- The development of voluminous local policies;
- The need to clearly define and differentiate state and local interests;
- The importance of effective policies and controls to deliver strategic outcomes at both state and local level;
- The need to revise land use zones and overlays so that they better fit state and local strategic objectives; and
- The need for state and local government to work in partnership to achieve the improvements to the planning system.

The report recommended the following Action Plan:

#### ***Provide more certainty by making it easier to implement policy through planning controls.***

- *Revise the zones, overlays and particular provisions to provide more opportunity to express state and local policy outcomes. As a priority, review the residential zones and associated provisions.*

#### ***Make the State Planning Policy Framework clearer about how it should be implemented at the local level.***

- *Expedite the review of the State Planning Policy Framework recommended in Action 9 of Cutting red tape in planning.*

#### ***Progressively review planning schemes to clearly express state and local strategic intentions.***

- *Use zones, overlays and schedules rather than policy to control the use and development of land where appropriate.*

- *Make the requirement for the four year review of planning schemes more specific and structured.*

***Increase the effectiveness of local policy by simplifying the way it is presented in planning schemes.***

- *Pilot a restructure of clauses 20, 21 and 22 of planning schemes to produce a single simplified section that provides the 'local policy' section of the planning scheme, with a range of Councils.*
- *Where direction is required in the restructured provision to guide the exercise of discretion under a planning control, the direction should be termed a 'policy guideline'.*

***Clarify when prescriptive provisions can be used.***

- *Develop guidelines to clarify when prescriptive rather than performance based provisions are appropriate and how they should be expressed.*

These recommendations have provided the basis of the recommendations arising from this review, especially in relation to simplifying the Local Planning Policy Framework in accordance with the current DPCD and Planning Panels best practice guidelines for the LPPF.

## **3.2 Policy initiatives**

### **New Rural Zones**

A new suite of rural zones was introduced in June 2004 by Amendment VC24 based upon a strategic review of the old zones in 2002 and 2003. The DSE released a new practice note; ***Applying the Rural Zones*** in March 2007. This provides guidance on the application of the new zones in the following manner:

- The *Farming Zone* will apply to areas currently in the Rural Zone where activities are predominantly of an agricultural nature.
- The *Rural Activity Zone* will apply to some areas that are currently in the Rural Zone or other zones where the competing interests of agriculture, the environment, tourism and other rural activities need to be balanced. The application of the Rural Activity Zone is anticipated to apply to areas where strategic work has identified the need to balance competing interests and has provided the necessary tools.
- The *Rural Living Zone* will apply mostly to areas in the existing Rural Living Zone or other areas where residential use in a rural environment has been strategically justified. It should not be applied to clusters of dwellings on small lots as a reflection of the settlement pattern.
- The *Rural Conservation Zone*, introduced as part of Amendment VC22, will apply to areas currently in the Environmental Rural Zone and other areas that have been strategically justified as having predominantly conservation values.

### **Beyond Five Million**

*Beyond Five Million* is the Victorian Government's Population Policy and sets out a population growth strategy for regional Victoria. The regional growth targets of 1.25% in 2006 and 1.75 million persons by 2020 are predicated on specific strategies such as to:

- continue to support a more balanced distribution of population growth – thus easing the population pressures on Melbourne, and
- develop the critical mass to maintain and improve services in regional areas.

It explicitly states that;

- *Provincial Victoria needs to grow faster*
- *Intrastate migration from Melbourne offers the greatest source of growth for provincial Victoria*
- *Growth is driven by a variety of factors especially employment, access to services, housing and lifestyle opportunities*

### **State Water Policy (*Securing our water future together – Victorian Government White Paper*)**

State government policy is directed towards ensuring sustained water catchment management and adequate long term water supplies to meet the needs of current and future population levels.

### **Provincial Victoria Statement**

In November 2005, the Victorian State Government released a \$502 million ‘action plan’ designed to bolster regional investment, infrastructure and jobs over the next five years.

In accordance with the Provincial Victoria Policy Statement, *Moving Forward*, which provides a significant funding boost to drive economic and population growth across provincial Victoria, it is Council’s intention that Mildura Rural City Council will significantly increase its population level over the next 25 years. Consequently this fund will be an importance source of capital for future works and for long-term strategic planning to meet planning requirements and for amending planning schemes.

The *Moving Forward* policy statement notes:

- *‘Smaller towns and communities now play a critical role in the growth of provincial centres by providing lifestyle opportunities, housing, workers, consumers, recreation areas and tourist attractions.’ p.14*
- *‘attracting more people to live, work and invest in regional and country areas is the key to provincial Victoria’s future growth and success.’ p.24*

### **New Residential Zones**

A new suite of residential zones is being developed by the State Government to better reflect the intention of state policy with the nature of development envisaged by a residential zone. The proposed zones are:

#### **Substantial Change Areas**

- Areas that present opportunities to substantially increase the number and diversity of dwellings. The form and design of new development can be specified. Appropriate services and facilities will be (or will become) available.

#### **Incremental Change Areas**

- Areas where change can continue to occur however development must respect the character of the area.

#### **Minimal Change Areas**

- Areas with limited opportunity for change because of identified development constraints, including special neighbourhood character, environmental and landscape values or infrastructure capacity. In these areas the impact of new development will be limited.

It is anticipated that the new residential zones will come into effect in 2010.

### **Amendment VC49**

This amendment introduced a raft of changes aimed at removing (or clarifying) unnecessary requirements from planning approval in respect of minor matters, the Heritage Overlay, advertising signs, native vegetation, referrals and public transport.

The Amendment also introduces new planning permit exemptions for native vegetation removal. The affected clauses are 52.16 (Native Vegetation Precinct Plan), 52.17 (Native Vegetation), 52.18 (Timber Production) and the Environmental Significance, Vegetation Protection, Significant Landscape, Erosion Management and Salinity Management Overlays. The introduction of new exemptions follows a review by an Advisory Committee of the operation and effectiveness of the previous exemptions.

### **3.3 Best Practice on drafting planning schemes in Victoria**

The practice note *Format of Municipal Strategic Statements*, February 1999 is currently being reviewed by DPCD following the development of the LPPF Best Practice models in response to *Cutting Red Tape in Planning* and following a number of first and second planning scheme reviews have been considered by an Independent Planning Panel, particularly schemes that propose significant changes to the LPPF.

This has provided a significant body of knowledge at Planning Panels Victoria that has lead to the release of a draft report titled *Best Practice on drafting planning schemes in Victoria*. Planning Panels are now using this guide in considering other planning scheme amendments

It is understood that this report which promotes a structural approach to the MSS and local planning policies varies significantly from that proposed in the current Practice Note and is currently being considered by DPCD to assist in developing a replacement practice note that will be released in 2009.

For practical purposes this review considers the current practice note, the LPPF Best Practice models developed by DPCD and the report by Planning Panels in developing final recommendations for consideration.

### **3.4 Conclusions**

Amendment C44 to the Mildura Planning Scheme acts on the *Cutting Red Tape in Planning* report by introducing a number of exemptions and removes unnecessary permit requirements from overlay controls.

Amendment C37 introduced the Farming and Rural Conservation Zones to the Mildura Planning Scheme.

The implication of the new residential zones for Mildura needs to be monitored to ensure the current use of the Residential 1 Zone is still appropriate in all residential circumstances. The incremental change zone will be the translation of the zone for the current Residential 1 Zone. Should Council wish to consider the other zones a Housing Strategy will be required.

## 4. PROGRAM OF CONTINUOUS IMPROVEMENT

Council recognises planning schemes are not static documents and that there is a need to continuously improve the planning scheme to ensure it meets the needs of its community and is consistent with state planning policy. It does this in the following ways:

- Adopted planning scheme amendments (2003 – 2009)
- Current planning scheme amendments
- Commissioning of further strategic work
- Development of on-going strategic work program

### 4.1 Adopted planning scheme amendments (2003-2009)

Since the 2003 review the following planning scheme amendments have been approved.

Amendment	Approval date	Description
C40	26 October 2004	Replaces the existing Schedules to Clauses 36.03, 52.17 and 61.01-61.04 (inclusive) to facilitate preliminary works in the form of hydrogeological, environmental and cultural heritage investigations for the Long Term Containment Facility for industrial wastes
C26	6 January 2005	Rezones six parcels of land comprising of Lots 1 and 2, Plan of Subdivision 513709R, Pine Plains Road, Patchewollock in the Wyperfeld National Park from Public Conservation and Resource Zone to Environmental Rural Zone, Schedule 1
C29 Pt 1	10 February 2005	Rezones 2,838m <sup>2</sup> of land at Lots 1-6, Section 69, Block D, Parish of Mildura, 126-130 Deakin Avenue, Mildura known as the 'MADEC' site from Special Use Zone, Schedule 1 to Business 2 Zone. Replaces part of clause 21.04 of the Municipal Strategic Statement with a new clause 21.04 (the implementation section of clause 21.04-6)
C28	21 July 2005	Replaces the Municipal Strategic Statement and Local Planning Policies. Rezones land to Residential 1, Low Density Residential, Industrial 1 and Industrial 3 and Rural Conservation in accordance with adopted strategic work. Extends the Environmental Significance Overlay Schedule 1 along the Murray River Corridor and includes a new Environmental Significance Overlay Schedule 4 to identify sites with potential land use conflict. Extends the Development Plan Overlay Schedule 1 (with a new schedule) to undeveloped land zoned Residential 1. Includes a new Development Plan Overlay Schedule 2 for undeveloped land at Nichols Point and Lake Hawthorn zoned Low Density Residential. Includes modified Design and Development Overlay Schedules 2, 3 and 4 for the Town Entrances, City Heart and industrial areas. Includes a new Development Contributions Plan Overlay and schedule to residentially zoned land in Mildura and Mildura South. Includes a new Salinity Management Overlay and schedule for undeveloped land zoned Residential 1 and Low Density Residential. Modifies the Heritage Overlay schedule to delete two sites that no longer exist. Modifies the Public Acquisition Overlay schedule to remove Lower Murray Water as an acquiring authority for a site no longer needed to be identified and amends the map. Applies the Environmental Audit Overlay to a site at Cliffside. Makes minor corrections to the schedules of clauses 52.02, 52.03, 52.05-5, 52.27, 52.28-5 and 52.28-6. Makes changes to the schedules of clauses 61.01-61.04 and 81
C34	28 July 2005	The amendment alters the planning scheme maps and the schedule to the Heritage Overlay so the Mildara Blass Distillery, Big Lizzie and the former Mildura Base Hospital heritage places shown in the Mildura Planning Scheme are consistent with the Victorian Heritage Register



C31	13 October 2005	Rezones land at 126 Commercial Street, Merbein to Residential 1 and 128-130 Commercial Street, Merbein to Special Use, Schedule 1 and replaces the existing Green Wedge A Zone with the Rural Conservation Zone and the existing Schedules to clauses 35.05 and 61.01-61.04 with the correct versions
C29 Pt 2	2 March 2006	Rezones land at 394-398 Deakin Avenue, Mildura South to Business 1, land at Fifteenth Street, Mildura South east of Mildura Centre Plaza to Business 1, land on the west side of Benetook Avenue, Mildura South north of Fifteenth Street and at 1237-1251 Benetook Avenue, Mildura South to Business 4 and land on the north east corner of Fourteenth Street and Benetook Avenue, Mildura South to part Industrial 1 and part Low Density Residential; applies Schedule 2 to the Design and Development Overlay to land to be zoned Business 4 and Schedule 4 to the land to be zoned Industrial 1; deletes Schedule 1 to the Development Plan Overlay that applies to land at 1237-1251 Benetook Avenue, Mildura South; makes changes to the Municipal Strategic Statement and Local Planning Policies to implement the findings of the <i>Mildura Retail Strategy 2000 Review, 2004</i> ; replaces the Schedule to Business 1 Zone and inserts a new Schedule 5 to the Design and Development Overlay and applies Schedule 5 to land to be zoned Business 1
C36	3 August 2006	Rezones 165 Thirteenth Street, Mildura, part of the former Mildura Base Hospital site, from Public Use Zone 3 [Health and Community] to Residential 1 Zone
C33	10 August 2006	Rezones land comprising 5370 square metres, at part Lot 1 PS428251N, Calder Highway, Red Cliffs (otherwise known as the Red Cliffs Caravan Park) from Public Park and Recreation Zone (PPRZ) to Special Use Zone, Schedule 6 (SUZ6). Rezones land comprising 4.764 hectares at Lot 1 PS 522110H, Twelfth Street, Mildura (otherwise known as the Mildura Golf Club) from Public Park and Recreation Zone (PPRZ) to Public Use Zone, Schedule 6 (PUZ6).
C37	21 September 2006	Introduces the Farming Zone and rezones all land in the Rural Zone to the Farming Zone and all land in the Environmental Rural Zone to the Rural Conservation Zone. The Rural and Environmental Rural Zones are deleted from the Scheme.
C20	23 November 2006	Makes changes to Clauses 21.02, 21.04, 21.06 and 22.09 of the LPPF to support the ongoing operation of the airport; rezones the Mildura Airport site from part Public Use Zone – Local Government (PUZ6) and part Rural Zone (RUZ) to Special Use Zone – Mildura Airport (SUZ7); introduces Special Use Zone Schedule 7 to be applied to the airport land; applies the Design and Development Overlay (DDO6, DDO7 and DDO8) to land within the vicinity of the airport where the height of buildings and works could adversely effect the operations of the airport; introduces Design and Development Overlay Schedules 6, 7 and 8 to control the height of buildings and works in the vicinity of the airport; amends the existing Airport Environs Overlay Schedules 1 and 2 so that they apply only to areas which are or will be subject to high levels of aircraft noise from the airport; amends the schedule to Clause 61.03 to update the list of maps comprising part of the scheme; and amends the schedule to Clause 81.01 by deleting three and adding two incorporated documents.
C35	31 May 2007	Makes changes to the Municipal Strategic Statement and includes a new Local Planning Policy relating to car parking in the Mildura CBD area which implements the <i>Car Parking Policy in the CBD Area – Mildura Rural City Council 2005</i> .
C43	30 August 2007	Replaces the Minister for Planning as the responsible authority for land previously proposed for a long term waste containment facility at Nowingi with the Mildura Rural City Council, and deletes reference to the land and removes exemptions for preliminary works for the facility from schedules to clauses 36.03 (Public Conservation and Resource Zone) and 52.17 (Native Vegetation).
C45	11 October 2007	Introduces a specific provision under Clause 52.03 and applies an Incorporated Document, <i>Mildura–Geelong Rail Freight Upgrade Project September 2007</i> to allow the use and development of land along the railway corridor between Gheringhap and Mildura for upgrading and maintenance in accordance with the Incorporated Document.
C42	15 November 2007	Amends schedules 1 and 2 to the development plan overlay; introduces a new schedule 2 to the Development Contributions Plan Overlay and applies the schedule to land in Mildura, Mildura South, Irymple and Nichols Point; amends the schedule to clause 61.03 to specify new maps and amends the schedule to clause 81.01 to include the report <i>Development Contributions Plan No. 2 for Mildura Rural City Council, SGS Economics and Planning, October 2006</i> as an incorporated document.
C38	30 October 2008	Introduces new zones, overlay and urban design controls to precincts in accordance with the recommendations of the <i>Mildura Industry Study Review and the Mildura Irymple</i>

		<i>Interface Study.</i>
C49	15 February 2009	Amends Map No.27HO to extend the existing HO30 over 12 Langtree Parade, Mildura, on an interim basis.
C58	29 May 2009	Amends the schedule to the Farming Zone and amends the schedules to clauses 52.03 and 81.01 to include a new incorporated document titled 'Mildura Older Irrigation Area Incorporated Document, May 2009'
C54	2 July 2009	Implements Section 48 of the <i>Heritage Act</i> 1995 to ensure that places in the Planning Scheme are consistently identified with places in the Victorian Heritage Register
C53	20 July 2009	Introduces a new incorporated document, the <i>Solar Energy Facility Incorporated Document 2008</i> , by amending the schedules to clause 52.03 and clause 81.01 to facilitate the use and development of a Solar Energy Facility and associated uses on land on the corner of Carwarp West Road and South West Angle Road, Carwarp
C59	24 September 2009	Amends the schedules to clauses 52.03 and 81.01 to include a revised 'Mildura Older Irrigation Area Incorporated Document, September 2009' containing transitional provisions, and amends the schedule to clause 66.04 to make the Department of Planning and Community Development a referral authority under clause 52.03
C61	25 February 2010	Amends Schedule 3 to the Special Use Zone and the Schedule to clause 52.03 and 81.01 to include a revised Incorporated Document 'Mildura Marina Resort Development Plan, October 2009'.
C65	9 March 2010	Amends Clause 21.06 and the schedules to Clauses 35.07, 52.03 and 81.01 to implement the recommendations of the Mildura Planning Taskforce, Final Report, December 2009, including a revised 'Mildura Older Irrigation Area Incorporated Document, February 2010'. Amends the schedule to Clause 66.04 to remove the Department of Planning and Community Development as a referral authority under Clause 52.03.

#### **2009 Planning Scheme Review Response**

Of the 20 planning scheme amendments only 6 related to site specific amendments. The remainder of the amendments are significant amendments in that they introduce new strategic work to the planning scheme. This supports the conclusion that Council has met a considerable number of outstanding work issues from the first review.

## **4.2 Current planning scheme amendments**

The following amendments are being (or have been) processed and considered by Council:

### **Amendment C30**

This amendment proposes to implement the recommendations of the *Rural Areas Strategy 2005* prepared by Maunsell Australia Pty Ltd & Sunraysia Environmental.

#### ***Status of Amendment***

This amendment lapsed on 12 June 2009. This issue is now addressed by Amendments C58, 59 and C65 and the Farming Zone Taskforce. Reference should be made to section 14.2 for a more detailed review of this issue.

### **Amendment C44**

Authorisation number A1104 relates to Amendment C44. This amendment acts on the recommendations of the *Cutting Red Tape in Planning* report at the local level by implementing the recommendations of the *Referrals Relationship Project, Stage 4 Report* completed by Isis Planning in 2006 for the Department of Planning and Community Development (formerly Department of Sustainability and Environment) on behalf of the Mildura Rural City Council. The amendment also seeks to implement the recommendations of a 12 month internal permit review project conducted by the Mildura Council. The projects: (1) identify

unnecessary permit requirements that do not contribute to the strategic outcomes sought by the Mildura Council, (2) recommend the introduction of decision guidelines, and (3) clarify the extent of controls and the removal of anomalies. The amendment also seeks to correct an anomaly that was not identified in either report. The proposed amendment affects 3 zones, 5 overlays and the schedule to Clause 66.06 within the Mildura Planning Scheme.

#### ***Status of amendment***

The amendment was exhibited from 25 February to 24 April 2009 and 4 submissions have been received and resolved. It is with the Minister for approval.

#### **Amendment C49 and 52**

These amendments relate to 12 Langtree Parade Mildura. C49 introduced interim controls to apply the HO to the remainder of the site without the HO. C52 formalised these interim controls.

#### ***Status of amendment***

One objection has been received for Amendment C52. A panel has been appointed to consider this submission.

#### **Amendment C51**

This amendment reviews many anomalies contained in the HO schedule.

#### ***Status of amendment***

Council is currently seeking authorisation for this amendment.

### **4.3 Commissioning of further strategic work**

A significant amount of further strategic work has been commissioned since the 2003 review report. Some of these have been introduced into the planning scheme however a significant number have not. These include (list does not include minor or site specific amendments from section 4.1):

#### **In the planning scheme**

C29 Part 2	Mildura Retail Strategy 2000 Review, 2004
C35	Car Parking Policy in the CBD Area – Mildura Rural City Council 2005
C42	Development Contributions Plan No. 2 for Mildura Rural City Council, SGS Economics and Planning, October 2006
C38	Mildura Industry Land Study Review 2006 and the Mildura Irymple Interface Study 2006 and Development Contribution Plan – Schedule 3.

#### **Outside of the planning scheme**

- Mildura South Strategic Framework Plan 2007
- Mildura CDB Structure Plan 2007
- Mildura Riverfront Masterplan 2005
- Ouyen Structure Plan 2006
- Cullulleraine Structure Plans 2006
- Etiwanda Residential Development Plan 2006
- Riverside Residential Development Plan 2006
- Nichols Point Residential Development Plan 2007
- Irymple Residential Development Plan 2007
- Domestic Wastewater Management Plan 2006
- Red Cliffs Development Plan 2009
- 514 Deakin Avenue Development Plan 2010
- Alfresco Dining policy 2009

- Site Salinity Management Plan Review 2009

#### **2009 Planning Scheme Review Observation**

All of the reports that have yet to be introduced into the planning scheme have a significant impact on local strategy and should be introduced into the planning scheme as a matter of high priority. Some were adopted by Council over 2 years ago and have been given some weight in the decision making of Council and staff under delegation.

#### **Council Plan commitments**

Council has introduced a new Council Plan for 2009-2013. This Plan commits Council to the following further strategic work in the 2009/2010 financial year:

##### **Liveable City**

##### **Key Result Area: 1.5 Planning and Development Standards**

- Develop and implement a program of strategic land use projects
- Develop a process to integrate community plans with strategic land use projects
- Implement Mildura South Strategic Framework Plan
- Implement the Mildura Riverfront Master Plan - Central Precincts
- Implement the Mildura Riverfront Master Plan - Ornamental Lakes Precinct
- Prepare Urban Design Framework/Structure Plans for identified township areas
- Implement the Mildura CBD Plan
- Review of Mildura Planning Scheme Stage 2
- Implement the recommendations of the review of Mildura Planning Scheme Stage 1
- Implement the recommendations of the review of Mildura Planning Scheme Stage 2
- Implement the recommendations of the Mildura Heritage Study
- Develop and implement the Undertake a benchmarking review of Planning Services
- Mildura CBD Car Parking Precinct Plan
- Implement the Mildura Riverfront Master Plan
- Prepare and implement urban design frameworks (UDFs) for township commercial areas.

##### **Management of the Environment**

##### **Key Result Area: 2.2 Natural Resource Management**

- Review and implement the Environmental Strategy 2009 to 2010
- Develop planning overlays for significant vegetation identified from Remnant and Significant Linkages Strategies
- Implement and incorporate planning overlays identified from Remnant and Significant Linkages Strategies

##### **Growth of Economy**

##### **Key Result Area: 3.1 Economic Development**

- Implement the Riverfront Master Plan – central and ornamental lakes precincts

#### **Current Initiatives of the Strategic Planning Department**

In addition to the above Council's Strategic Planning Unit is managing a number of other strategic projects. These are:

##### **Strategic Projects in progress by Strategic Planning Unit:**

- Review of Mildura Planning Scheme
- Riverfront Central Precincts Masterplan
- Red Cliffs Development Contribution Plan (additional schedule to overlay)

- Heritage Study Former Walpeup Shire & Theming History of MRCC (Stage 1 completed, Stage 2 in 2010)
- Retail Strategy Review
- CBD Parking Strategy and Precinct Plan

**Planning Scheme Amendments currently being progressed by Council:**

- Amendment C44 (Streamlining and anomaly correction)
- Amendment C47 (Site specific heritage anomalies)
- Amendment C50 (Site specific Douglas Avenue Mildura)
- Amendment C51 (Heritage anomalies)
- Amendment C52 (Site specific heritage anomalies. Introduces permanent control following order and reinstates reasons for heritage significance).
- Amendment C55 (Rezoning of former CFA site)
- Amendment C56 (PAO for a recreation reserve corner 16<sup>th</sup> and Deakin)
- Amendment C57 (Birdwoodton rezone from recreation reserve to Farming Zone and Public Conservation and Resource Zone)
- Amendment C60 (Rezoning Nichols Point Store to Business 1 Zone)
- Amendment C61 (Marina Incorporated Document amended)
- Amendment C62 (Rezoning Residential 1 Zone land to Public Use Zone Schedule 1 and delete the Development Plan Overlay Schedule 1 for referral authority Lower Murray Water)

**Strategic Projects identified by Strategic Planning Unit and/or Councillors :**

**2009/2010**

- Stage 2 of the Mildura Planning Scheme review (2009/2010)
- Retail/Business Strategy Review including Fifteenth Street Structure Plan (2010/2011) relates to Centro and its environs between Deakin and Fifteenth, Irymple Town Structure Plan and Irymple Industrial Land review
- Deakin Avenue Urban Design Guidelines (2009/2010)
- Ontario Avenue – Flora Avenue Environs Precinct Plan (2009/2010)
- CBD Parking Precinct Plan (2009/2010)
- Mildura Riverfront Central Precincts implementation (2009/2010)
- Mildura South Strategic Framework Plan precinct plan development and implementation (2009/2010)

It is noted however the retail strategy review has not been included in the new Council Plan for 2009/2010.

**2010/2011**

- Strategic Framework Plan for Cowra Avenue north of Eleventh Street (2010/2011) and includes Stage 2 of the Marina proposal.
- Aged Housing Study (2010/2011)
- Mildura Newer Irrigation Areas Review (2010/2011)

**Uncommitted**

- Integrated Strategic Plan (-)
- Housing Strategy (-)
- Mildura Older Irrigation Areas implementation (-)
- Review Andrew Ward Conservation Study and include Significant Tree Register (-)
- Regional Register Sites of Aboriginal Significance (-)
- Mildura South Development Plans for Mildura South Strategic Framework Plan 2007

## **4.4 Conclusions**

Council has an extensive program of review to address the strategic gaps in the scheme, issues identified by previous planning panels and VCAT decisions. The 7 strategic projects proposed for the 2009/2010 financial year will address these outstanding issues further.

The most significant variation from this is the continuing impasse with regard to the management of the older irrigation areas. This issue needs to be resolved to ensure Council staff and all stakeholders have a consistent policy basis that it can respond to.

The review has also identified the significant amount of strategic work that is outstanding and acknowledges the financial and staff commitments required to execute the program. It is recommended that Council investigate funding opportunities with DPCD and RDV to support this strategic work program as a high priority.

## 5. COUNCILS STRATEGIC CONTEXT

Mildura's strategic context is set by a range of strategic and governance documents that sit outside of the planning scheme, in addition to the Local Planning Policy Framework contained in the planning scheme. These are:

- Council Plan
- Municipal Public Health Plan
- Environment Strategy
- Community Planning

### 5.1 Council Plan

Council has recently adopted (29/6/09) a new Council Plan for the period 2009 – 2013. This replaces the existing 2006-2010 version. The Council Plan sets a Vision to be:

*The most liveable people friendly community in Australia*

The Council Plan lists 5 key strategic outcome areas:

- Liveable Community
- Management of the Environment
- Growth of the Economy
- Active Community
- Management of Resources.

Under **Liveable Community (Planning and Development Standards)** the following actions are identified for the 2009-2010 financial year:

- Develop and implement a program of strategic land use projects.
- Implement Mildura South Strategic Framework Plan.
- Implement the Mildura Riverfront Master Plan - Central Precincts.
- Implement the Mildura Riverfront Master Plan - Ornamental Lakes Precinct.
- Prepare and implement Urban Design Framework/Structure Plans for identified township areas.
- Implement the Mildura CBD Plan.
- Review of Mildura Planning Scheme Stage 2.
- Implement the recommendations of the review of Mildura Planning Scheme Stage 1.
- Implement the recommendations of the Mildura Heritage Study.
- Develop and implement the Mildura CBD Carparking Precinct Plan.
- Develop and implement policies that promote proactive response to emerging issues in relation to sustainable land use and development.

Note: - some of these items are carried over from the former Council Plan.  
- implementation of plans is on going through the Plan period.

Under **Management of the Environment** the following actions are identified:

- Review Environmental Strategy 2009 to 2010.
- Implement Environmental Strategy 2010 to 2013.
- Develop planning overlays for significant vegetation identified from Remnant and Significant Linkages Strategies.
- Develop a new Vegetation Strategy.
- Develop and implement planning overlays for significant vegetation.

Under **Growth of the Economy** the following actions are identified:

- Implement the Mildura Riverfront Master Plan - Central Precincts.
- Implement the Mildura Riverfront Master Plan - Ornamental Lakes Precinct.
- Advocate for alternative investment strategies for College Lease.

- Prepare and implement Urban Design Framework/Structure Plans for identified township areas.

Section 12A of the Planning and Environment Act 1987 requires the MSS to be consistent with the Council Plan. Most Councils demonstrate this by including a vision statement in the MSS.

#### **2009 Planning Scheme Review Observation**

The current MSS refers to an outdated version of the Council Plan (2003-2006). The new Council Plan 2009-2013 has a new Vision that differs from that in the MSS and should be updated. The majority of the projects identified in the former Plan have been delivered or acted on. The preparation of the new MSS as part of Stage 2 should have regard to the new vision and commitments contained in the proposed new Council Plan and ensure there is a consistency between further strategic work contained in the Council Plan and the MSS.

## **5.2 Municipal Public Health Plan 2005**

The Municipal Public Health Plan (MPHP) is under review and a new version will be considered by Council in 2010. This also includes the Domestic Wastewater Management Plan. The current plan recognises the importance of town planning and the Mildura Planning Scheme in achieving outcomes for the community:

*The Local Planning Policy Framework sets a local and regional strategic policy context for a municipality. It comprises the Municipal Strategic Statement and specific local planning policies. A key goal behind the development of the Municipal Public Health Plan is to raise health planning to the same level of prominence as the Municipal Strategic Statement, by clearly expressing links to the Corporate Plan, by ensuring that concern for health and community wellbeing is integrated into the Municipal Strategic Statement and by creating effective links to the Primary and community sector.*

It also acknowledges the linkages with the planning scheme:

*The Municipal Association of Victoria has facilitated a 'big picture' vision for a more holistic view of health within the framework of the Integrated Local Area Planning Program in Victoria, in which local government has a lead facilitation role. The starting point for a new public health planning approach is the interconnectedness of a community's health created by a combination of social, economic, environmental, political, family and individual factors. At a local level within these domains there is a need to develop a framework and principles for integrated planning which incorporates linkages between policies, cooperation, a local government corporate approach and lead facilitation role, and working with communities. The role of local governments is one of leadership and involves a range of functions such as creation of vision and goals, promoting integrated planning, community development and participation, promoting partnerships and advocacy for local needs, establishing structures for corporate cooperation and facilitating change. Local governments are located within the communities they serve. As the closest level of government to the community, they are best able to respond to local and diverse community needs and concerns. Corporate Plans, Municipal Public Health Plan and the Municipal Strategic Statement are all required by statute, and will become key statements for articulating strategies about community wellbeing and health within the governance responsibilities of local governments.*

The new plan should provide the basis for a new Community Health and Wellbeing section of the MSS.

## **5.3 Environment Strategy**

The current Environment Strategy (2005) is under review and will be used to update the environment section of the MSS. A Greenhouse Action Plan (GAP) has been developed that principally focuses on



internal improvements to Councils offices and procedures that could reduce CO<sub>2</sub> emissions. However one role of the document is to increase the awareness of the community in regard to CO<sub>2</sub> reductions.

## 5.4 Community Planning

The Council website describes community planning as:

*A process whereby people are able to become actively and genuinely involved in defining the issues of concern to them, it is about asking the community what direction the community wants to take in moving forward – a ‘bottom up’ approach.*

*Community Planning tackles social inclusion, engagement of the community, capacity building, builds social capital, and increase participation in everyday life.*

*Currently the towns of Merbein, Nangiloc/Colignan, Murrayville, Underbool, Walpeup and Ouyen all have completed an adopted community Plans. Red Cliffs is underway and the municipality’s other towns will follow suit shortly.*

These community plans have been reviewed and there are issues that overlap into the planning scheme that need to be considered as part of updating the MSS.

## 5.5 Conclusions

Council has developed a range of important documents that sit outside of the planning scheme yet have an impact on it. The current reviews of the Environment Strategy and the Municipal Public Health Plan should be completed in 2010 and will be useful in informing the update of the MSS.

There is a high degree of consistency between the actions identified in the Council Plan and those of the MSS. The timing of this review is a good illustration of why the State Government has aligned the planning scheme review with the development of or a review of the Council Plan. The Council Plan will then form the basis of a new clause 21.03 of the MSS. It is very important that actions identified in the new Plan are consistent with the issues and further strategic work requirements of the MSS.

## 6. CONSULTATION

Council places a high priority on effective community consultation. The review of the planning scheme has involved a number of workshops and briefings of the Council, community and government agencies.

A series of consultations and workshops were carried out between 24 and 27 March 2009. These included Council staff (both planning and other staff), Councillor briefing, Government agencies, the Sunraysia Development Industry Group (SDIG) and individual submitters.

The draft review report was placed on exhibition for a 4 week period in June/July 2009. A total of 12 submissions were received. These have been addressed in the Appendix B. A further period for the lodgement of submissions occurred in November – December 2009 (as part of Stage 2) which resulted in an additional 34 submissions. Therefore Appendix B contains responses to 46 submissions.

In addition to the consultation undertaken as part of the review Council routinely consults with its community and stakeholders as part of the development of new strategic work and through other forums such as the developer forum which is held on a monthly basis.

### 6.1 Outcomes of Consultation

#### Councillors

A briefing of Council was held on 26<sup>th</sup> March 2009 to introduce the review, its objectives detail the scope of work involved. Some initial observations were provided to Council on the outcomes of other consultations completed.

Some of the key issues discussed were:

- The development of the solar power generating industry in the region and the need to facilitate this industry;
- The ‘dewatering’ of land and not being used for agriculture.
- The need for a car parking strategy for the Mildura CBD.
- The need for a structure plan for the land surrounding the Mildura Golf Club to guide its future development.

#### Council Planning Staff

A series of discussions were held with Councils statutory and strategic planning staff either as a group, as the project steering committee or individually.

These discussions identified the following issues:

- There has been no structural change and little content change to the LPPF since the 2003 review and its implementation amendment (C28). A holistic review is required.
- The current MSS does not provide sufficient detail and is difficult to navigate. It contains a lot of repetition.
- An issue that has been resolved yet absorbed considerable Council resources was the Nowingi proposal. An ‘undo’ amendment (C43) has removed the provisions that would have facilitated this proposal.
- The environment theme needs the most work as issues associated with climate change need to be addressed with a focus on sustainability principles. The review of the Environment Strategy will inform this work.
- A significant amount of work has been completed for residential, industry and retail/commercial land in the municipality. Ongoing reviews should be factored into forward plans.
- The role of Community Planning should be reflected where appropriate in the MSS.
- The current MSS lacks a community well being section that may be able to draw upon other relevant strategies that sit outside of the planning scheme such as the open space strategy, environment strategy and the municipal public health plan.

- In regard to rural based application for the older irrigation areas Council staff does not make an assessment against the Mildura Older Irrigation Areas Strategy (MOIA) as it is not an adopted Council strategy, however consideration is given firstly to the current scheme provisions and then local policy contained in Amendment C30. A single consistent position on this issue is urgently required to provide direction for staff. This comment needs to be considered now in light of the position implemented by Amendments C58 and C59.
- The rezoning of public land to be sold privately by the DSE needs to be better managed. Land should be rezoned prior to the sale of the land and could be initiated by DSE and done under Section 20(4) of the Act if appropriate which avoids notification.
- Council should develop an internal process that establishes a consistent approach to amending residential development plans.
- A strategy should be developed to deal with College lease land. There are 2 key issues. One is the political solution that needs to be reached with the schools and the other is the planning scheme implications.
- The Mildura CBD Plan has been completed and adopted by Council and should be introduced into the planning scheme. This is the same for a number of other strategic projects that Council has adopted but are yet to be introduced into the planning scheme.
- Staff are waiting for the Mallee CMA to provide information/data to support the application of VPOs as required in the Council Plan.
- The format of the 3 schedules to the Development Contribution Plan Overlay is inconsistent with the VPP standard. These schedules should be consolidated into a single schedule to avoid the application of the more than one schedule to land. This could be considered as a 20(4) amendment.
- A Housing Strategy should be developed to address the new suite of residential zones.
- There are residentially zoned areas along Deakin Avenue where the majority of houses are used for commercial offices or professional rooms. Consideration should be given rezoning these areas to a business zone.
- The preparation of Deakin Avenue design guidelines is urgently required to address some of the development pressure along the avenue.
- The 2000 retail strategy focused on Mildura Centro and the 2003 review dealt with the extension of Mildura Centro and land in Fifteenth Street. There is a need for a strategy that focuses on neighbourhood centres, particularly in urban growth areas.
- Precinct Structure plans will be required for the Mildura South Strategic Framework Plan area.
- The current Salinity Management Plan is under review. Once finalised there will be a need to update the Salinity Management Overlay.
- The Alfresco Dining Policy is currently addressed as a local law however a review of it may reveal a need to introduce it in the planning scheme.

### **Other Council Staff**

A workshop was held with other Council staff on 25<sup>th</sup> March 2009 and took the form of an educative approach. The staff that attended was from engineering, health and environmental services units. No representatives from community planning, governance, building, traffic/local laws attended.

### **Engineering**

The engineering staff coordinates the implementation of funds received from the development contribution plans and were supportive of a single schedule to the DCPO. A change to the schedule would not affect the implementation of the DCP.

### **Health**

A greater understanding of the role of planning in the development of municipality was beneficial to this participant, however no direct feedback was obtained.

### **Environmental Services**

There is a lack of Vegetation Protection Overlay controls in the planning scheme for private vegetation and roadside vegetation.

There needs to be an audit of the Significant Tree Register to reflect trees that have been removed or died and new citations.

A Greenhouse Action Plan (GAP) has been completed. This report addresses both corporate and community actions to address climate change.

### **Economic Development**

- The Mildura Development Corporation (formerly Sunraysia Mallee Economic Development Board) is now an incorporated association separate from Council funded by a differential rate on commercial properties with a contract with Council to provide economic development services. Services provided include advocacy with state government, marketing promotions, industry capabilities and investment attraction.
- A report addressing the low water allocation impacts has been prepared and may have a planning scheme impact in regard to what happens with land in old pump districts (older irrigation areas), residential land releases and competitive advantages identified against other areas.
- The development of the solar power generation industry has significant potential for the Sunraysia. The 2000ha solar plant has generated interest for other projects. This project will result in 950 construction jobs and 60 permanent jobs.
- Mineral Sands at Illuka and Ouyen will generate significant local employment. The development of this industry should be supported by the MSS review.
- The Sunraysia Economic Development Strategy is currently being updated and is to be finalised in June 2009.
- The supply of commercial/retail and industrial land seems to be meeting demand.
- The redevelopment of the Mildura Riverfront will generate local employment be an integrated retail, tourism and residential precinct.
- The Freight Gate at the Mildura Train Station will be relocated to Thurla which will enable the Riverfront Master Plan to be implemented.
- College lease land is a constraint on local development. 32 regional schools benefit financially from the fund. This matter needs to be addressed to ensure it does not inhibit development.

### **Agency staff**

Council invited all agencies and service providers to a workshop which was held on 27<sup>th</sup> March 2009. Those that attended included Lower Murray Water, Vic Roads, Country Fire Authority, NSW Maritime and a representative from the Sunraysia Bus Line. The Mallee CMA, Telstra, Powercor, SPI Ausnet and the DSE did not attend.

Issues raised include:

### **Lower Murray Water**

- Would like to retain the current local policy 22.07 (service agencies) which requires Council to notify LMW of two lot subdivisions. A proposition was put that this would be better placed in clause 66.06 of the planning scheme where all other Section 52 notice requirements are located.
- The Grampians Wimmera Mallee Water Authority also covers some parts of the municipality.
- LMW has now amalgamated with First Mildura Irrigation Trust (FMIT) and Sunraysia Rural Water.
- LMW would like to investigate establishing a referral agreement with Council to avoid formal referral of applications.
- LMW would like to see applicants obtaining a response from them before lodging an application with Council which is allowed under the Act.
- LMW would prefer to see rural subdivisions and low density residential/rural living subdivisions done in a more strategic planned manner than an adhoc manner which is difficult to plan services for.

### **Mallee Catchment Management Authority (MCMA)**

- With the acquisition of new Lidar information, the Mallee CMA will be reviewing current flooding overlays and zones in order to more accurately define flooding areas. Priority for updating flood maps will be given to urban areas.

- Mallee CMA would like to see a flood study completed for the landfill area particularly as Council have a number of structures proposed for the area.

### **Department of Sustainability and Environment (DSE)**

The DSE was not able to attend the workshops or comment on the draft review report. No further submission has been received.

### **Vic Roads**

- Access Management Guidelines will be introduced mid 2009 and will be the basis of referral/notice responses. They will contain standard conditions that could be translated to a referral agreement. There are no agreements currently in place.
- These may also have an impact on clause 52.29 of the planning scheme.
- Roadside trading of produce is an issue in rural areas. Vic Roads would like to be able to impose conditions to avoid parking on the roadsides. This could be a candidate for a local policy.

### **Country Fire Authority**

- The width of road in new residential subdivisions is an issue to ensure there is sufficient turning room and egress for a fire vehicle.
- Swan Hill has a section 55 referral agreement with the CFA and could be a basis for Mildura.
- The CFA would like to see Council adopt SPEAR which is an electronic referrals system.
- The CFA response to certification is usually also for Statement of Compliance and therefore there is not need to provide a secondary referral when the Statement of Compliance (SoC) is requested.

### **NSW Maritime**

- The Mooring Management Plan is currently with Wentworth Shire Council and needs to be progressed urgently, particularly with the Riverfront Master plan being implemented.

### **Sunraysia Bus Line**

- There needs to be a local hub for buses in the Mildura CBD, particularly for disabled vehicle access.
- Council needs to do more work on a public transport strategy.
- There was little understanding of the content of the MSS and local policies and much of the discussion was based on specific issues of interest.

### **Sunraysia Development Industry Group (SDIG)**

The Council consults the local development industry group (SDIG) as required on planning issues. It has over 30 members however only 5 attended the workshop held on 26<sup>th</sup> March 2009. Some of those that did not attend provide an individual submission.

Issues raised were:

- Support for Council in developing retail, industrial and residential strategies in the last few years which provide a great degree of direction for the development community.
- There was general support for planning scheme however the development community wants Council to adopt a consistent approach to the older irrigation areas so they can advise their clients appropriately. Once this has been finalised there will be a need to review LDR land supply.
- The ESO1 should be reviewed to ensure it does not apply to established urban areas.
- The drought and water availability is impacting land use issues. The 2003 review focused on expansion of the horticultural industry and reduced water allocations has now led to a rationalisation in the industry however probably too costly.
- Solar industry has significant potential.
- A desalination plant could be use to treat saline groundwater for use in the horticulture industry.
- There should be ongoing reviews of the industrial, retail/commercial and residential land strategies.

### **Industrial land**

- There has been little development in new industrial areas due to the recession and drought however this needs to be monitored carefully.
- Land at Karadoc (250ha) is targeted for agricultural/transport industries.
- The recent industrial land review has now resolved short and medium term supply issues and given direction to industry.
- Council should consider strategic planning for the Sturt Highway/Meridian Road intersection at Merbein South where the north south rail link is proposed.

### **Retail land**

- A retail link from the Mildura CBD to the riverfront is important and needs to be reflected in the MSS.
- There is difficulty in accommodating large scale businesses (eg Big W) in the CBD to land size constraints.
- College lease land is impacting development however this is not recognised by the benefactors. The beneficiaries are doing a review of College lease land at the end of 2009.

### **Commercial land**

- There is high vacancy rate for offices which is driven by the current economic climate.

### **Deakin Avenue**

- There is a need for a strategy for Deakin Avenue. The group asked whether the aim of a grand boulevard is being achieved.

### **Parking**

- Acknowledge the CBD parking is an issue however strongly objected to the introduction of parking meters as a revenue base.

### **Rural issues**

- The 0.4ha minimum lot size is now redundant with the advent of climate change and the difficulties in managing this amount of land. 0.2ha would be more appropriate.
- Consolidation of land should be promoted, houses on small lots may be prohibited under the MOIA report which could provide for small niche agricultural industries.
- A single strategy/policy approach is required for the MOIA so all parties know where they stand.
- It is noted now (Jan 2010) that Amendments C58 and C59 have provided some certainty.

## **6.2 Conclusions**

An array of issues has been raised through consultation. Some key themes can be developed that categorise issues:

### **Planning scheme**

Staff with day to day contact with the planning scheme comment it is repetitive, difficult to navigate, and lacks detail and a social planning comment. The users of the scheme outside of Council (eg SDIG) had no particular issue with the planning scheme yet supported a single approach to MOIA and the need to review LDR land supply issues.

A best practice approach to the LPPF has general support from Council staff.

### **Rural Issues**

A consistent and single policy approach is urgently required for the older irrigation areas. Amendments C58, C59 and C65 have provided some degree of additional certainty.

### **Community Plans**

Element of community plans should be reflected in the MSS.

**Emerging industries**

The solar and mineral sands industries have merged over the last few years and need to be reflected in the new MSS.

**Community Well Being and Social Planning**

The current MSS lacks a Community wellbeing section that could draw upon other strategies that sit outside of the planning scheme such as the open space strategy.

**Climate change and sustainability**

There is no reference to climate change impacts in the MSS and very little on sustainability principles. The review of the environment strategy should provide new information for the MSS on these issues.

## 7. THE EFFECTIVENESS OF THE MUNICIPAL STRATEGIC STATEMENT (MSS)

This section reviews structural and content issues of the MSS.

### 7.1 Proposed Structure

Direction for the structure of the MSS is provided by the DPCD Practice Note *Format of Municipal Strategic Statements*. This provides a set of themes that reflect those of the State Planning Policy Framework. Adherence to this structure is not mandatory however most planning schemes do align more or less with this structure.

The table below provides a comparison of the Practice Note format and the current Mildura MSS structure.

Practice Note format	Mildura format
21.01 Municipal Profile	21.01 Municipal Profile
21.02 Key Influences	21.02 Key Influences
21.03 Vision – Strategic Framework	21.03 Vision and strategic land use framework
21.04 Objectives, Strategies and Implementation	21.04 Strategic directions
<i>21.04-1 Settlement</i>	<i>21.04-1 Settlement and housing</i>
<i>21.04-2 Environment</i>	<i>21.04-2 Environment</i>
<i>21.04-3 Housing</i>	<i>21.04-3 Economic development</i>
<i>21.04-4 Economic development</i>	<i>21.04-4 Infrastructure</i>
<i>21.04-5 Infrastructure</i>	21.05 Monitoring and review
<i>21.04-6 Particular uses and development</i>	21.06 Reference documents
21.05 Monitoring and review	

There is a high degree of consistency with the Practice Note, principally as a result of Amendment C28. However the following summarises issues identified with the current MSS through the scheme audit:

- The themes identified in the SPPF (settlement, environment, economic development and infrastructure) are used as the basis for the LPPF. Since the last review and the development of best practice for the LPPF there is a movement away from the strict adherence to the SPPF structure to a local area approach that provides a single reference point to issues relevant to, for example, Red Cliffs or Mildura.
- The current MSS structure requires numerous references for issues relevant to geographic areas which makes the scheme cumbersome and unwieldy.
- There is a large and wordy Municipal Profile, a lack of a specific statement on what the key issues are and a need for a community wellbeing section.
- There is a 'dump' of town structure plans at the end of the settlement theme with little or no nexus provide to the text of the MSS. The structure plans in themselves become a 'strategy' for geographic areas; yet there should be greater connection to the description of the strategies.

#### Current Best Practice

Recent planning scheme reviews for Colac Otway (C55) and Bass Coast (C85) have adopted elements of best practice that differ from the practice note requirements. Best practice has guided this review and will form the basis of the new MSS. From a structural perspective one of the key recommendations is to introduce a local areas section that will provide a single reference point for the town strategies. This will overcome the unwieldy location of town structure plans at the end of the settlement theme and provide greater flow with the text.

This new MSS could be structured as follows based on the previous table:



Practice Note format	Mildura format	Proposed format
21.01 Municipal Profile	21.01 Municipal Profile	21.01 Municipal Profile
21.02 Key Influences	21.02 Key Influences	21.02 Key Issues
21.03 Vision – Strategic Framework	21.03 Vision and strategic land use framework	21.03 Vision and framework
21.04 Objectives, Strategies and Implementation	21.04 Strategic directions	21.04 Objectives, Strategies and Implementation
<i>21.04-1 Settlement</i>	<i>21.04-1 Settlement and housing</i>	<i>21.04-1 Settlement and housing</i>
<i>21.04-2 Environment</i>	<i>21.04-2 Environment</i>	<i>21.04-2 Environment</i>
<i>21.04-3 Housing</i>	<i>21.04-3 Economic development</i>	<i>21.04-3 Economic development</i>
<i>21.04-4 Economic development</i>	<i>21.04-4 Infrastructure</i>	<i>21.04-4 Community Health and Well being</i>
<i>21.04-5 Infrastructure</i>	21.05 Monitoring and review	<i>21.04-5 Infrastructure</i>
<i>21.04-6 Particular uses and development</i>	21.06 Reference documents	<b>21.04-6 Local Areas</b>
21.05 Monitoring and review		21.05 Reference documents
		21.06 General Implementation
		21.07 Further Strategic Work

A suggested presentation of a **Specific implementation** section which would be located in the 21.04 under each theme is:

- References to local planning policies,
- Policy guidance around the exercise of discretion, consisting of:
  - Application requirements,
  - Criteria for the exercise of discretion,
  - Issues to be considered when making a decision (called somewhat confusingly ‘Decision Guidelines’ in the VPP), and
- Rezoning guidance.

The policy guidance section should be on this structure:

- Request [specify proposals] provide the following information as appropriate:
  - [List of specific information to be supplied].
- Assess proposals [specify proposals] against the following criteria:
  - [This list should comprise of ‘standards’, that is statements using the verb ‘should’ (or in some cases ‘may’)].
- When deciding on applications [specify proposals] consider, as appropriate:
  - [This list should comprise a list of policy neutral issues].

The rezoning guidance section should be based on the following structure:

- Support the [nominated zones] on land [area identified] to provide for [identified uses] provided [other requirements].

## 7.2 Existing Content

This section of the report addresses content issues with the MSS.

### Clause 21.01 Municipal Profile

- Is too long and contains overview information that should be used as introduction to the themes.
- Contains key issues and strategies that should be located elsewhere.
- Should be reduced to 2 pages maximum.
- Need to update data with 2006 census data.
- Need more social commentary.

- Not regularly referred to by staff in reports or VCAT submissions but does set the scene for future references.

#### **Clause 21.02 Key Influences**

- Should be a key issues section that incorporates key influences.
- A themed based categorisation is supported.
- Need to audit to ensure there is just a statement of what the issue is and **not** how to address it.
- Additions made since Amendment C28 has resulted in a need to review the suitability of the information contained in this section.

#### **Clause 21.03 Vision and Strategic Land Use Framework**

- Cites material from the 2003-2006 Council Plan. There is a need to update this information with the new Council Plan that will be introduced in June 2009.

#### **Clause 21.04 Strategic directions**

- There is support for the themes used in this section however a need for a community health and well being theme has been identified.
- This strongly theme based clause requires the reader to refer to a number of sections for an understanding of geographic areas to towns.
- There is too much reliance on referring to the town structure plans for specific strategies.
- The use of a single objective support by strategies is supported. This provides a nexus between objectives and strategies and ensures there are no 'floating' objectives without strategies.
- The set of objective statements is supported by staff and seen to be supported by a number of VCAT decisions.
- An initial audit has found there are examples of strategies worded as objectives and objectives as an objective and strategy in a single sentence.
- Some strategies are more appropriately located under another theme.

#### **Clause 21.05 Monitoring and Review**

- Council does not have a proactive procedure for monitoring of the planning scheme however for annual reporting and councillor requests most of the data can be easily retrieved.
- This clause adopts a theme based approach to monitoring for residential, rural and retail/commercial development on the basis of the number, type and location of applications with a target for residential development to occur within the town boundary, reduce the number of permits for non agricultural land uses and small lot excisions and an increase in the number of permits for development in the CBD and bulky goods proposals on Fifteenth Street, respectively.
- It is understood the DPCD has removed this as a requirement for the MSS with a preference for it to occur during the review of schemes or on an as needs basis.

### **7.3 Conclusions**

The approach adopted with the review of the MSS structure has been guided by the best practice review prepared by DPCD and Planning Panels Victoria. This will eventually replace the current practice note and has been used in recent planning scheme reviews considered by Planning Panels. The Department of Planning and Community Development are currently utilising this approach.

This review has concluded the MSS structure needs to be reviewed with the introduction of the following:

- local area section to the MSS;
- Community Health and Wellbeing section;
- make provision for a specific implementation section that will allow some of the current local planning policies to be translated back into the MSS; and
- removal of the monitoring and review section.

In regard to content there is an opportunity to significantly improve the content and its layout in the MSS. A thorough audit during the re-write will ensure the following:

- objectives and strategies meet their intended purpose (some of which do not);
- a redistribution of content to more appropriate areas of the MSS;
- a need to reduce the length of the Municipal Profile;
- refocus the Key Issues; and
- a general update of data and information from the 2006 census and the new Council Plan.

To complete these tasks we suggest two approaches for consideration:

- a ‘policy neutral’ translation of the MSS and LPPF into the new format under section 20(4) of the Act which will not require exhibition,

followed with

- an amendment that introduces new material and updates data and information.

The alternate approach would be to combine these two tasks in the one amendment. **This is the preferred approach for the Mildura Planning Scheme.**

## 8. HOW THE MSS IMPLEMENTS STATE PLANNING POLICY

### 8.1 SPPF Analysis

The report of the Panel and Advisory Committee that considered the new format Mildura Planning Scheme concluded that:

**The provisions of the LPPF and the general application of zones, schedules and overlays are broadly consistent with the requirements of the SPPF. The use of the key themes in the LPPF is particularly useful. It is clear that those include the main components of the SPPF and that the scheme has addressed the SPPF provisions.**

The Panel that considered Amendment C28 which implemented the first planning scheme review findings also commented on the SPPF consistency:

**The Revised Local Planning Policy Framework (contained in Amendment C28) implements State Planning Policy Framework. In particular the layout of the Municipal Strategic Statement adopts the layout contained in the SPPF, thereby providing consistency within the Planning Scheme. Given the Amendment is the culmination of the required “Three Year Review” the SPPF is particularly relevant.**

Since the 2003 review there has been a number of changes to the SPPF. As described in section 3.2 of this report these include:

- The new suite of rural zones that introduce the Farming, the Rural Conservation and Rural Activity zones.
- The proposed new residential zones that reflect areas that have minimal, incremental or substantial change. A Housing Strategy is the preferred vehicle for the introduction of these zones.
- Amendment VC49 that introduced changes aimed at removing (or clarifying) unnecessary requirements from planning approval in respect of minor matters, the Heritage Overlay, advertising signs, native vegetation, referrals and public transport.
- Amendment VC34 introduced a new clause 12 to the SPPF
- VC38 amended clause 15.09 to provide for a new approach to vegetation management.
- VC42 introduced the Sustainable Neighbourhood Provisions for residential subdivisions with changes to clause 19 and others.
- VC39 amends the provisions relating to gaming to accord with the Gaming Regulation Act 2003.
- Amendment VC45 amends clauses 12, 15, 17, 19 and others to give effect to the new Aboriginal Heritage Act 2006.

### 8.2 Conclusions

In respect of Mildura the Council has prioritised the need for a Housing Strategy to implement the new residential zones and address issues arising from the MOIA taskforce recommendations. Without this it is understood the Residential 1 Zone will be translated to the proposed Residential 2 Zone – incremental change. While consultation did not indicate there is a need for a housing strategy and there is limited pressure for infill development in Mildura and no pressure in other towns, Council should ensure it continues to use the provisions of clauses 55 and 56 (particularly neighbourhood character) to guide future development.

There is a strong correlation between the clauses of the SPPF and the Mildura MSS. This report has already established that the existing themes will be retained however a new Local Areas section will be introduced to indicate how the themes are implemented for each town. This will provide of a single point of reference for urban abased issues.

## 9. THE EFFECTIVENESS OF LOCAL PLANNING POLICIES

There are 10 clauses in clause 22 with effectively 9 local planning policies as the clause 22.01 is an introduction. These are listed below with a commentary on each:

Clause 22.01	Introduction
Clause 22.02	Woorlong wetlands
Clause 22.03	Deakin Avenue function and appearance
Clause 22.04	Budget accommodation
Clause 22.05	Public lands
Clause 22.06	Agricultural land
Clause 22.07	Service agency
Clause 22.08	Heritage Precincts
Clause 22.09	Mildura Airport
Clause 22.10	Mildura CBD car parking policy

### 9.1 Detailed review

#### Clause 22.01 Introduction

This introduction is not required and does not represent a local planning policy.

- Recommendation - delete

#### Clause 22.02 Woorlong wetlands

This policy applies to the Rural Conservation land west of Woorlong Avenue in Mildura and imposes lot size, setback and design requirements including building height. Schedule 1 to the RCZ applies to the land and already contains the lot size requirements contained in the policy. Other requirements referred to above can be included in the proposed specific implementation section of the MSS.

- Recommendation - delete

#### Clause 22.03 Deakin Avenue function and appearance

This policy applies to all land zoned Residential 1, Business 2, Business 5 and with frontage to Deakin Avenue between 11th and 16th Streets Mildura and only discourages food and drink premises and restaurants in these zones. This is a strategy and should be located in the MSS.

- Recommendation - delete

#### Clause 22.04 Budget accommodation

This policy applies to use of any land within the municipality for any form of higher density commercial accommodation, in particular to the following uses:

- Group Accommodation
- Residential Building
- Backpacker's Lodge
- Boarding House
- Hostel
- Residential Hotel
- Motel
- Bed & Breakfast

These uses have been identified as having a potential for adverse off-site impacts, especially when managed primarily to provide low cost or budget accommodation for young itinerant workers and other travellers. The policy particularly applies to applications to use land for the above uses which, in the opinion of the Responsible Authority propose some form of "budget accommodation".

This policy is issue specific and is suitable to guide decision making on this issue. Some additional statement could be added in the MSS though to provide further weight to discourage these uses in certain situations.

- Recommendation - retain

#### **Clause 22.05 Public lands**

This policy applies to all land which abuts the Public Conservation and Resource Zone (PCRZ) and seeks to encourage the protection of public land at the interface with rural and urban land. It requires a Section 52 notice to the DSE and encourages firebreaks on cleared private land, not public land.

The notice requirements of this policy should be located in the schedule to clause 66.06 and the decision guidelines should be translated to the proposed specific implementation section of the MSS.

- Recommendation - delete

#### **Clause 22.06 Agricultural land**

This policy applies to all land in the Farming Zone and was to be replaced by a new policy under Amendment C30. It provides policy guidance for land use and subdivision in the Farming Zone. The approval of C58 by the Minister did not include a replacement policy for this policy. The current policy would only be relevant to exercise discretion on dwellings and subdivision and the vast majority of these are now either illegal/prohibited or as of right (no permit required) under C58. It could then be argued this policy is effectively redundant however the Minister is expecting a response from Council and it is likely a policy will be required in the future. It is for this reason the current policy should be retained to address those limited issues where discretion applies.

- Recommendation - retain

#### **Clause 22.07 Service agency**

This policy applies to all land and seeks to inform relevant service authorities of development applications and to encourage the protection of water and sewerage infrastructure. It refers to water authorities (Sunraysia Rural Water Authority and FMIT) that now no longer exist and requires a Section 52 notice for any subdivision of land (including 2 lot subdivisions), plan of consolidation, realignment of boundaries, new irrigation development, water storage, channel construction and buildings and works within 10 metres of its infrastructure. A standard condition is proposed to avoid this notice requirement.

An alternate approach to this policy is to include in the notice requirement in the schedule to clause 66.06 and develop a referral and notice agreement between Council and Lower Murray Water that provides the circumstances under which the condition can be applied.

- Recommendation - delete

#### **Clause 22.08 Heritage Precincts**

This policy applies to all land within the Heritage Overlay and seeks to protect, preserve and promote individual precincts that reflect the early development of Mildura. However it only provides policy that applies to the heritage precincts identified in the schedule and not isolated heritage sites.

The policy contains strategic statements as to how each heritage precinct should be managed. On this basis these strategic statements could be easily translated to the MSS. The representation of this in the MSS could be via text or town structure plan changes.

- Recommendation - delete

#### **Clause 22.09 Mildura Airport**

This policy applies to all land within the Special Use Zone, Schedule 7, Design and Development Overlay, Schedules 6, 7 and 8 and Airport Environs Overlay, Schedules 1 and 2 and seeks to:

- protect and promote the future growth and development of the Mildura Airport as a transport hub and business/industrial precinct;
- ensure that use and development of land within and around the airport precinct is consistent with the Mildura Airport Master Plan 2000-2015; and
- ensure that the operations of the Mildura Airport are not impacted by inappropriate use, development or subdivision within or around the airport site.

It refers to requirements of other parts of the planning scheme such as the DDO 6, 7 and 8, the AEO 1 and 2 and the Mildura Aerodrome Obstacle Limitation Surfaces (OLS) Contours plan at clause 81 and encourages use and development supported by the Mildura Airport Master Plan 2000-2015.

There is no need to refer to other parts of the planning scheme as these requirements should stand alone; a policy should not duplicate overlay requirements or refer the reader to them. The reference to a Section 173 agreement for adjoining land that details building constraints should be included in the current DDOs.

- Recommendation - delete

#### **Clause 22.10 Mildura CBD car parking policy**

This policy applies to the Mildura CBD and reduces the State standard parking rates contained at clause 52.06 to a level considered appropriate for the local circumstances. The current review of the clause 52.06 by DPCD will reduce the rates to similar levels within a revised clause 52.06. Once this occurs this policy may become redundant. However in the interim it is proposed to retain the policy against the current provisions of clause 52.06, pending its review and implementation. Council is also preparing a Parking Precinct Plan for the Mildura CBD which is the appropriate mechanism for a cash in lieu charge.

- Recommendation - retain

## **9.2 Conclusions**

This review has concluded the application of local planning policies has been limited over time and does not have an excessive amount of policy. However with the better use of the MSS for strategic statements, notification requirements in clause 66.06 and the proposed new specific implementation section it is recommended that 6 of the 9 policies and the introduction be deleted (effectively by translation into the MSS).

## 10. THE EFFECTIVENESS OF THE ZONES AND SCHEDULES

### 10.1 Audit

There are 17 zones used in the Mildura Planning Scheme as detailed below:

- Residential 1
- Low Density Residential
- Mixed Use
- Township
- Industrial 1
- Industrial 3
- Business 1
- Business 2
- Business 4
- Business 5
- Rural Conservation
- Farming
- Public Use
- Public Park and Recreation Zone
- Public Conservation and Resource Zone
- Road
- Special Use

All of these zones have a schedule attached (except for the Road Zone). The schedules vary from the use of the “default” provision (R1Z, LDRZ, MUZ, TZ, IN1Z, IN3Z, B1Z, B2Z, B4Z, B5Z, PUZ, PPRZ and PCRZ) to more locally specific content for the Rural Conservation and Farming zones. There are also 9 schedules to the Special Use Zone related to education and religious institutions, tourism precincts, the Mildura marina, hospital, essential service utilities, Red Cliffs caravan park, airport and the Mildura – Irymple transition areas.

Many of the submissions received and reviewed as part of this review request a rezoning of land. Of the 46 submissions received 32 have requested a rezoning. There have been 9 requests for the Low Density Residential Zone, 8 for the Residential 1 Zone, 8 for a business zone, 3 for an industrial zone and 4 for a rural zone. Many of these submissions can be considered in proposed or upcoming further strategic work.

Consultation with planning staff has indicated the application of the zones remains generally appropriate however there is further opportunity to include local content in some of the zone schedules.

Some specific issues raised are:

#### Residential zone suite

- The Residential 1 Zone is used broadly to identify most residential areas in Mildura, Merbein, Irymple and Red Cliffs. Staff supported the need to require a permit for a new dwelling or its extension on a lot between 300m<sup>2</sup> and 500m<sup>2</sup> to provide better site response. Nichols Point is fully serviced and has the potential to provide for more residential development however does have significant drainage constraints that need to be addressed.
- The Low Density Residential Zone is a mix of translation from the old format planning scheme and a review conducted in 2003. Of the submissions received on this zone the following two messages were consistent;



- There is a need to update the 2003 review particularly in response to a perceived lack of supply and in light of the recommendations from the MOIA Taskforce which restricts the residential use of Farming Zone land and its de facto use for rural living purposes.
- Council should be given the opportunity to vary the minimum lot size of 0.4ha below the default minimum. This responds to the difficulty in maintaining such a large lot, lack of water and the opportunity to provide a fully serviced residential product the market has already supported favourably.
- The Township Zone is applied to the smaller surrounding towns. It also applies to Ouyen which has a population in excess of 2000 and has a distinguishable urban structure based around residential, commercial and industrial areas. The translation of the Township Zone to these more specific zones is appropriate.
- The Mixed Use Zone is applied to an area south east of the Mildura CBD.

#### Industrial zone suite

- The Mildura Industrial Land Strategy Review 2006 was introduced by Amendment C38. Industrial areas are located in Mildura, Merbein, Irymple and Red Cliffs. This review introduced areas of Industrial 3 Zone however there are existing interface areas with residential areas in Mildura that should be considered for the IN3Z.
- It was considered there was adequate land supply in Mildura however there may be a shortage in Irymple. This can be considered as part of the Irymple Town Structure Plan project.

#### Business zone suite

- The Business Zone 1 has been applied to the Mildura CBD, Mildura Centro and shopping centres for Irymple, Merbein and Red Cliffs. Some small local convenience stores are also zoned B1Z.
- A perceived lack of supply and pressure for development has resulted in Council commissioning a full retail strategy review for 2010.
- The Business 2 Zone is applied to areas surrounding the Mildura CBD. There is potential for some of this land to be rezoned to B1Z as part of the retail strategy review.
- The Business 4 Zone is applied to a large part of Fifteenth Street bulky goods precinct.
- The Business 5 Zone has been applied to parts of Deakin Avenue where non residential uses have utilised existing dwellings for commercial purposes. One submission has requested the two areas be linked with a new B5Z area to reflect the existing non residential use of the land.

#### Rural zone suite

- The review of planning controls by Amendments C58, C59 and C65 for the Mildura Older Irrigation Areas and the recent taskforce outcomes has implemented a single strategy for the MOIA that all parties must now implement.
- The Mildura Planning Scheme does not use the Rural Living Zone or the Rural Activity Zone. There may be opportunities for these zones to be introduced. The proposed low density residential/rural living review should consider these issues. Areas on Ontario/Flora Avenues are potential for the RAZ. There have been Rural Living enquiries for areas around Merbein.

#### Public Use zone suite

- The Public Use Zone has been used extensively for local government, health, education, transport and utilities facilities.
- The PUZ3 for the old hospital site needs to be reviewed to identify a more appropriate zone.

#### Special Use zone suite

- There are 9 schedules to the SUZ.
- The SUZ1 for Private Education and Religious Establishments should be amended to identify a Place of Worship as a Section 1 use (not Section 2).
- The SUZ3 for the Mildura Marina is very lengthy and may have some conflict with the incorporated document. Amendment C61 will ensure the sunset clause on the incorporated document does not expire and the provisions can continue to be considered.
- The SUZ5 for essential service utilities may be more appropriate as a PUZ.
- The SUZ7 relates to the Mildura airport site. As its management is now not part of Council there may need to be a formal S52 or S55 referral to the management. The flight training centre wants to develop accommodation for its trainees however it is prohibited.
- The SUZ8 and 9 for the Mildura and Irymple transition areas has decision guidelines for signage but no permit trigger for signage.

## 10.2 Conclusions

The following issues require further strategic work by Council:

- Need for a retail strategy review to consider all retail issues from local convenience stores to traditional retailing areas of Mildura CBD, Centro and the bulky goods precinct of Fifteenth Street.
- Need for a Housing Strategy to consider the ramifications of the Farming Zone Taskforce outcomes, perceived lack of LDR supply, potential changes to the R1Z to provide for lots less than 0.4ha in response to constraints of the LDRZ, potential of the rural living zone and the Rural Activity Zone and the new suite of residential zones.
- General review of zone schedules to identify potential for local content in the schedule.

## 11. THE EFFECTIVENESS OF THE OVERLAYS AND SCHEDULES

### 11.1 Audit

There are 12 overlays used in the Mildura Planning Scheme as detailed below:

- Environmental significance
- Vegetation protection
- Heritage
- Design and development
- Development plan
- Salinity management
- Floodway
- Land subject to inundation
- Public acquisition
- Airport environs
- Environmental audit
- Development contributions plan

The overlays cover a broad range of areas and all have at least one schedule attached with local content. Amendment C44 has reviewed the overlays and their schedules in the Mildura Planning Scheme. This project was sponsored by the DPCD under the North West Regional Referrals Relationships Project. A number of changes have been made to the overlay schedules to remove unnecessary permit requirements and repetition. This amendment is now with the Minister for approval. Below is a brief review of the overlays and their schedules.

#### Environmental significance (ESO)

The ESO have 4 overlays:

- Murray river corridor
- Mildura wastewater plant
- Merbein mushrooms
- Incompatible land uses

There is the potential for a fifth schedule for habitat protection for the Regent Parrot as suggested by the DSE in Submission 46 to this review.

#### Vegetation protection (VPO)

The VPO has one schedule for roadside vegetation.

#### Heritage (HO)

The Heritage Overlay has one schedule that contains 151 citations that cover individual sites, precincts, places and trees of heritage significance. Of these there are 12 citations for items on the Victorian Heritage Register with the balance as local significance only, 18 of which are for trees. The basis of this schedule is a carry over from the former Mildura Planning Scheme. The anomaly list contained in Appendix C of this review has identified a number of errors with the application of the HO.

There are 4 amendments in preparation to address the Heritage Overlay and its schedule. These are Amendment C47 (Site specific heritage anomalies), Amendment C51 (Heritage anomalies) and Amendment C52 (Site specific heritage anomalies. Introduces permanent control following order and

reinstates reasons for heritage significance) and Amendment C54 (Heritage anomalies – State Government).

The current HO schedule for former Mildura City Council properties is based on the Andrew Ward study of 1988. Council will review and update this study.

### Design and development (DDO)

The DDO has 11 schedules as follows:

- 1 Deakin Avenue
- 2 Town entrances
- 3 Mildura CBD
- 4 Industrial areas
- 5 Mildura Plaza
- 6 Mildura Airport Height
- 7 Mildura Airport Height
- 8 Mildura Airport Height
- 9 Benetook Avenue precinct
- 10 Fifteenth Street special use precinct
- 11 Fifteenth Street special use precinct

All schedules relate to design based issues. Design guidelines are proposed to be completed for Deakin Avenue which will provide added rigour to DDO1. A general comment from staff was some schedules contain design guidelines for signage but there is not a permit trigger contained within the schedule to allow these to be considered.

### Development plan (DPO)

There are 2 schedules for this overlay that relate to Residential Areas (DPO1) and Low Density Residential Areas (DPO2).

### Salinity management (SMO)

The schedule to this overlay is derived from a locally specific project to address rising salinity levels in groundwater mainly in urban areas. Staff has suggested with the full development of greenfield residential land there may not be a need to have this overlay apply.

### Floodway (FO) and Land Subject to Inundation (LSIO)

These two schedules relate to low lying areas within urban and rural land. There is no local content provided in the schedule so there are no permit exemptions for minor buildings and works that most other planning schemes have introduced. Amendment C44 does not introduce a schedule with local content as the Mallee CMA had indicated the new flood mapping should be introduced at the same time. This still remains a project that is yet to be implemented.

### Public acquisition (PAO)

There is a single schedule with 3 acquiring authorities listed as follows:

- PAO1 Vic Roads – road widening
- PAO2 Mildura Rural City Council – public open space
- PAO3 Grampians Wimmera Mallee Water – wastewater treatment facility

Staff has suggested if the land has been acquired and the land developed and used for its intended purpose then the overlay should be deleted.

#### Airport environs (AEO)

There are two schedules attached that relate to the Mildura airport. These relate to use and referral requirements.

#### Environmental audit (EAO)

This overlay is not designed to have a schedule and does not act as a trigger for a planning permit. It does however require an environmental audit prior to a sensitive use operating on the site.

#### Development contributions plan (DCPO)

There are 3 schedules for this overlay that relate to the residential growth areas for Mildura in Mildura South, other areas and land between Etiwanda Avenue and Sandilong Avenue. This review has previously identified the need to combine the schedules into the one schedule. Staff has also requested clarification on when the DCPO was designed to apply to a single dwelling.

A new Schedule 4 for Red Cliffs will be completed in 2010.

## **11.2 Conclusions**

Amendment C44 proposes to streamline some of the overlay schedules to ensure there are adequate permit exemptions to avoid unnecessary permit triggers. It will not however address the need for a local content schedule for the Floodway and Land Subject to Inundation overlays. These should be introduced as soon as possible. A local consultant is preparing this material on behalf of the CMA.

## **12. THE EFFECTIVENESS OF THE SPECIFIC PROVISIONS AND INCORPORATED DOCUMENTS**

There are 10 opportunities to provide local content for issues contained in clause 52 of the Mildura Planning Scheme. These are:

Clause 52.01	Public Open Space Contribution and Car Parking
Clause 52.02	Easements, Restrictions and Reserves
Clause 52.03	Specific Sites and Exclusions
Clause 52.05	Advertising Signs
Clause 52.06	Car Parking
Clause 52.16	Native Vegetation Precinct Plan
Clause 52.17	Native Vegetation
Clause 52.27	Licensed Premises
Clause 52.28	Gaming
Clause 52.37	Post box and Dry stone walls

There is no local content provided in any schedule except for clause 52.03 where rail upgrade projects, the Mildura Marina and all land contained in the MOIA now have incorporated documents (as contained in clause 81) that guide use and development.

Staff has suggested the Public Open Space Strategy and the residential strategy need to be checked to determine if a higher rate is required than the 5% public open space fee contained in Section 18 of the Subdivision Act 1988.

Council currently does not intend to utilise the schedule in clause 52.28 to control or prohibit gaming machines.

### **12.1 Audit of Incorporated documents**

There are 39 incorporated documents in the Mildura Planning Scheme. These vary from Codes of Practice to locally specific documents on rail projects, noise contours for the Mildura airport, Mildura marina, development contributions plans and MOIA 2009. There is a 1996 document relating the Mildura City Heart redevelopment which may have been superseded by more recent work.

Amendment C61 proposes to extend the sunset clause on the Marina incorporated plan to ensure the provisions are still relevant.

A full audit of this schedule should be completed to ensure all documents are all still relevant.

### **12.2 Conclusions**

A full review and audit of the specific and particular provisions schedules should occur to ensure they are still locally relevant.

## 13. STATUS OF FURTHER STRATEGIC WORK PROGRAM

### 13.1 Planning Scheme further strategic work

All planning schemes contain a requirement for further strategic work and the location of this may differ; either as its own separate clause or following each key theme or issue. The Mildura Planning Scheme adopts the latter approach.

#### Clause 21.04-2 (Settlement) contains the following requirements:

- **Determine the suitability of utilising land which has been subject to long term agricultural spraying for residential development. (Key responsibility – Council);**

Status: No work has commenced on this requirement and none is proposed. Discussion should take place with the DPCD to review this requirement as it is a carry over from the introduction of the new format planning scheme 10 years ago and the 2003 review.

- **Prepare Development Contributions Plans as required. (Key responsibility – Council)**

Status: Council has prepared DCPs which were introduced under Amendment C42. However this requirement should be retained as new DCPs will be required as new land is rezoned for residential purposes.

- **Prepare Urban Design Frameworks for Irymple, Merbein, Red Cliffs, and Ouyen. (Key responsibility – Council)**

Status: UDFs for Red Cliffs and Ouyen have been completed however the Red Cliffs UDF is 1999 and may need reviewing. Merbein and Irymple have not been completed. Retain for Merbein and Irymple only.

- **Prepare an Urban Transition Area Structure Plan for land on Fifteenth Street from Deakin Avenue to Irymple.**

Status: This requirement has been met a new strategy is part of the MSS as a result of Amendment C38. This can be deleted from the scheme.

#### Clause 21.04-3 (Environment) contains the following requirements:

- **Prepare guidelines arising from the *Management Plan for the Improvement of Urban Stormwater Quality* (SKM) (Key responsibility – Council)**

Status: The Mildura Water Sensitive Urban Design Guidelines were developed and adopted in 2004. This can now be deleted.

- **Complete urban salinity strategies for the major towns in the municipality (Key responsibility – Mallee Catchment Management Authority and Council).**

Status: Response received but no update provided on this item.

- **Prepare an appropriate planning scheme amendment to assist in the protection of Regent Parrot habitat. (Key responsibility – Mallee Catchment Management Authority, Department of Sustainability and Environment and Council).**

Status: No work has commenced on this issue however DSE has advised there is sufficient data that could provide the basis for ESO mapping. Retain and seek further formal advice from DSE.

- **Prepare an appropriate planning scheme amendment to implement the outcomes of the Flood Data Transfer Project. (Key responsibility – Mallee Catchment Management Authority and Department of Sustainability and Environment).**

Status: The Mallee CMA has engaged a local planning consultant to prepare this amendment. This can be deleted as part of the planning scheme amendment that introduces the new mapping.

- **Complete accurate mapping of all remnant vegetation in the municipality to enable its inclusion in the Vegetation Protection Overlay (Key responsibility - Department of Sustainability and Environment and Mallee Catchment Management Authority).**

Status: Council is preparing mapping that will form the basis for the new VPOs. Council are seeking to protect 2 types of vegetation (Significant Linkages Strategy relates to significant vegetation corridors and the Rare Species study specifically targets rare plants on roadsides). Although VPO1 currently provides protection to roadside vegetation either an additional overlay and or amendment to the existing overlay will be required to better cater for the vegetation. This should be retained until the relevant amendment has been approved.

- **Complete the mapping of saline discharge and high salinity impact zones for inclusion in the Salinity Management Overlay (Key responsibility - Department of Sustainability and Environment, Mallee Catchment Management Authority, Lower Murray Water Authority and the Grampians Wimmera Mallee Water Authority).**

Status: The SMO has been reviewed and an amendment will be prepared.

- **Prepare an amendment to the planning scheme to introduce an Environmental Significance Overlay to assist in its protection of the Duddo Limestone Aquifer. (Key responsibility – Mallee CMA, Council, Department of Sustainability and Environment and the Grampians Wimmera Mallee Water Authority).**

Status: No work has commenced on this requirement. Confirm with key agencies if still required.

- **Develop a Mallee Regional River Health Strategy (Key responsibility – Mallee Catchment Management Authority).**

Status: Response received but no response provided on this item.

- **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 (Key responsibility – Department of Sustainability and Environment).**

Status: No work has commenced and is still required. Retain and prioritise appropriately.



- **Compile a complete regional register of sites of historic, aboriginal and cultural significance (Key responsibility – Council).**

Status: A new GIS layer has been introduced for cultural heritage mapping. A specific register has not been completed however it is noted the new Aboriginal heritage Act 2006 provides greater protection outside of the planning scheme than what previously existed. Retain as still required.

- **Complete the heritage assessment of the municipality through the commissioning of a heritage study for the former Shire of Walpeup (Key responsibility – Council).**

Status: This heritage study (Stage 2) has commenced and is due for completion at the end of 2010. This should be retained and deleted by the amendment that introduces the heritage study outcomes.

**Clause 21.04-4 (Economic development) contains the following requirements:**

- **Prepare an Integrated Precinct Plan for the retail precinct of Mildura Centre Plaza and environs (Key responsibility – Council).**

Status: The Mildura Centro Precinct Plan was completed in 2005 and implemented via Amendment C29 Part 2 (2 March 2006) with the DDO5 of the planning scheme. This requirement can now be deleted.

- **Prepare a Structure Plan for the Mildura CBD (key responsibility – Council).**

Status: The Mildura CBD Plan 2007 has been prepared and adopted by Council. It is yet to be introduced into the planning scheme. The amendment that introduces the CBD Plan should delete this requirement.

- **Investigate alternative commercial zonings for the land zoned Industrial 1 on San Mateo Avenue between Fourteenth and Fifteenth Street.**

Status: This requirement arose from Amendment C38 which considered the Mildura Industry Land Study Review 2006 and the Mildura Irymple Interface Study 2006. This can be considered as part of the Retail Strategy Review.

**Clause 21.04-5 (Economic development) contains the following requirements:**

- **Encourage the development of a public transport strategy for the region aimed at linking the various towns in the region with each other and to external destinations such as Melbourne, Sydney and Adelaide (Key responsibility – Council).**

Status: Council has not completed a public transport strategy however a public transport hub is planned at the riverfront and should be retained, prioritized and actioned.

- **Formulate and apply Development Contributions Plans (Key responsibility – Council).**

Status: Amendment C42 addressed this issue. However new DCPs will be required for new residential land and a general statement of this nature should be retained.

## 13.2 Conclusions

Council has met a number of the further strategic work commitments where they had primary responsibility. The most significant outstanding requirement is the need to review the suitability of land for residential purposes that has had a long history of agricultural spraying. This requirement should be retained in the scheme and be further discussed with DPCD and the EPA to confirm the approach.

## 14. THE MAJOR STRATEGIC ISSUES FACING MILDURA

### 14.1 Existing planning scheme issues

The current MSS does not contain a concise statement on what are the key strategic issues for Mildura.

This is a significant oversight. Clause 21.02 contains a list of key influences based on the adopted themes of the MSS. Clause 21.04 then identifies the objectives and strategies. Each objective deals with an issue that could be considered as a key issue however this occurs too late in the MSS and should be part of the clause 21.02. There is a void that needs to be addressed with key issues identified that builds on the key influences section.

An example of this in clause 21.02 is:

Influence	What is the key issue?
<ul style="list-style-type: none"><li>Mildura is one of the fastest growing regional centres in Victoria</li><li>Mildura is the dominant centre that serves a regional catchment extending into New South Wales and South Australia</li><li>85% of population growth is expected to occur as urban growth in Mildura, Mildura South and Irymple</li></ul>	Planning for the future development of Mildura as a regional centre
<ul style="list-style-type: none"><li>The rate of residential housing construction within the Mildura, Mildura South and Irymple is being constrained by the lack of appropriate stormwater infrastructure</li><li>Council needs to recover its expenditure on infrastructure such as drainage works in a timely manner so that it can continue to fund such works.</li></ul>	Provision of infrastructure to new urban areas
<ul style="list-style-type: none"><li>Extensive development along the river has brought with it a series of problems including: increased salinity and nutrient levels; reduced water availability downstream;</li><li>outbreaks of blue green algae; pollution of the river; changes to flood regimes; the threat of flood waters overtopping levees, and the loss of habitats and flora and fauna species.</li><li>The municipality and the region are experiencing increased salinity, rising water tables and nutrient levels</li></ul>	Managing environmental constraints in land use and development

An audit of this type should occur during the re-write of the MSS to develop a concise set of key land use issues. These should then be reflected in clause 21.02 as a sub heading under the key themes.

### 14.2 Horticultural issues

The most significant key strategic issue facing Council and the community is the future management of the older irrigation areas. Over a number of years there has been development approved consistently in this area that could be seen to not support the continued use of the land for horticulture. A chronology of events has taken place since the introduction of the new format planning and the introduction of the new suite of rural zones. The introduction of the recommendations of the Farming Zone Taskforce by Amendment C65 now provides a clearer direction for all parties on this use and development in the MOIA.

The summary below provides this chronology:

December 1999	The Mildura Planning Scheme was approved with rural area controls largely based on strategic work undertaken during 1990's
June 2004	Revised rural zones introduced to Victorian Planning Provisions

November 2005	MRCC adopted the Mildura Rural Areas Strategy (MRAS) following discussions with (now) Department of Planning & Community Development re correct interpretation of the new rural zones with respect to the older closely settled (4-8ha) irrigation districts.
December 2005	Authorisation for C30 requested by MRCC. C30 comprises a revised Local Planning Policy and introduction of the Farming Zone in response to recommendations of the MRAS but makes no changes to the scheduled 10ha minimum for the older closely settled irrigation districts
March 2006	Economic Sustainability Study (ESS) prepared by MRCC & adjoining Wentworth Shire (NSW) for the Sunraysia horticultural areas.
June 2006	Horticultural Sustainability Planning Options (HSPO) report sent to Minister of Planning from MRCC requesting Planning amendment to enable excision of dwellings from 4ha minimum arising from ESS.
July 2006	Response from Minister for Planning advising insufficient strategic basis provided by HSPO and seeking MRCC agreement to suggested approach including all 3 actions as follows: <ul style="list-style-type: none"> <li>• Direct translation of new Farming Zone via Ministerial amendment</li> <li>• Authorisation to MRCC to exhibit C30 (local policy only)</li> <li>• Study to be commenced by MRCC with financial assistance from DPI to investigate options for delivering outcomes MRCC has identified for Sunraysia horticultural areas.</li> </ul>
August 2006	MRCC agrees to approach as above
August 2006	MRCC receives Authorisation to exhibit C30
September 2006	Amendment C37 introduced to Mildura Planning Scheme comprising Ministerial Translation of all MRCC Rural Zone land into Farming Zone
February 2007	Amendment C30 completed exhibition.
June 2007	The Mildura Older Irrigation Areas (MOIA) Rural Strategy study commenced
July 2007	Amendment C30 was adopted by MRCC
April 2008	The MOIA Strategy Final Report completed recommending Option B
April 2008	Joint letter to MRCC from Ministers for Planning & Agriculture advising that the State Government “supported the recommendation of the steering committee that Council endorse an option that implements State policy and the visions and objectives of the draft strategy. Options 3, 4 or B are consistent with State Policy and implement the vision and objectives of the draft strategy” and also that “if Council wishes to pursue an option other than one recommended, then authorisation of the preparation of a planning scheme amendment will be unlikely given the strategic work prepared to date.”
April 2008	The MOIA Rural Strategy Final Report was laid on table by MRCC subject to additional land values investigation
July 2008	C30 was forwarded to the Minister for Planning requesting approval
October 2008	The MOIA Study into Land Values Final Report was adopted by MRCC and forwarded to Minister for Planning to assist deliberation of C30
December 2008	MRCC resolved to conduct study into the social and economic impacts of ongoing low water allocation within the municipality, and will not act on the MOIA Strategy until the outcomes of this study are known, which is not expected to be for at least 6 months
May 2009	The Minister for Planning responded to this issue by introducing Amendment C58. The key changes are an increase of the minimum subdivision area and

minimum area for which no permit is required to use land for a dwelling from 10 hectares to 40 hectares for all land within a gazetted irrigation district or where a water licence applies to the land and an increase in the minimum area for which no permit is required for a dwelling for all other land from 10 hectares to 100 hectares. An Incorporated Document has been introduced to make it illegal to issue a permit for a dwelling on a lot less than 40 hectares. A lot smaller than 40 hectares can be created if it is to create a lot for an existing dwelling, is a two lot subdivision, the existing lot must have an area of 4 hectares or greater, the lot for the dwelling is no more than 1 hectare and cannot be a battleaxe lot.

August 2009	The Mildura Planning Taskforce established by the Minister for Planning
September 2009	Associated with C58, Amendment C59 amends the schedules to clauses 52.03 and 81.01 to include a revised 'Mildura Older Irrigation Area Incorporated Document, September 2009' containing transitional provisions, and amends the schedule to clause 66.04 to make the Department of Planning and Community Development a referral authority under clause 52.03
December 2009	The Taskforce completes its report
March 2010	In line with the public release of the Taskforce report Amendment C65 is approved and:  Amends Clause 21.06 and the schedules to Clauses 35.07, 52.03 and 81.01 to implement the recommendations of the Mildura Planning Taskforce, Final Report, December 2009, including a revised 'Mildura Older Irrigation Area Incorporated Document, February 2010'. Amends the schedule to Clause 66.04 to remove the Department of Planning and Community Development as a referral authority under Clause 52.03.

In particular Amendment C65 can be summarized as follows in terms of the specific controls:

## **DWELLINGS**

**3000m<sup>2</sup> to 1.2ha** can apply for permit.

- Application to be made by end 2012
- Must be a separate title on 9 March 2010
- Setback requirements – 5m

**1.2ha to 10ha** are prohibited

**10ha to 20ha** can apply for a permit

- No sunset clause
- Must be a separate title on 29 May 2009 (or not affected by a Sec 173 agreement for dwelling)

**Site specific lots** can apply for a permit – no longer referred to Minister

## **SUBDIVISION**

### **Excisions**

- Dwelling must have existed 29 May 2009
- Lot must be at least 1ha
- Agreement for no more subdivision\* and no more dwellings\* on any lot
- Must not include 'utility' lots
- Must be a Class 1A dwelling
- Setback (5m) and size (0.4ha to 1ha)

*\*Conditions apply*

### **Re-subdivision**

- Dwelling must have existed 29 May 2009
- Agreement for no more subdivision\* and no more dwellings\* on any lot

- Must not include 'utility' lots
- Must be a Class 1A dwelling
- Setback (5m) and size (minimum 0.4ha)

*\*Conditions apply*

### **Application requirements**

- Address the specific provisions of the Incorporated Document
- Evidence of title; existing conditions on 29 May 2009; legal status of dwelling on land.
- Analysis of Clause 35.07-6 of the FZ
- Consideration of whether the land is potentially contaminated

These controls are implemented by an Incorporated Document which must be adhered to.

The Mildura Planning Taskforce not only has recommended immediate changes to the Mildura Planning Scheme via Amendment C65, it has identified further strategic work that should be identified in this review report and any future versions of the Mildura Planning Scheme. Page 19-20 of the Taskforce report identifies the following:

- Review and update as required the Local Planning Policy Framework including: vision and strategic objectives for agriculture in the MOIA, the review of the local planning policy at clause 22.06 and the inclusion of the relevant reference documents.
- Identify and correct zoning anomalies or inconsistencies in the Farming Zone within the MOIA, particularly in the area between Mildura and Irymple which has been subjected to an historic ad hoc subdivision and rezoning regime.
- Investigate with the Department of Sustainability and Environment and other key stakeholders, appropriate planning tools such as a restructure overlay to enact the principle that disused channel reserves and small utility lots not be used for the purpose of a dwelling.
- Investigate and provide recommendations to determine appropriate future land use options for land within the Farming Zone that forms an abuttal with the Murray River and associated floodplain and wetlands.
- Council prepare a check list to assist in determining whether a dwelling is a class 1A building as defined under the current Building Code of Australia.

That MRCC commence the preparation of a Housing Strategy with support from DPCD to guide future housing and settlement needs for the municipality beyond 2030, including:

- The consideration of rural residential opportunities around existing hamlets
- A review of the extent and performance of the Rural Conservation Zone and the Low Density Residential Zone in the municipality
- A review of all previous residential land use strategies as required.
- That MRCC undertake as part of future strategic work a study for the New Irrigated Areas (NIA) to determine appropriate future land use options for this areas including the consideration of appropriate land use planning outcomes for subdivisions and dwellings. Until this work is completed it is recommended that the schedule to the Farming Zone for the NIA is retained in accordance with Amendment C58.

It is clear the Minister for Planning expects Council to address these tasks and that Amendment C65 does not resolve all of the issues. There is a consistency between the Taskforce and this review for the need for a Housing Strategy. This review has identified additional reasons for the Housing Strategy. These include the need to review the provisions of Low Density Residential lot sizes (as discussed in Chapter 16.1) and use the provisions of the Residential 1 Zone to provide for lot sizes of around 2000m<sup>2</sup> on the basis of a

superior provision of infrastructure, including reticulated sewer, town water, sealed roads and formal drainage.

### **14.3 Conclusions**

This review has revealed the following additional strategic issues have emerged since the 2003 review:

- The impacts of climate change;
- The development of the solar industry and significant opportunities;
- The development of mineral sands and significant potential;
- The need to identify post 2030 residential growth corridors;
- The restrictions College lease land has on commercial and residential development;
- Water unbundling from the land and the associated land use impacts particularly on the rural zones schedule requirements that are based on the availability of a water license;
- Globalization of the horticultural sector (movement away from small family farms to large corporate farms);
- Impacts of the current economic downturn;
- Sustainability of land and built form development; and
- Need to address further strategic work arising from the Mildura Planning Taskforce December 2009

## 15. FURTHER STRATEGIC WORK PROGRAM

### 15.1 Gaps in strategic work

This review has revealed the need for further work on a number of issues that are currently not part of the planning scheme. This list will form the basis of new further strategic work requirements of the planning scheme. These include:

#### Retail/Business Strategy Review

This will involve a retail review to address all retail/commercial centres in Mildura and Irymple. It is noted the new Council Plan does not include this as a proposed strategic project for 2009/2010. This is a current project of Council.

#### Deakin Avenue Urban Design Guidelines

This will be done in conjunction with the CBD design guidelines. The new Council Plan does not specifically include this item however there is a general statement for the need to prepare urban design frameworks.

#### Ontario Avenue – Flora Avenue Golf Course Environs Precinct Plan

This will develop a structure plan for land surrounding the Mildura Golf Course. This project is not listed in the Council Plan however is mentioned in the list of further strategic work in this report.

#### CBD Parking Precinct Plan

This is a current project of Council.

#### Mildura Riverfront Central Precincts implementation

Mildura South Strategic Framework Plan precinct plan development and implementation. This item is included in the new Council Plan.

#### Land use strategy reviews

Ongoing reviews of key land use strategies have been called for by the development community to keep abreast of developing issues. Consideration has been given to not including these as further strategic work however the next review will be required in 2011/2012 and by this stage the residential strategy will be 8 years old and the industrial strategy will be 5 years old. It is therefore recommended these reviews be included as further strategic work and scheduled when required (but not more than 6 years after the initial strategy). No reviews have been included in the new Council Plan for 2009-2013.

The Rural Residential Strategy completed in 2003 should be prioritised for review. This is due to new strategy for the MOIA that restricts the use of the land for rural residential purposes. This inevitably will result in pressure for other rural residential opportunities. Many submissions have also been lodged seeking a low density residential review. This could be included in the proposed Housing Strategy.

#### Housing Strategy

A Housing Strategy is proposed for the 2010/2011 year. This is required to address an issue identified by this review and the Mildura Planning Taskforce for a review of the provision of rural residential opportunities. The introduction of the new suite of residential zones is contingent on a housing strategy to guide their application. Without this, translation of the Residential 1 Zone will be to the Residential 2 Zone (incremental change). Consideration should also be given to identifying areas that can be fully serviced yet provide a lower density option that is currently not provided to the market. The constraints of the Low Density residential zone lots of around 1500-2000m<sup>2</sup> cannot be created.

### 15.2 Conclusions



Council should be congratulated on the various land use strategies that have been completed since the 2003 review. This has set a solid foundation for decision making and addressed a number of key issues arising out of the introduction of the new format planning scheme.

Many of the new projects for the next review period are more issue specific and provide an additional level of detail to the broader strategies. Care should however be taken to ensure the list of new work does not over commit staff and that staff resources are appropriate. I also note the current list of work being completed will preoccupy much of the initial period of the next review until they are completed.

## **16. MATTERS FOR THE CONSIDERATION OF THE DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT**

### **16.1 The Low Density Residential Zone**

A recurring issue for many planning scheme reviews is the suitability of the 0.4ha minimum subdivision lot size for the Low Density Residential Zone. This is particularly so for Councils in northern Victoria where the effects of climate change has resulted in difficulties in managing a 0.4ha land size. A continuing theme for these Councils is the inability to consider lots of less than this size unless land was in the Residential 1 Zone. They have requested a change to the VPP to allow Councils to consider this under the Low Density Residential Zone. This would enable Councils to:

- Target a market segment that is currently under catered for;
- Provide an additional element to a residential market that can be clearly distinguished from traditional residential areas, larger lot LDR estates and rural living areas.
- Enable a higher level of servicing for new estates that could be fully serviced if the lot yield could be greater;
- Ensure a more efficient use of land; and
- Ensure land management constraints such as weeds are more easily addressed.

Experience with these 0.2ha estates in Wentworth and Murray Shire Councils in NSW indicates there is a strong demand for smaller 'lifestyle' lots.

### **16.2 Conclusion**

That a request be lodged with the DPCD to amend the LDRZ to provide Council with the opportunity to consider a 0.2ha minimum lot size for the zone.

## 17. PLANNING PROCESS REVIEW

Council has completed a full review of the internal planning processes focussing on a planning permit audit (or file audit), statutory planning resources, dwellings in the Farming Zone and discussion with user groups. Two consultants (Project Planning and Development and Sincock Planning) were engaged to complete this work.

The executive summary is repeated here to provide context to this review report.

### **Executive summary**

#### **Part 1 Planning Permit Audit**

The audit examined Council's statutory compliance in the processing of planning permit applications and the achievement of best practice in the administration of these processes.

The Mildura planning service, like many of its counterparts in other Councils, has had to contend with high levels of development activity, staff turnover issues, an increasingly complex planning system and heightened expectations on the part of applicants and residents about preferred planning outcomes.

In this context, we have identified a number of assessment and process issues that are not uncommon, and that we believe can be readily and quickly addressed.

Our observation reveals that the assessment of planning permit applications needs to be more thorough, and the management and oversight of various elements of the permit process needs to be more rigorous.

Many of our recommendations concern management reporting and monitoring functions, as well as information recording – processes that can and should be improved. We have also made recommendations related to further staff training, particularly in relation to key steps in the planning permit process.

Although the implementation of these recommendations will require time and commitment, we believe that they will assist Council's planning service in improving the level of statutory compliance, provide a basis for making better planning decisions, and lead to a more efficient and effective service for its clients.

Finally, this report provides a basis for improving future performance and is not intended to be a 'report card' on past performance. It also seeks to encourage and facilitate an ongoing process of review and refinement rather than introduce fundamental change. In this context, all of the recommendations are practical and achievable, although they will require commitment, time and resources to implement.

The implementation of these recommendations will greatly assist in improving decision making and reducing processing times

#### **Part 2 Statutory Planning Resources**

The review assessed the current level and types of resources available to the Statutory Planning unit in order to identify any constraints to effectively managing the planning permit process and workload in a timely manner.

The Mildura Statutory Planning unit over the past decade has faced similar resource issues to those being experienced at many councils, in terms of attraction of experienced staff, the turnover of staff at regular intervals and access to training and education. While the level of resources (the number of planning, administration and enforcement officers) is appropriate, there is a reliance on relatively inexperienced staff that requires high levels of guidance and supervision. This has a number of impacts and potential risks that need to be monitored by Manager and Team Leaders.

#### **Part 3 Dwellings in the Farming Zone**

This part of the review sought to review applications for planning permit for development and use of a dwelling in the Farming Zone, with respect to consistency with the state and local strategic framework, and appropriate use of permit conditions.

Whilst we found that the policy framework of the planning scheme is quite clear and seeks to protect agricultural land from intrusion due to the value of the land within both the region and the state, our

findings have revealed that permits are almost always issued for dwellings. In our view, some (if not many) of the permits are arguably inconsistent with the policy framework and fail to adequately address the Farming Zone decision guidelines.

What became clear in the review of the 15 applications, was that the level of information submitted with an application was generally inadequate to enable a decision to be made, having regard to the decision guidelines of the Farming Zone. Application submissions failed to provide any justification for the proposed dwellings, and Council subsequently failed to ask for sufficient information to enable a proper assessment to be made. In most instances, the issues raised as being of concern to the planning officer in the request for further information letters, did not correspond with the information sought by the RFI, and as such officers were in no better position to make a decision on these applications upon receipt of the additional information.

Following on from this issue of the adequacy of information, the applications revealed that a farm management plan explaining why the dwelling was “reasonably required” for the operation of the agricultural activity on the land, was never sought, and as such the time, costs, inputs and outputs were never considered as relevant matters when determining an application.

The use of a “standard report template” also discouraged any detailed assessment from being made. Most importantly, officer reports should identify all of the relevant elements of the SPPF, LPPF and Farming Zone and include a more comprehensive assessment of applications against those provisions.

#### **Part 4 User groups**

Meetings were held with a range of the main users which represented developer and consultants groups over two days. This was useful exercise to gain an understanding of the issues from an applicant’s perspective. The common issues raised were:

- Processing times – too slow especially for minor buildings or works and where no objections had been received. Further internal referrals were also slow to be received which delayed the consideration and approval of the application;
- Amendments to permits were completed by making another application, as distinct from the use of secondary consents under existing planning permit conditions;
- Consistency of decision making: there appeared to be wide variations in opinions between officers, especially determining Development Contribution Levies. The standard of application material also varied between officers and consultants;
- Planning permit conditions (inconsistent & ambit claim for works);
- Pre-application with officers was not useful or achieved a smoother passage through the permit process. Applications were not allocated to those officers who had conducted the pre-application meeting, resulting in a lack of continuity;
- Transparency – officer’s reports were not provided to determine how an application was processed. The progress of an application through the process was hard to determine with little feedback being provided;
- Management – staff had become risk averse, conservative and indecisive in response to criticism. This had resulted in a negative attitude towards applicants. Consultants sought to redress this issue;

The above issues would be all common criticisms to most local government planning departments throughout Victoria; however that doesn’t mean that they should exist or be tolerated. Further Mildura has a small consultant and development community which handle about 80% of all planning applications, so attitudes from both sides must improve given the regular basis on which consultants and officers would meet.

Some Responsible Authorities such as Glen Eira and Dandenong have addressed these issues with the initiatives flowing on from such reports as *“Better Decisions Faster – A Discussion Paper August 2003 DSE”*.

The City of Glen Eira offers a “Fast Track” process based on pre-application, followed by internal referrals with feedback provided to the applicant within 5 days. This is then followed with the applicant

meeting with surrounding owner/occupiers prior to submitting the application. Modifications can then be made or assessed and then once lodged with the Council the formal advertising is then completed. Most applications lodged under this process, even with objections, are determined within 60 days.

This approach also changes the mind set of the planner from “regulator” to the “facilitator of good development”. This involves Council officers working with development proponents well before an application is lodged, through pre-design and pre-lodgment meetings to try and achieve mutually beneficial outcomes for the applicant in terms of the development, and for Council in terms of community benefits.

A quick “rule of thumb” which could be adopted is the following:

- Is it the right development?”
- Is it the right location?
- Is it the right time?

Scoring two out of the three preconditions, merits consideration or a negotiated/facilitator collaboration with a proponent.

Such an approach however requires competent and experienced staff with the required autonomy and delegated authority from their elected representative to embark on such negotiated outcome. It is also dependent on the degree of flexibility afforded by the planning scheme under which they operate, and particularly on the quality of policy guidance the planning scheme provides.<sup>1</sup>

At present Mildura does not have experienced planning staff, save for the Manager. So the introduction of this type of approach will require experienced staff, including sub-consultants, to guide planning officers and local developers and consultants through this learning process over the next 6 months.

Finally the recommendations of this Audit report, although produced for the Rural City of Mildura, should also be used by the consultants and development community in providing improved application submissions to the Responsible Authority. The VAGO report of May 2008 identified that approximately 38% of applications were deficient in the material provided to Councils and from the audits completed the standard for Mildura was not high, similar mistakes were made (i.e. identification of correct permit triggers etc) and the standard of material varied substantially. There is ample room for improvements to be made to the planning applications submitted.

## **Recommendations**

The following recommendations have been identified in this report:

### **Audit of Planning Application Files**

#### **Permit triggers**

- P1 That the “preliminary assessment checklist” be revised to identify all permit triggers.
- P2 That planning scheme definitions be identified at the file allocation/initial assessment stage to ensure that all correspondence, advertising and referrals accurately identify the consents that are required.
- P3 File allocation be completed in a group session

#### **Section 52 (Notice of application)**

- P4 That a site inspection be completed prior to the Section 52 declaration being made.

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<sup>1</sup> Planning Practice Course – Legislation & Governance Unit – PIA & Chifley Business School, p 63,64.

- P5 Officer to sign and prepare documentation that demonstrates inspection has been carried out.
- P6 That the current Preliminary assessment form be modified to include an assessment of whether detriment would occur and whether notice is required.
- P7 That initial site inspections and Section 52 declarations be completed within 7 days of receiving permit applications.
- P8 That the initial site inspection and Section 52 declaration be recorded on the file.
- P9 Advertising stamp be affixed onto plans and materials subject to advertising under Section 52.

#### Section 54 (More information)

- P10 That the Section 54 letter be modified to include the lapse date within the subject heading and 54A (1)
- P11 That information received in response to Section 54(1) be date stamped and accompanied by a file note confirming that the request has been satisfied.

#### Certification under Clauses 55.01-1 and 56.01-1

- P12 That the file allocation/initial assessment process be used to identify and record those applications that require certification under Clauses 55.01-1 and 56.01-1.

#### Section 55 (Applications to go to referral authorities)

- P13 That referrals under Section 55 identify the Clause the application is being referred under (e.g. 52.29, 66.01, 66.02, 66.03 and overlay schedules) and what use and/or development is proposed.
- P14 That referral correspondence identifies the information, including assessment of consultant reports, sought from the referral authority in response to the relevant planning scheme schedules.

#### Internal referrals

- P15 That all referral correspondence including internal memos be tailored to identify the planning and development issues that require the expertise of the unit to assess.
- P16 That the file allocation/initial assessment meeting include representatives from other relevant sections within Council (particularly Infrastructure) in order to identify:
  - Whole of Council further information requirements;
  - Issues that might affect the assessment of the application;
  - Where standard conditions might be applied; and
  - Complex applications that might require special consideration.
- P17 That applications not be referred internally until a preliminary assessment and site inspection of the site have been completed in order to identify issues that may impact on referral responses.
- P18 That a system be established (preferably an exception report within PLAN) that enables the assessing planning officer to monitor and manage the timeliness of internal referrals.

#### Assessment

- P19 That the DPCD model template 'Planning Assessment Report' (or a suitably revised version) be adopted for the preparation of assessment reports approved under delegation.
- P20 That DPCD model templates (or suitably revised versions) be adopted for other assessments including:
- Clause 54, Assessment Table 1 One dwelling; and
  - Clause 55, Assessment Table 2 Two or more dwellings.
- P21 That assessment reports be rejected by the delegated officer unless satisfied that the report has been adequately completed.
- P22 That delegate reports not be authorised unless the Manager is satisfied that there is sufficient supporting information either within the report or attached to the file.
- P23 That the Manager periodically 'call in' application files to ensure that assessment reports have been adequately completed and that the recommendations of the assessing planners are soundly based.

#### Permit conditions

- P24 That assessment reports provide a clear link between 'issues' and 'conditions', including those identified by the assessing officer and those raised by external and internal referrals.
- P25 That Condition 1 of permits identify any changes to plans that are required.
- P26 That training relating to permit conditions be provided to planning, infrastructure, and environment officers involved in the consideration of planning permit applications and development of permit conditions. (Note this training is conducted by PLANET)
- P27 That the 'model conditions' contained in *Writing Planning Permits* (June 2003) be used as a basis for Council's standard conditions.
- P28 That Section 173 conditions be removed from the standard conditions list.

#### Timing

- P29 That exception reports be generated from PLAN (or by some other process such as Excel spreadsheet) to identify applications exceeding set periods.

#### File Management

- P30 That key documents be retained on the hard copy application file.

#### Completeness of applications

- P31 That examples of high quality planning permit applications be displayed on Council's web site and at the public counter to inform applicants of the level of supporting information required to accompany applications.

#### File Allocation/Initial Assessment

- P32 That the preliminary assessment forms be more comprehensively and rigorously used to provide guidance to the assessing planner.
- P33 That file allocation is completed with all planning officers in a group session.

#### Cultural Heritage Management Plans

- P34 That Council ensure that assessments are provided with relevant planning application submissions that demonstrate how the proposal responds to the *Aboriginal Heritage Regulations* (2007).
- P35 That all planning reports include an assessment of the application against the *Aboriginal Heritage Regulations* (2007).

#### Pre-application

- P36 That a pre-application meeting process be introduced in a dedicated environment via an online booking service.
- P37 Planning applications lodged be allocated to staff that have completed pre-application meetings.
- P38 Information required via internal referrals to be provided to applicants within 5 days

#### **Assessment of Statutory Planning Resources**

- P39 That the planning department be restructured into two (2) teams with dedicated administration support and enforcement.
- P40 That Council considers the adoption of SPEAR for the online lodging of subdivision and planning permit applications.
- P41 That the instrument of delegation be amended to introduce the new terminology of Team Leader and the tiered system of delegation.

#### **Dwellings in the Farming Zone**

##### Requests for further information

- F1 That guidelines for the content of applications for dwellings in the Farming Zone be prepared and made available to applicants.
- F2 That an information night for all regular consultants be held after completion of the guidelines to explain the level and quality of information Council expect to be lodged with an application.

##### Assessment of SPPF, LPPF and Farming Zone

- F3 That a detailed report template be prepared for dwelling applications in the Farming Zone that highlights the need to consider the SPPF, LPPF and Farming Zone decision guidelines, and requires recommended permit conditions to be justified.

##### Section 52

- F4 That the current “Preliminary Assessment” and “Planners Checklist” forms be modified to include an assessment of whether material detriment would occur and whether notice is required.
- F5 That the planner’s checklist be modified to enable the planner to include details of the site inspection including particulars of the property and locality and issues that arise from the visit.

##### The use of Farm Management Plans

- F6 That guidelines for the preparation of FMPs (including high quality examples) be prepared and made available for applicants.

##### Permit conditions

- F7 Refer to P24 to P28 recommendations of Section 2.8
- F8 That a S173 Agreement be used to enforce the implementation of an approved FMP that was used to justify the development and use of a dwelling.

##### Implementing the Policy Framework

- F9 In order to better respond to the policy framework we recommend that Council:
- Require more detailed information from applicants that address the relevant elements of the SPPF and LPPF and the provisions of the Farming Zone including in particular the decision guidelines in the Farming Zone;
  - Require that applications include a FMP;



- Assess the merits of the submitted FMP and determine whether or not the dwelling is necessary to support agricultural use of the land; and
- Undertake more rigorous and thorough assessments against the SPPF, LPPF and Farming Zone decision guidelines.
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#### Reviewing the policy framework

- F10 That all planning reports and assessment delete any reference to Amendment C30.
- F11 That policy forming a current planning scheme amendment not be used for decision making purposes until such time as it is clear that the policy has support of Council and Planning Panels Victoria (as relevant) and the Minister for Planning, and could reasonably be considered to be seriously entertained.

#### Rural residential subdivisions within the Farming Zone

- F12 That Council review its policy framework and approach to dealing with dwelling applications on small lots under 1 hectare within the Farming Zone.

## 18. CONCLUSIONS

The following represents an overview of the conclusions reached for this planning scheme review:

### **Chapter 2 – Previous review recommendations**

The new format planning scheme and its first review identified improvements and further strategic work to be included in future work programs.

This 2009 review has audited the recommendations and Councils actions. The review finds that the majority of the recommendations have been addressed either through further strategic work or new work items in the current review term. The review does however identify a limited number of issues that remain unaddressed (section 2.1).

These should be retained and carried forward and key government agencies as identified should be consulted with to assist in completing these actions.

### **Chapter 3 – Recent state initiatives**

Amendment C44 to the Mildura Planning Scheme acts on the *Cutting Red Tape in Planning* report by introducing a number of exemptions and removes unnecessary permit requirements from overlay controls.

Amendment C37 introduced the Farming and Rural Conservation Zones to the Mildura Planning Scheme.

The implication of the new residential zones for Mildura needs to be monitored to ensure the current use of the Residential 1 Zone is still appropriate in all residential circumstances. The incremental change zone will be the translation of the zone for the current Residential 1 Zone. A Housing Strategy will be required if Council wish to consider the other zones.

### **Chapter 4 – Continuous improvement**

Council has an extensive program of review to address the strategic gaps in the scheme, issues identified by previous planning panels and VCAT decisions. The 7 strategic projects proposed for the 2009/2010 financial year will address these outstanding issues further.

The most significant variation from this is the continuing impasse with regard to the management of the older irrigation areas. This issue needs to be resolved to ensure Council staff and all stakeholders have a consistent policy basis that it can respond to.

The review has also identified the significant amount of strategic work that is outstanding and acknowledges the financial and staff commitments required to execute the program. It is recommended that Council investigate funding opportunities with DPCD and RDV to support this strategic work program as a high priority.

### **Chapter 5 – Strategic context**

Council has developed a range of important documents that sit outside of the planning scheme yet have an impact on it. The current reviews of the Environment Strategy and the Municipal Public Health Plan should be completed in 2009 and will be useful in informing the update of the MSS.

There is a high degree of consistency between the actions identified in the Council Plan and those of the MSS. The timing of this review is a good illustration of why the State Government has aligned the planning scheme review with the development of or a review of the Council Plan. The Council Plan will then form the basis of a new clause 21.03 of the MSS. It is very important that actions identified in the new Plan are consistent with the issues and further strategic work requirements of the MSS.

## **Chapter 6 – Consultation**

An array of issues has been raised through consultation. Some key themes can be developed that categorise issues:

### **Planning scheme**

Staff with day to day contact with the planning scheme comment it is repetitive, difficult to navigate, and lacks detail and a social planning comment. The users of the scheme outside of Council (eg SDIG) had no particular issue with the planning scheme.

A best practice approach to the LPPF has general support from Council staff.

### **Rural Issues**

A consistent and single policy approach is urgently required for the older irrigation areas. Amendments C58, C59 and C65 have provided some degree of additional certainty. C65 has provided certainty for all parties

### **Community Plans**

Element of community plans should be reflected in the MSS.

### **Emerging industries**

The solar and mineral sands industries have merged over the last few years and need to be reflected in the new MSS.

### **Community Well Being and Social Planning**

The current MSS lacks a Community wellbeing section that could draw upon other strategies that sit outside of the planning scheme such as the open space strategy.

### **Climate change and sustainability**

There is no reference to climate change impacts in the MSS and very little on sustainability principles. The review of the environment strategy should provide new information for the MSS on these issues.

## **Chapter 7 – Effectiveness of the MSS**

The approach adopted with the review of the MSS structure has been guided by the best practice review prepared by DPCD and Planning Panels Victoria. This will eventually replace the current practice note and has been used in recent planning scheme reviews considered by Planning Panels. The Department of Planning and Community Development are currently utilising this approach.

This review has concluded the MSS structure needs to be reviewed with the introduction of the following:

- local area section to the MSS;
- Community Health and Wellbeing section;
- make provision for a specific implementation section that will allow some of the current local planning policies to be translated back into the MSS; and
- removal of the monitoring and review section.

In regard to content there is an opportunity to significantly improve the content and its layout in the MSS. A thorough audit during the re-write will ensure the following:

- objectives and strategies meet their intended purpose (some of which do not);
- a redistribution of content to more appropriate areas of the MSS;
- a need to reduce the length of the Municipal Profile;

- refocus the Key Issues; and
- a general update of data and information from the 2006 census and the new Council Plan.

To complete these tasks we suggest two approaches for consideration:

- a 'policy neutral' translation of the MSS and LPPF into the new format under section 20(4) of the Act which will not require exhibition,

followed with

- an amendment that introduces new material and updates data and information.

The alternate approach would be to combine these two tasks in the one amendment. **This is the preferred approach for the Mildura Planning Scheme.**

### **Chapter 8 – Link between SPPF and MSS**

In respect of Mildura the Council has prioritised the need for a Housing Strategy to implement the new residential zones and address issues arising from the MOIA taskforce recommendations. Without this it is understood the Residential 1 Zone will be translated to the proposed Residential 2 Zone – incremental change. While consultation did not indicate there is a need for a housing strategy and there is limited pressure for infill development in Mildura and no pressure in other towns, Council should ensure it continues to use the provisions of clauses 55 and 56 (particularly neighbourhood character) to guide future development.

There is a strong correlation between the clauses of the SPPF and the Mildura MSS. This report has already established that the existing themes will be retained however a new Local Areas section will be introduced to indicate how the themes are implemented for each town. This will provide of a single point of reference for urban abased issues.

### **Chapter 9 – Effectiveness of local planning policies**

This review has concluded the application of local planning policies has been limited over time and does not have an excessive amount of policy. However with the better use of the MSS for strategic statements, notification requirements in clause 66.06 and the proposed new specific implementation section it is recommended that 6 of the 9 policies and the introduction be deleted (effectively by translation into the MSS).

### **Chapter 10 – Effectiveness of Zones and Schedules**

The following issues require further strategic work by Council:

- Need for a retail strategy review to consider all retail issues from local convenience stores to traditional retailing areas of Mildura CBD, Centro and the bulky goods precinct of Fifteenth Street.
- Need for a review of the 2003 low density residential strategy to consider the ramifications of the Farming Zone Taskforce outcomes, perceived lack of supply, potential changes to the R1Z to provide for lots less than 0.4ha in response to constraints of the LDRZ, potential of the rural living zone and the Rural Activity Zone.
- General review of zone schedules to identify potential for local content in the schedule.

### **Chapter 11 – Effectiveness of Overlays and Schedules**

Amendment C44 proposes to streamline some of the overlay schedules to ensure there are adequate permit exemptions to avoid unnecessary permit triggers. It will not however address the need for a local

content schedule for the Floodway and Land Subject to Inundation overlays. These should be introduced as soon as possible. A local consultant is preparing this material on behalf of the CMA.

#### **Chapter 12 – Effectiveness of Specific Provisions and Incorporated Documents**

A full review and audit of the specific and particular provisions schedules should occur to ensure they are still locally relevant

#### **Chapter 13 – Status of further strategic work program**

Council has met a number of the further strategic work commitments where they had primary responsibility. The most significant outstanding requirement is the need to review the suitability of land for residential purposes that has had a long history of agricultural spraying. This requirement should be retained in the scheme and be further discussed with DPCD and the EPA to confirm the approach.

#### **Chapter 14 – Major strategic issues facing Mildura**

This review has revealed the following additional strategic issues have emerged since the 2003 review:

- The impacts of climate change;
- The development of the solar industry and significant opportunities;
- The development of mineral sands and significant potential;
- The need to identify post 2030 residential growth corridors;
- The restrictions College lease land has on commercial and residential development;
- Water unbundling from the land and the associated land use impacts particularly on the rural zones schedule requirements that are based on the availability of a water license;
- Globalization of the horticultural sector (movement away from small family farms to large corporate farms);
- Impacts of the current economic downturn;
- Sustainability of land and built form development; and
- Need to address further strategic work arising from the Mildura Planning Taskforce December 2009.

#### **Chapter 15 – Further strategic work program**

Council should be congratulated on the various land use strategies that have been completed since the 2003 review. This has set a solid foundation for decision making and addressed a number of key issues arising out of the introduction of the new format planning scheme.

Many of the new projects for the next review period are more issue specific and provide an additional level of detail to the broader strategies. Care should however be taken to ensure the list of new work does not over commit staff and that staff resources are appropriate. I also note the current list of work being completed will preoccupy much of the initial period of the next review until they are completed.

#### **Chapter 16 – Matters for the consideration of the DPCD**

That a request be lodged with the DPCD to amend the LDRZ to provide Council with the opportunity to consider a 0.2ha minimum lot size for the zone.

#### **Chapter 17 – Planning Process Review**

The report prepared by Project Planning and Development and Sincock Planning documents a review of the internal planning process and makes a number of recommendations for improvement.

## 19. IMPLEMENTATION PLAN

The proposed implementation plan is reasonably straight forward. It acts on all the recommendations of this review report and proposes to quickly move into this phase once Council has adopted the report. This is based on:

- the amount of strategic work that has been completed by Council yet not introduced into the planning scheme,
- the need to maintain the momentum of the review,
- introduce new material from the new Council Plan, and

The option of a policy neutral translation of the LPPF has been considered however it does not allow for the introduction of new strategic material which is recommended out of this review and would ultimately require another amendment to the planning scheme.

**Similar to the approach taken in Amendment C28 it is therefore proposed to develop a significant amendment to the planning scheme to act on the recommendations of the review and introduce recently adopted strategic work.**

## 19. RECOMMENDATIONS

This report has addresses the strategic review of the Mildura Planning Scheme. It is now recommended that Council adopt the report, and forward it to the Minister for Planning. The following specific recommendations are made:

**That Council:**

1. Adopt this report as the review required pursuant to section 12B (1) of the *Planning and Environment Act 1987*.
2. Forward the report to the Minister for Planning as required by section 12B (5) of the *Planning & Environment Act 1987*.
3. Prepare a comprehensive amendment to the Mildura Planning Scheme to introduce the recommendations of the review report.

## **APPENDIX A**

### **PLANNING SCHEME AUDIT TABLE**



## PLANNING SCHEME AUDIT TABLE

ISSUE	No	Yes	If no, indicate further actions
<b>STATE PLANNING POLICY FRAMEWORK</b>			
Does the planning scheme further the objectives of planning in Victoria?			There is a general consistency with the objectives of planning as contained in the Act.
Does the planning scheme advance the strategic directions in the SPPF and adequately implement State Policy applicable to the municipality?			<p>The 2003 review report and the implementation panel report (C28) concluded:</p> <p><i>The Revised Local Planning Policy Framework (contained in Amendment C28) implements State Planning Policy Framework. In particular the layout of the Municipal Strategic Statement adopts the layout contained in the SPPF, thereby providing consistency within the Planning Scheme. Given the Amendment is the culmination of the required "Three Year Review" the SPPF is particularly relevant.</i></p> <p>Since the last review in 2003 there have only been limited amendments to the SPPF that are relevant to the Mildura Planning Scheme. These include:</p> <ul style="list-style-type: none"> <li>• introduction of the new suite of rural zones by VC24 including the Farming Zone and Rural Activity Zone</li> <li>• introduction of a new native vegetation management system by VC38</li> <li>• introduction of the Aboriginal Heritage Act 2006 by VC45</li> <li>• introduction of new controls for gambling by VC39</li> </ul> <p>On the basis of the last review and advice from staff and VCAT decisions the strategic directions of the planning scheme are generally consistent with the SPPF.</p> <p><b><u>Action</u></b></p> <p><b>Ensure the benefits from the C28 Panel and last review are carried forward to the new LPPF</b></p>
Are there clear links between the SPPF and the LPPF?			<p>The link with the SPPF and LPPF is provided by the structure of the current MSS and the content of particularly clause 21.03 Vision and Strategic Land Use Framework.</p> <p>The themes identified in the SPPF (settlement, environment, economic development and infrastructure) are used as the basis for the LPPF. Since the last review and the development of best practice for the LPPF there is a movement away from the strict adherence to the SPPF structure to a local area approach that provides a single reference point to issues relevant to, for example, Red Cliffs or Mildura.</p> <p><b><u>Action</u></b></p> <p><b>Update the Vision section and adopt the best practice approach to the LPPF</b></p> <p>The current structure requires numerous references for issues relevant to geographic areas which makes the scheme cumbersome and unwieldy.</p> <p>This comment is provided on the understanding the SPPF is also under review and the benefit of a number of recent panel outcomes for new LPPF's such as Bass Coast and Colac Otway.</p> <p><b><u>Action</u></b></p>

			<b>Restructure the LPPF according to current best practice.</b>
<b>LOCAL PLANNING POLICY FRAMEWORK</b>			
<p>Have any issues emerged with the MSS since the last review in 2003?</p> <ul style="list-style-type: none"> <li>• Inconsistencies with state policy;</li> <li>• Difficulty in defending policy basis at VCAT;</li> <li>• Outdated policy;</li> <li>• Issues raised in consultation</li> </ul>			<p><b>Key emerging issues</b></p> <ul style="list-style-type: none"> <li>• The impacts of climate change;</li> <li>• The development of the solar industry and significant opportunities;</li> <li>• The development of mineral sands and significant potential;</li> <li>• The need to identify post 2030 residential growth corridors;</li> <li>• The restrictions College lease land has on commercial and residential development;</li> <li>• Water unbundling from the land and the associated land use impacts particularly on the rural zones schedule requirements that are based on the availability of a water license;</li> <li>• Globalization of the horticultural sector (movement away from small family farms to large corporate farms);</li> <li>• Impacts of the current economic downturn;</li> <li>• Sustainability of land and built form development.</li> </ul> <p><b>Inconsistencies with state policy</b></p> <ul style="list-style-type: none"> <li>• Rural subdivision and dwellings – current decisions are guided by 2 options (current planning scheme and C30 local policy) and influenced by another (MOIA). A number of VCAT decisions have criticized Council for approving small vacant lots and dwellings without any connection to the agricultural use of the land. The Farming Zone is to provide for agriculture however the current Council approach to older irrigated areas is seen to be inconsistent with promoting it for agriculture.</li> </ul> <p><b>Difficulty in defending policy basis at VCAT</b></p> <ul style="list-style-type: none"> <li>• Rural issues – as above</li> <li>• Deakin Avenue - the need to strengthen the Design and Development Overlay on Deakin Avenue. Council is proposing to develop design guidelines for Deakin Avenue as the current DDO is inadequate.</li> <li>• Mildura CBD – the DDO for the CBD is restricted it Langtree Mall and should apply to all of the CBD. New design guidelines in association with those for Deakin Avenue will address this issue also.</li> <li>• Heritage – the current policy is precinct based with little guidance for specific sites.</li> </ul> <p><b>Outdated policy</b></p> <p>The current agriculture policy at 22.06 is outdated and essentially unchanged from its introduction in the new format planning scheme. The current stalemate in developing a new policy has delayed the introduction of a new policy.</p> <p>By utilizing the best practice approach to the LPPF there is opportunity to reduce the number of local policies by translating the strategic basis to the MSS, introducing a specific implementation that refers to:</p> <ul style="list-style-type: none"> <li>• relevant local policy,</li> </ul>

			<ul style="list-style-type: none"> <li>• policy guidance such as application requirements, criteria for exercise of discretion and issues to be considered when making a decision, and</li> <li>• rezoning guidance.</li> </ul> <p><b>Additional issues raised in consultation</b> Some key issues that have emerged are:</p> <ul style="list-style-type: none"> <li>• The 2003 review centred on the expansion of the horticulture industry however due to drought the focus is now on rationalization from the smaller family farms to larger corporate farms;</li> <li>• The relationship with community planning and the planning scheme;</li> <li>• The lack of focus on sustainable land and built form development.</li> </ul>
Is there repetition or conflict in the MSS, such as between housing and settlement policies?		Yes	The current LPPF adheres strictly to the theme based structure of the SPPF. This results in a number of areas of repetition. A revised structure will reduce this repetition thereby improving readability.
Does the MSS comply with the Format of Municipal Strategic Statements (Feb 1999) VPP Practice Note?			<p>The current MSS is generally consistent with the structure of the Practice Note, however the current best practice approach differs from that contained in the PN. The current structure requires numerous references for issues relevant to geographic areas which makes the scheme cumbersome and unwieldy.</p> <p>Criticism has also focused on the repetition of statements, a large and wordy Municipal Profile, lack of nexus between the framework plans and the text, lack of a specific statement on what the key issues are and a need for a community wellbeing section.</p> <p>I note that current best practice adopts an alternate approach and this will guide the actions out of this review. This comment is provided on the understanding the SPPF is also under review and the benefit of a number of recent panel outcomes for new LPPF's such as Bass Coast and Colac Otway.</p> <p><b><u>Action</u></b> <b>Restructure the LPPF according to current best practice.</b></p>
Does the MSS need simplification or clarification in any area?			<p>The Statutory Planning Manager commented the MSS is too general and repetitive of the SPPF statements, is too simple and lacks detail on key issues. This will be overcome by the restructure of the MSS to a local area basis.</p> <p>The statements contained in the MSS that relate to agricultural land in the economic development section of the MSS are supportive of the SPPF however the staff find it difficult in arguing at VCAT for rural subdivision and dwellings where Council has overturned an officer recommendation.</p> <p>The key issue is to have a consistent approach to these issues and to restrict assessment to planning schemes decision guidelines only.</p>
Is any aspect of the			Generally the MSS contains information that is relevant to the decision making process.

MSS not relevant to land use decision making? • Do officer reports refer to the MSS?			All officer reports refer to the relevant parts of the MSS in reaching a recommendation.
Are there any matters raised in VCAT decisions, or Planning Panels or Advisory Committee reports that require improvement to the LPPF?			<p><b>Rural</b></p> <p>The VCAT has been critical of how Council deals with rural subdivisions, particularly small vacant lots and excisions and new dwellings. This is a product of the current policy options in front of Council (current planning scheme and C30 local policy) and the influence of MOIA. This matter needs to be resolved so all parties can respond to one policy set. VCAT on occasions has overturned Council approvals for rural subdivisions and dwellings on the basis of the current planning scheme approach to these issues.</p> <p><b>Outcomes of Panels</b></p> <p>There has been no specific criticism by Panels of the LPPF. There have however been more zone and site specific issues raised by the following Panels:</p> <p><b><u>C28 Panel</u></b></p> <ul style="list-style-type: none"> <li>Referring proposed LDR at Cabarita and Koorlong for consideration in the Rural Areas Review. Also noted concern over the potential for the undermining of the Rural Residential strategies adopted under C28 with the adhoc approval of subdivisions and dwellings in the older irrigated areas for rural residential purposes;</li> <li>As a matter of urgency the DSE and MCMA prepare an amendment to give effect to the new flood mapping;</li> <li>Council liaise with DSE in relation to the preparation of an amendment to protect the flight path of the Regent Parrot and Duddo Limestone Aquifer;</li> </ul> <p><b><u>C29 Panel</u></b></p> <p>This panel required the review of the retail strategy once the new 2006 census figures were available (P18 of the report)</p> <p><b><u>C38 Panel</u></b></p> <ul style="list-style-type: none"> <li>The availability of existing industrial land in Irymple in the short term should be investigated with consideration given to rezoning land if supply is insufficient to meet demand</li> <li>The take up of industrial land in Benetook Avenue should be monitored and additional land south of 15<sup>th</sup> Street brought on stream when required.</li> <li>Industrial 1 Zone land at San Mateo Avenue should be reviewed.</li> <li>Land north of 15<sup>th</sup> Street should be reviewed (interface residential land at a mix of densities).</li> </ul>
Is Council relying on adopted council policies or guidelines in decision making that are not included in the planning scheme?			<ul style="list-style-type: none"> <li>This is a key issue in respect of <b>rural subdivisions and dwellings</b>. The current approach of Council staff is to make an assessment under the provisions of the planning scheme (MSS and policy) and then a comparison against the provisions of the C30 local policy with a recommendation based on the existing provisions. However Council has the C30 policy as their current policy position and determines applications on this basis even though it is not part of the planning scheme. <b>This matter needs to be resolved urgently.</b></li> <li>The review of the parking provisions at clause 52.06 significantly reduces the warrants for parking form the current VPP standard.</li> </ul>

			<p>Council now uses these new (but yet to be introduced standards) in considering new applications.</p> <ul style="list-style-type: none"> <li>• The new CBD structure plan has been referred to in officer reports.</li> <li>• There is a reasonable amount of adopted strategic work completed and adopted by Council that needs to be introduced into the planning scheme. This includes: <ul style="list-style-type: none"> <li>○ Mildura South Strategic Framework Plan October 2007</li> <li>○ Mildura CDB Plan November 2007</li> <li>○ Mildura Riverfront Masterplan 2005</li> <li>○ Ouyen Structure Plan 2006</li> <li>○ Cullulerraine Structure Plans 2006</li> </ul> </li> </ul> <p>These strategies need to be introduced as soon as possible to give them strategic weight in decision making.</p>
Are there particular planning issues that would benefit from a new or revised local policy?			<ul style="list-style-type: none"> <li>• The review has not identified the need for any new policies however the Alfresco Dining policy that sits outside of the planning scheme as a local law should be reviewed with consideration of it for a local policy.</li> <li>• A replacement policy for agricultural issues is currently proposed and before the Minister in the form of the C30 policy. However a review of this policy indicates it is unlikely to be approved in the current format due to inherent conflict between provisions and outcomes.</li> </ul>
Are there documents that should be included as local policy (eg Advertising Policy or Urban Design Guidelines)			<ul style="list-style-type: none"> <li>• The proposed urban design guidelines for Deakin Avenue and CBD will be used to update (and possibly extend) the current DDO's that apply to these areas. This review has identified initiatives to reduce the number of local policies.</li> <li>• The audit has not identified the need for additional local policies.</li> </ul>
<b>ASSESS THE STRATEGIC OBJECTIVES</b>			
Do the objectives in the MSS adequately reflect the land use and development outcomes council wants to achieve?			<p>All objectives are aligned under each theme and generally issue specific that enables a set of strategies to follow that address a single objective. This approach is supported. The new Council Plan and Community Plans may require a review of these objectives and should be considered in the rewrite.</p> <p>However a review of objectives indicates:</p> <ul style="list-style-type: none"> <li>• Objective 2 under the settlement theme should be located under the infrastructure theme;</li> </ul>
Do all the objectives have specific land use or development outcomes?		Yes	<p>The objectives have specific land use outcomes. In order they focus on:</p> <p><b>Settlement</b></p> <ul style="list-style-type: none"> <li>• Orderly development;</li> <li>• Efficient use of infrastructure;</li> <li>• Diversity of housing;</li> <li>• Minimize land use conflicts;</li> </ul>

		<ul style="list-style-type: none"> <li>• Protect natural and built features;</li> <li>• Plan for the urban transition area between Mildura and Irymple;</li> </ul> <p><b>Environment</b></p> <ul style="list-style-type: none"> <li>• Manage salinity, water tables;</li> <li>• Protect flora and fauna;</li> <li>• Reduce impacts of flooding;</li> <li>• Improve river health;</li> <li>• Protect landscape values;</li> <li>• Improve interface between public private land;</li> <li>• Protect flora and fauna communities, landscape values and cultural values;</li> <li>• Conserve and enhance heritage;</li> </ul> <p><b>Economic Development</b></p> <ul style="list-style-type: none"> <li>• Support agriculture and horticulture;</li> <li>• Increase visitor numbers;</li> <li>• Sustainable retailing facilities;</li> <li>• Provide adequate supply of industrial land;</li> </ul> <p><b>Infrastructure</b></p> <ul style="list-style-type: none"> <li>• Protect existing and plan for new infrastructure;</li> <li>• Safe and efficient transport network;</li> </ul> <p>These objectives should be reviewed to ensure there is an emphasis on sustainability, the potential of the solar and mineral sands industries are accommodated and combine the two flora and fauna objectives under the Environment theme.</p>
Are the objectives being achieved?		<ul style="list-style-type: none"> <li>• The feedback from staff is the set of objectives cover adequately the key land use planning policy areas and are generally supported by officer recommendations.</li> <li>• The exception to this is the current approach to rural issues in the older irrigated areas.</li> </ul>
Do the objectives successfully guide planning decisions?		<p>Feedback from the DPCD (as a former staff member) confirmed this is to be the case:</p> <p><i>The strategic basis of the Mildura Planning Scheme is a very real strength. The broader objectives of the State Planning Policy Framework flow through very well to the Local Planning Policy Framework, particularly in areas of critical importance, such as retaining agricultural land and planning for the provision of infrastructure to cater for the expected growth of the municipality. VCAT has previously commented on the strength of the existing local policy framework in protecting agricultural land (refer to Roy Costa and Associates v Mildura RCC [2007] VCAT 1244 (11 July 2007). The strength of existing local policy requiring the provision of infrastructure has also served Council well (refer to Paragraph 5 of Costa v Mildura Rural CC [2008] VCAT 1562 (7 August</i></p>

			<p>2008) and Paragraphs 28 and 29 of <i>Roy Costa &amp; Associates v Mildura Rural CC</i> [2008] VCAT 988 (28 May 2008).</p> <p>This indicates the array of objectives is appropriate and addresses the key planning issues of the municipality.</p>
<b>ASSESS THE STRATEGIES</b>			
Are the strategies clearly linked to and achieving the objectives?		Yes	<p>One of the strengths of the current LPPF is that a single objective is followed by a number of related strategies which ensures a nexus is created and there are no ‘floating’ objectives without implementation measures.</p> <p>However an initial review of strategies and objectives shows the following examples of anomalies:</p> <ul style="list-style-type: none"> <li>• Objective 1 under settlement – 8<sup>th</sup> dot point should be located under the infrastructure theme;</li> <li>• Objective 5 under environment – 3<sup>rd</sup> dot point should be located under the tourism theme;</li> </ul> <p>This is not an exhaustive list of anomalies and the rewrite will be the appropriate forum to address these.</p>
Are the strategies achieving the desired outcome?			<p>Some of the strategies tend to be broad based and do not provide a locally specific outcome. This also leads to strategies that do not have a planning scheme outcome. For instance, under objective 5 of the environment theme there is a strategy that states:</p> <ul style="list-style-type: none"> <li>• <i>Support the establishment of bio links between areas of significant public land.</i></li> </ul> <p>While this strategy is admirable unless the potential bio link sites are identified then it remains hollow with little outcome that can be driven by the planning scheme.</p>
Do the strategies help inform planning decisions?			As above
<b>STRATEGIC GAPS</b>			
Has council reviewed the progress made on strategic gaps and actions identified in the last review?			<p>The 2003 review did not specifically identify any strategic gaps however it is worth noting there are still outstanding further strategic work that was required by the Minister after the introduction of the new format planning scheme. This included:</p> <ul style="list-style-type: none"> <li>• Address the inconsistencies with flood mapping;</li> <li>• Finalise and introduce a Heritage Gap Study Mildura (including the Walpeup Shire) Heritage Study;</li> <li>• Address inconsistencies with HO mapping (to be done as part of this review);</li> <li>• Determine the suitability of utilizing land which has been used for long term agricultural spraying for residential development;</li> <li>• Prepare accurate mapping for the Regent Parrot habitat;</li> <li>• Develop a consistent ESO for the Murray River corridor;</li> </ul> <p>Other major issues such as the need for a retail strategy review, an Industrial Land Strategy, a Rural Residential Strategy, the Mildura Riverfront Masterplan and the finalization of the Airport Masterplan have been completed.</p> <p>Consultation has revealed a number of new and emerging industries such as the potential of the solar industry and mineral sands industry and climate change and its impacts are also identified as a strategic gap in the current scheme.</p>
Have changes been made to the SPPF that			The key changes introduced into the SPPF since the last review are:

require amendments the LPPF?			<ul style="list-style-type: none"> <li>• introduction of the new suite of rural zones by VC24 including the Farming Zone and Rural Activity Zone</li> <li>• introduction of a new native vegetation management system by VC38</li> <li>• introduction of the Aboriginal Heritage Act 2006 by VC45</li> <li>• introduction of new controls for gambling by VC39</li> </ul> <p>The most significant change has been the introduction of the new suite of rural zones and the translation of these into the planning scheme by Amendment C37. To provide a local interpretation Council set itself a goal of completing a rural land strategy which is yet to be completed due to a number of unresolved issues with the older irrigated areas.</p> <p>The other changes to the SPPF do not require any specific updates or changes to the LPPF.</p>
Does council have commitments, policies or programs to address particular planning issues that should be included in the planning scheme?			This review has not uncovered any significant programs, policies or commitments that need to be introduced in the planning scheme.
<b>LINKS WITH THE COUNCIL PLAN</b>			
Do the LPPF objectives align with land use and development objectives of the Council Plan?			The current Council Plan 2006-2010 is to be replaced by a new Plan mid 2009. This section will be updated when this plan is released.
Since the last review, do changes to the Council Plan require amendments to the LPPF?			<p>The current Council Plan is under review and new plan will be introduced mid 2009.</p> <p>The current MSS refers to the 2003-2006 version which has since been updated to the current plan (2006-2010).</p> <p><b><u>Action</u></b></p> <p><b>An update of this section will be required to ensure there is consistency.</b></p>
<b>ASSESS THE VPP IMPLEMENTATION TOOLS</b>			
Are the VPP tools successful in achieving the objectives, strategies and desired outcomes?		Yes	<p><b>Zones and overlays</b></p> <p>The suite of zones and overlays and their respective schedules are sufficient to ensure objectives and strategies are achieved. An exception to this is the developing solar generation industry which does not fall within the definition of utility installation (minor also) and therefore as an innominate use is prohibited from the Farming Zone. I understand this matter is being addressed by DPCD at the moment.</p>
Are there any VPP tools used that are no longer useful or effective? Should these be modified or deleted from the planning			<ul style="list-style-type: none"> <li>• The impacts of climate change, drought and the unbundling of water have made it increasingly difficult for people to maintain a low density residential lot at a subdivision minimum size of 0.4ha. From a residential perspective this limits the ability to introduce lots that may be fully serviced and have a size of 0.2ha that can be more easily managed. Evidence from other parts of the state and NSW Councils (Murray and Wentworth) suggest this product meets a significant market demand and is inhibited under the current LDR and R1 zones.</li> </ul>



scheme?			<ul style="list-style-type: none"> <li>The DCP schedule template has not been used in the Mildura Planning Scheme. While the 3 DCPs have been approved with variations to the template this needs to be acknowledged in the PN that one size does not fit all circumstances and a tailored schedule approach may provide a better outcome.</li> </ul>
Are the tools clearly linked to the objectives and strategies in the LPPF (are they strategically driven or do they provide for strategic outcome)?			Generally the tools do reflect the strategic direction but as a number of strategic documents have not yet been implemented into the Mildura Planning Scheme there is a gap in what is intended in adopted documents and what from these can actually be implemented effectively.
<b>FORMAT CONSISTENCY AND USABILITY</b>			
Are the MSS and LPPF expressed in plain English?		Yes	<p>In the current LPPF plain English expression is used however there are some examples of objectives either including a strategy or being expressed as a strategy or a strategy being worded as an action.</p> <p><b><u>Action</u></b></p> <p><b>A full review of wording and grammar is required to ensure objectives and strategies are clearly worded and stated.</b></p>
Is the intent and language of the LPPF clear, usable and effective in meeting council land use objectives and decision making?		Yes	Consultation indicates the LPPF is reasonably clear however there has been some comment on the lack of detail which should be addressed by the introduction of a local areas section.
Are there superfluous or inconsistent policies, overlays and schedules that no longer contribute to council planning goals and objectives?			<p><b>Policies</b></p> <p>The current best practice approach to local policy is to ensure it is required to assist in decision making, include strategic statements and specific implementation measures in the MSS and where a zone or overlay could achieve the same outcome this should be preferred. Using this as a basis a number of local policies could be translated to the MSS or to other parts of the planning scheme. These include:</p> <ul style="list-style-type: none"> <li>22.01 (Intro) – delete</li> <li>22.02 (Woorlong wetlands) – delete, inspect location, sub minima is repetitive of RCZ1, road setbacks, height, building envelope requirements should be in the new specific implementation section of the MSS.</li> <li>22.03 (Deakin Avenue) – delete, insert as strategy in the MSS</li> <li>22.04 (Budget accomm) – retain</li> <li>22.05 (Public lands) - delete, use table to clause 66.06, decision guidelines should be in specific implementation section of the MSS</li> <li>22.06 (Agricultural land) – delete, introduce in specific implementation section of the MSS</li> <li>22.07 (Service agency) – delete, use table to clause 66.06</li> <li>22.08 (Heritage precincts) – ? could be placed in the MSS</li> </ul>

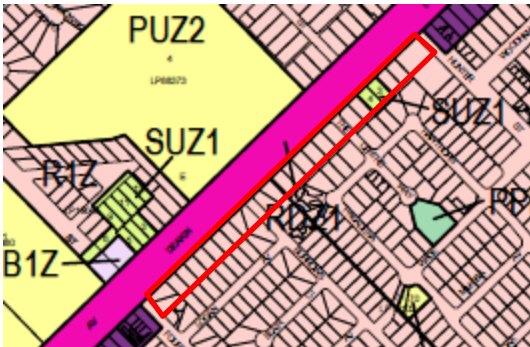

			<ul style="list-style-type: none"> <li>• 22.09 (Mildura airport) – delete, translate to infrastructure section of the MSS</li> <li>• 22.10 (Mildura CBD Parking) – retain</li> </ul> <p>This indicates that 7 of the 10 current policies could be deleted by translation into the MSS or other parts of the planning scheme.</p> <p><b>Overlays</b></p> <p>The use of the overlay and their schedules controls is to be retained however there is a need to rationalize the 3 current DCP schedules and introduce a single schedule that will avoid the application of 2 schedules to one piece of land and ensure a more management overlay. Council engineers currently approach the apportionment of costs in this manner already and have no issue with this approach.</p>
Are improvements to the statutory drafting of the planning scheme required?		Yes	<p>The current best practice approach to the LPPF differs from that of the VPP Practice Note. This review will be based on the current best practice. Practically, this will result in a restructure of the MSS to:</p> <ul style="list-style-type: none"> <li>• Introduce a local areas section that will contain all locally specific references to, for example, Merbein or Red Cliffs and move away from the thematic approach of the current structure. This will result in a single reference point for all town based issues.</li> <li>• Introduce a specific implementation section into the MSS to address relevant local policy, policy guidance such as application requirements, criteria for exercise of discretion and issues to be considered when making a decision, and rezoning guidance.</li> <li>• In addition to this a more concise Municipal Profile, new key issues section and an updated Vision section are proposed.</li> <li>• Introduce new objectives as required to reflect the Council Plan and Community Plan's.</li> </ul>
Has the LPPF been assessed against the relevant VPP Practice Notes?		Yes	<p>A review of the current LPPF indicates it is relatively consistent with the VPP Practice Note Format of the MSS. The current best practice approach is to introduce a local areas section and translate as much strategy and implementation measures from local policy as possible. This in itself is not inconsistent with the PN.</p>
<b>ASSESS THE MONITORING OF THE SCHEME</b>			
Is the planning scheme being regularly monitored and reviewed?			<p>Council does not have a proactive procedure for monitoring of the planning scheme however for annual reporting and councilor requests most of the data can be easily retrieved.</p>
Are there monitoring processes targeting the key strategic objectives of the scheme? Is the information easy to collect?			
Are the monitoring processes the most appropriate means of measuring the performance objectives?			

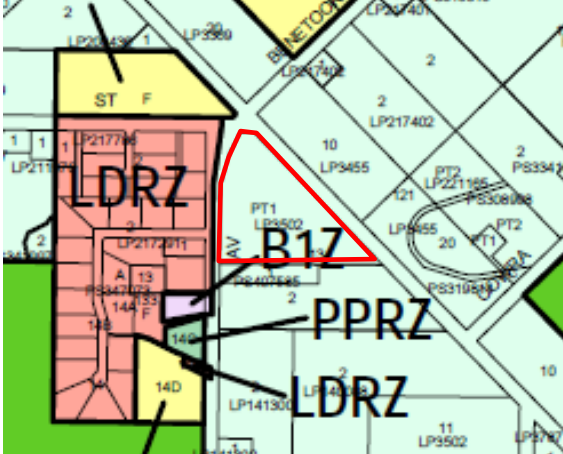
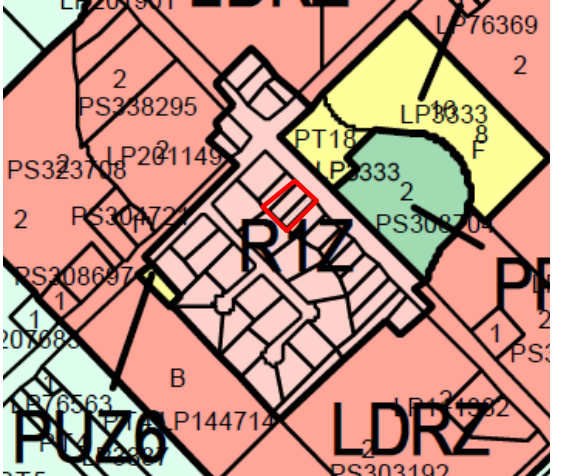
Can the monitoring of the planning scheme be improved?			Clause 21.05 adopts a theme based approach to monitoring for residential, rural and retail/commercial development on the basis of the number, type and location of applications with a target for residential development to occur within the town boundary, reduce the number of permits for non agricultural land uses and small lot excisions and an increase in the number of permits for development in the CBD and bulky goods proposals on Fifteenth Street, respectively.
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## **APPENDIX B**

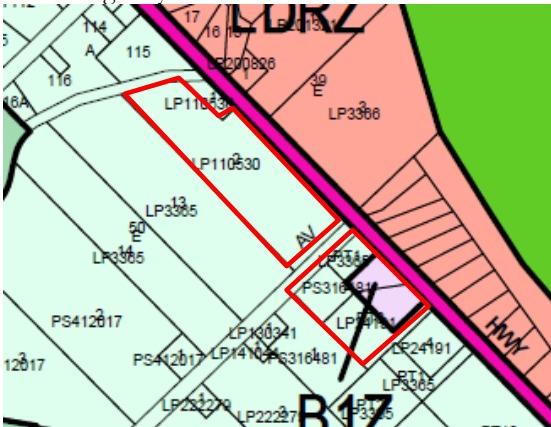
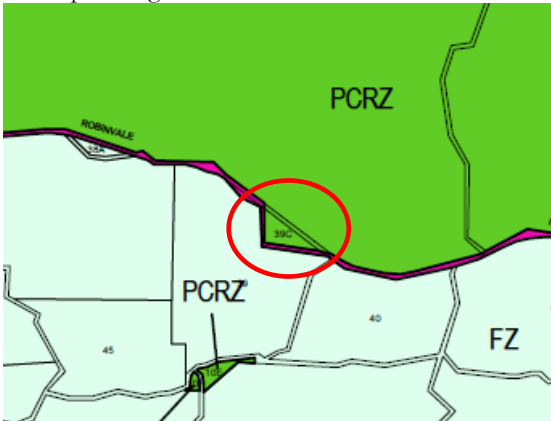
### **REVIEW OF INDIVIDUAL SUBMISSIONS**

## REVIEW OF INDIVIDUAL SUBMISSIONS

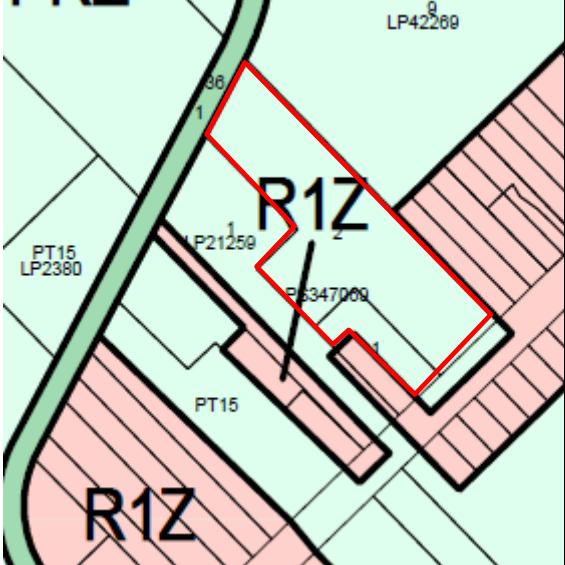

Sub mission number	Land	Response to draft Review Report & Request	Strategic Response
1	<p>244-262 Deakin Avenue Mildura.</p> 	<p>Rezone the land from Residential 1 Zone to Business 5 Zone to reflect the use of the land for offices and professional suites.</p>	<p>The land is on the eastern side of Deakin Avenue between Hunter Street and Fourteenth Street. The strip comprises a dwelling on each lot (and a church) and most are currently used for commercial purposes. The proponent wants to use his land for an accountancy office which is prohibited in the R1Z. A plan has been developed for this. Advice has previously been provided to Roy Costa by Council dated 5 March 2008 stating that in the short term it could not be strategically supported and referred to a 2008 review of the retail strategy. There seems to be significant merit in the proposal particularly as most land is not used for residential purposes. However to ensure the strip of land is considered strategically it is recommended this matter be considered as part of the proposed review of the retail strategy which is to focus on neighbourhood centres and lower hierarchy retailing and the Deakin Avenue Urban Design Guidelines.</p> <p><b><u>Recommendation</u></b>  <b>Submission has merit in principle however should be referred to the Retail Strategy Review for detailed strategic consideration.</b></p>
2	<p>South east corner of Fourteenth Street and Koorlong Avenue, Irymple.</p> 	<p>Rezone the land from Farming Zone to Residential 1 Zone</p>	<p>The supply of residential land at Irymple has recently been considered by Council and there is an adequate supply to cater for in excess of 15 years. This submission should be referred to the preparation of the Irymple Town Structure Plan. It is recommended this request not be supported at present on the basis of the existing supply of land.</p> <p><b><u>Recommendation</u></b>  <b>Submission not supported at present by the Mildura Planning Scheme and should be referred to the Irymple Town Structure Plan project for detailed strategic consideration.</b></p>

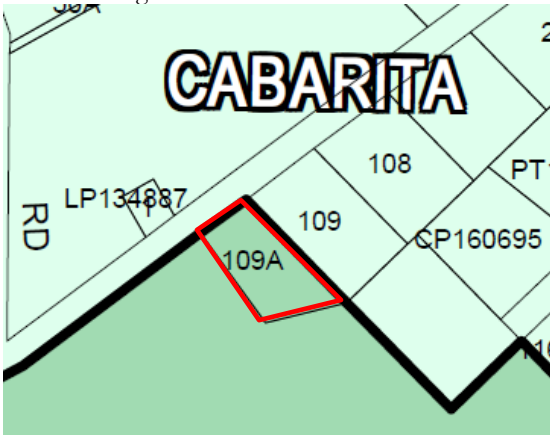
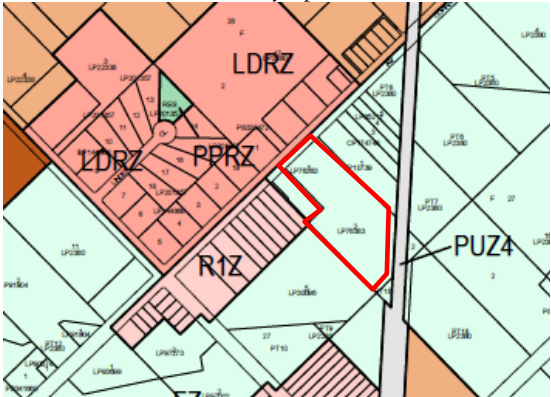
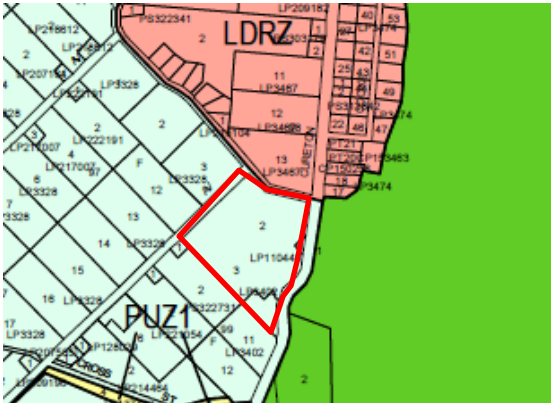
3	<p>The land is located either side of Twenty First Street in Koorlong south of Benetook Avenue. It has an area nearly 12ha. The land is located to the west of existing LDR.</p> 	<p>Rezone land from Farming Zone to Low Density Residential Zone.</p>	<p>A request has been lodged (dated 10 January 2008) with Council to consider this amendment. The proposal has merit given its context with other LDR adjacent and the full development of this estate. Consideration needs to be given to the current and potential use of the land for farming purposes, what the catchment is for LDR in Koorlong (it is part of the Mildura LDR supply market or can it be considered in isolation?) and if the proposal is supported by the Mildura Rural Residential Review 2003 or its update. The other significant issue is the approach taken with the MOIA where it could be seen that a rural residential land supply is being created that was not envisaged by the 2003 review.</p> <p>This issue also highlights the need for a review/update of the 2003 review. This report is now 6 years old and significant amounts of land have been developed for RR purposes in Nichols Point and Kings Billabong. The risk of proceeding with this request in isolation is that DPCD (and the Minister) would be compelled to consider it against the 2003 study. Without an update this request may be denied. However there is no reason why this update could not be provided as a basis of this request.</p> <p>With the advent of C58 and its limits on dwelling and subdivisions the concern over the adhoc supply of LDR in the MOIA has been resolved. This now allows the proponent to update the 2003 review and develop a strategic case for more LDR at this location.</p> <p><b><u>Recommendation</u></b>  <b>Submission has merit and should be referred to the Housing Strategy for detailed strategic consideration.</b></p>
4	<p>174 and 176 Fifth Street, Nichols Point.</p> 	<p>Rezone the land from Residential 1 Zone to Business 1 Zone.</p>	<p>A formal request to amend the planning scheme was lodged in December 2008. A general store is located on one lot and the adjoining lot is included to cater for the expansion of the store. Support for the amendment is provided on the basis of the need for local retail services including a postal agency to service the Nichols Point area. This request could be dealt with either in isolation and justified as an anomaly in that other general stores seem to be zoned Business 1 (eg Koorlong). An initial response to this submission suggested it should be considered in the neighbourhood centre review however the proponent has pointed out this was not funded in 2009/2010 and it would be unwise to await the outcome of this strategy when there is a clear need enhance local services to an area Council has planned for growth in. this is a valid point and the assessment of this amendment should proceed as submitted with an in principle agreement that both lots should be the subject of the request.</p> <p><b><u>Recommendation</u></b>  <b>Submission has merit. Council should advise proponent Council will continue the assessment of the amendment request. This request is the subject of Amendment C60.</b></p>

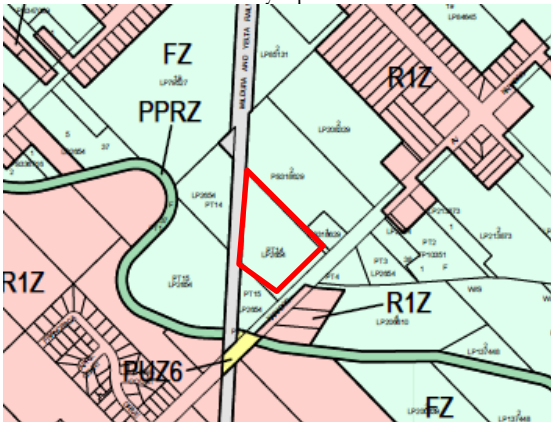


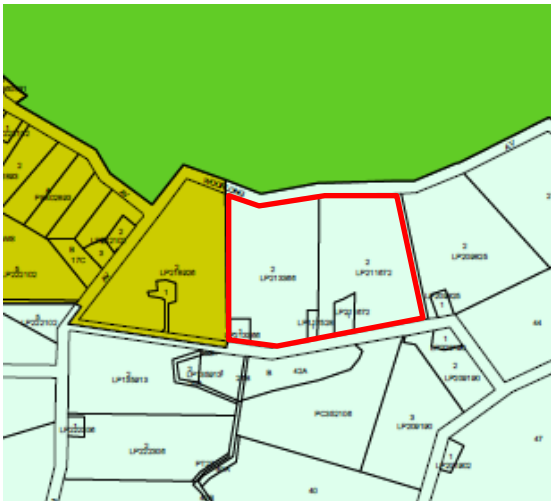
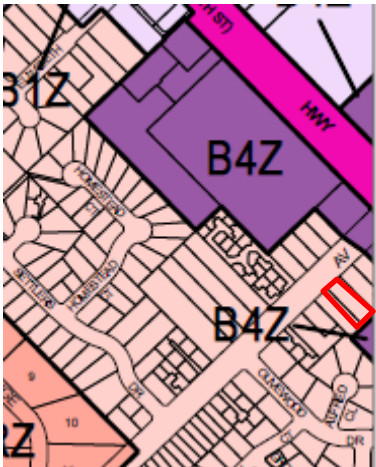
7	<p>Calder Highway Cabarita</p> 	<p>Rezone the land from Farming Zone to Low Density Residential Zone</p>	<p>Council has advised the proponent there is sufficient LDR land supply at present and until the MOIA issue is resolved no further consideration will be given to LDR. The land is located opposite a developing LDR area. It seems the Calder Highway has been used as the boundary of LDR development and this request would see land south of the Calder Hwy for LDR zone. It should be considered in light of an update to the 2003 LDR review in the proposed Housing Strategy.</p> <p>A response to this matter should be consistent with submissions 3 and 5.</p> <p>It should be noted Submission 43 has requested land around the B1Zone be rezoned to B1Z.</p> <p><b><u>Recommendation</u></b></p> <p><b>Submission should be referred to the Housing Strategy for detailed strategic consideration.</b></p>
8	<p>The submitter has identified an error in the Road Zone (Hattah-Robinvale Rd) alignment on Map 46 of the planning scheme.</p> 	<p>Rezoning from Public Conservation and Resource Zone to Road Zone 1 and delete RDZ1</p>	<p>This issue should first be clarified with Vic Roads and then actioned as an anomaly that could be included in any amendment arising out of this review. The Road Zone 1 should continue along the road alignment and not deviate as it does.</p> <p><b><u>Recommendation</u></b></p> <p><b>Submission supported if this is an anomaly.</b></p>

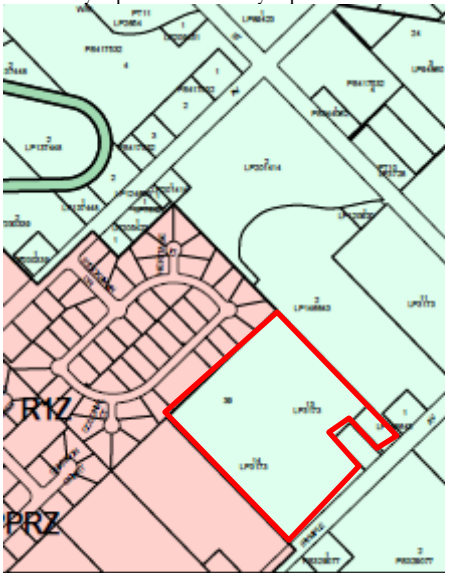



9	<p>Lots 1 and 2 PS 347069B Sandilong Avenue Irymple.</p> 	<p>Rezone from Farming Zone to Residential 1 Zone</p>	<p>The proponent has been advised by Council the land lies within the Mildura Irymple interface area and is to be used as long term residential at a mix of densities. On this basis there would not be a strategic basis for the rezoning at this stage until the Precinct Structure Plan has been completed.</p> <p><b><u>Recommendation</u></b>  <b>Submission not supported at present by the planning scheme and should be referred to the Irymple Town Structure Plan project for detailed strategic consideration.</b></p>
10	<p>Lot 1 PS 220849W and Lot 2 PS 415625U Walnut Ave Mildura</p> 	<p>Rezone from Farming Zone to Rural Activity Zone</p>	<p>The land currently supports a warehouse and agricultural packing shed. No agricultural land use is conducted from the land. The land is located adjacent to the Mildura South residential growth area.</p> <p>The proponent cites the need to consider other rural mixed use industries for the site without defining what these may be. The land is affected by the DCPO1 and 2 which indicates Council considers the land is within the long term residential growth corridor for Mildura. There is a significant amount of undeveloped residential land still available. The C28 Panel has recommended Council identify clearly the future growth corridors for Mildura to ensure development in these areas does not inhibit the logical residential development of Mildura. If the area is seen as a residential growth corridor then it is questioned why Council would introduce a zone that could be seen to conflict with its future purpose. To clarify this submission further some indication needs to be provided in terms of the type of use proposed and how the current zone cannot provide for this. The submission does not provide this information and it is considered the submission should not be supported and that the buildings could be re-used for a use that is appropriate in the zone.</p> <p><b><u>Recommendation</u></b>  <b>Submission not supported at present and should be referred to the Housing Strategy for detailed strategic consideration.</b></p>

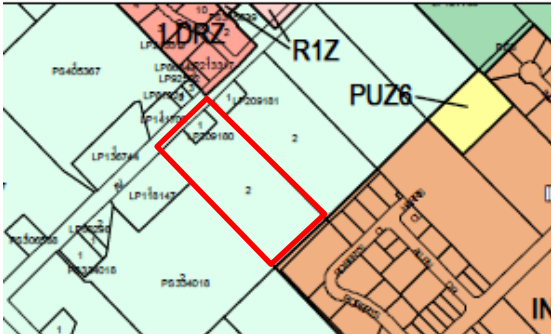
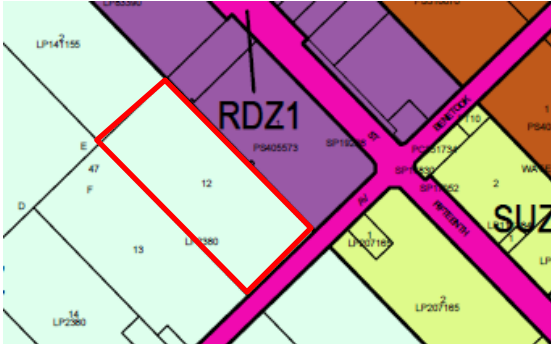
11	<p>Lot 109A Regina Ave Cabarita</p> 	<p>Rezoned from land from Public Park and Recreation Zone to Farming Zone</p>	<p>The submitter purchased the land in 1989 when it was zoned Rural A. A dwelling has since been constructed on the land. It seems this is a translation error that occurred with the new format planning scheme. As the land is privately owned, a public zone should not be applied. It is recommended the land be rezoned back to the Farming Zone as the zone for the direct translation from a former zone.</p> <p><b>Recommendation</b>  <b>Submission supported. Rezoning should occur as part of the implementation amendment for the review.</b></p>
12	<p>576-588 Cowra Avenue Irymple</p> 	<p>Rezoned land from Farming Zone to Low Density Residential Zone</p>	<p>The submitter seeks a rezoning on the basis of the current difficulties with horticulture, location of the land to Mildura and Irymple, the availability of services and the effect of C58 which prohibited a single dwelling on the land. On the latter point there will be many of these affected properties and it would be inappropriate for Council to 'cherry pick' winners on the basis of individual submissions for LDR rezoning. The consideration of this submission should be consistent with the response to Submissions 3, 5 and 7. A strategic review of all LDR across the Mildura area should be completed to inform any new rezonings.</p> <p><b>Recommendation</b>  <b>Submission not supported at present. The submission should be referred to the Housing Strategy for detailed strategic consideration.</b></p>
13	<p>814 Cureton Avenue Nichols Point</p> 	<p>Rezoned from Farming Zone to Low Density Residential Zone</p>	<p>The land is nearly 12 hectares in size and is located next to the Kings Billabong low density residential area. Functionally the proposal has merit however it should be treated consistently with all other LDR rezoning requests and be referred to Housing Strategy for further consideration.</p> <p><b>Recommendation</b>  <b>Submission not supported at present. The submission should be referred to the Housing Strategy for detailed strategic consideration.</b></p>

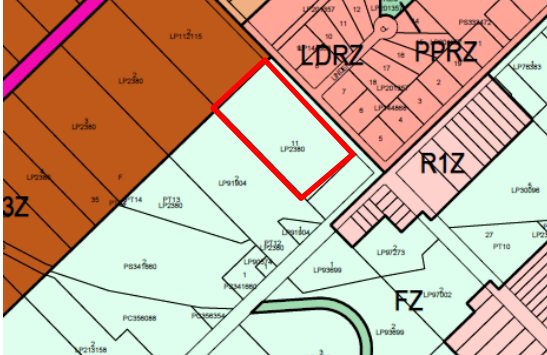
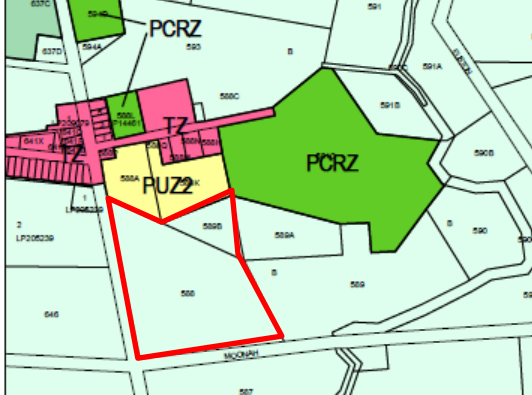
14	<p>Lot 1 Karadoc Avenue Irymple</p> 	<p>Rezone from Farming Zone to Residential 1 Zone</p>	<p>The submission notes the Irymple Town Structure Plan does not identify future growth corridors for residential development around Irymple and the planning scheme does not allow for more residential growth. The Irymple Residential Strategy 2007 noted only recently there was over 15 years of residential land zoned appropriately for development. Notwithstanding this, the submission should be referred to the Irymple Town Structure Plan project for further consideration.</p> <p><b><u>Recommendation</u></b>  <b>Submission is not supported at present and should be referred to the Irymple Town Structure Plan project for detailed strategic consideration.</b></p>
15	<p>General comments made in respect of further strategic work noted in the Stage 1 report. It supports the preference for the Retail Strategy Review project prior to the precinct structure plan for Fifteenth Street and notes there should be another project included in further strategic work arising out of the C58 amendment. It also notes concern that planning resources will not be sufficient to complete the required work and support the needs to provide discretion for Councils to consider lots smaller than 0.4ha in the LDR zone.</p>		<p><b><u>Recommendation</u></b>  <b>Submission is noted and report to be amended to include new strategic work.</b></p>
16	<p>Generals comments on the following:</p> <ul style="list-style-type: none"> <li>• Guidance required for future B1Z land</li> <li>• Guidance required for future LDR land</li> <li>• Guidance required for future residential and industrial land in Irymple, Merbein and Red Cliffs</li> <li>• Town Structure Plans need to be updated</li> <li>• Expansion of Township Zones should be considered (Cardross)</li> <li>• Consider growth required to support local schools in small towns</li> <li>• Avoid dual zoned properties</li> <li>• Single and consistent approach to rural planning supported</li> </ul>		<p><b><u>Recommendation</u></b>  <b>Submission is noted.</b></p>

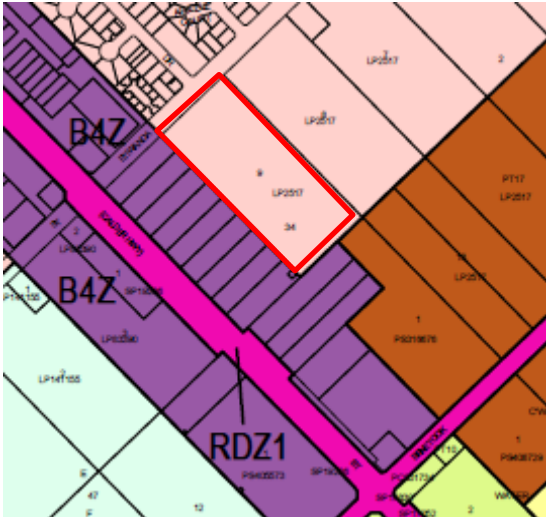
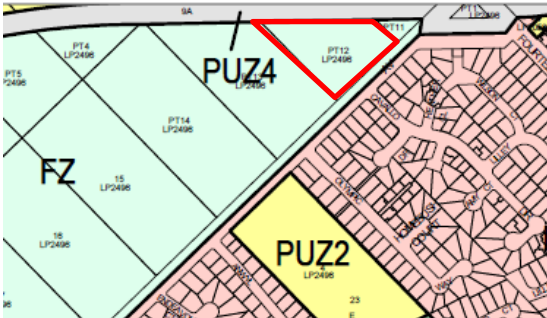
17	<p>Buloke Street Red Cliffs</p> 	<p>Rezone from Farming Zone to Rural Conservation Zone</p>	<p>The RCZ1 that applies to the neighbouring land has an average of 1.5ha lot size. The submission requests the application of this zone to the neighbouring land that is zoned Farming on the basis of consistency and orderly approach to zoning and poor soil quality. An alternative put forward is for this land and other land east to be identified as future RCZ on a framework plan.</p> <p>It does seem unusual for the RCZ1 to stop where it does while the Crown land continues to extend to the east. This issue is being dealt with by the FZ Taskforce.</p> <p><b><u>Recommendation</u></b> Submission is noted and will be considered as part of the FZ Taskforce. Any further strategic justification will be guided by the outcomes of the taskforce.</p>
18	<p>Lot 4 and 5 San Mateo Avenue Mildura</p> 	<p>Rezone from Residential 1 Zone to Business 1 Zone</p>	<p>The land is one of 8 residential lots that are located next to the Fifteenth Street B4Z corridor. The submission requests the land be rezoned B4Z. In principle this request for the land and its neighbours seems appropriate as it would complete the 15<sup>th</sup> Street corridor. The submission however should be referred to the Retail Strategy Review for further consideration.</p> <p><b><u>Recommendation</u></b> The submission should be referred to the Retail Strategy Review project for detailed strategic consideration.</p>

19	<p>Lot 2 Irymple Avenue Irymple</p> 	<p>Rezone from Farming Zone to Residential 1 Zone</p>	<p>This land is located at the periphery of the Irymple township and adjoins undeveloped residential land (permit granted though) and low density residential land. The Irymple residential Strategy 2007 identified there is over 15 years of residential land provided. A review of residential demand should be undertaken as part of the Irymple Town Structure Plan project. The submissions should then be referred to this project for consideration. It is agreed if rezoning is not considered as appropriate then the land be shown on the structure plan as long term growth.</p> <p><b><u>Recommendation</u></b>  <b>Submission is not supported at present and should be referred to the Irymple Town Structure Plan project for detailed strategic consideration.</b></p>
20	<p>Lot 2 Irymple Avenue Irymple</p> 	<p>Rezone from Farming Zone to Residential 1 Zone</p>	<p>The land adjoins that of Submission 19 and 2. It is to be addressed in a similar manner.</p> <p><b><u>Recommendation</u></b>  <b>Submission is not supported at present and should be referred to the Irymple Town Structure Plan project for detailed strategic consideration.</b></p>

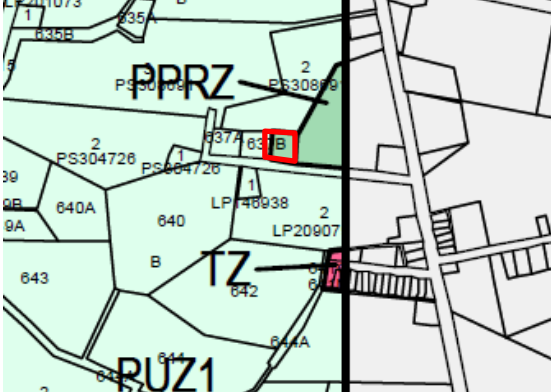
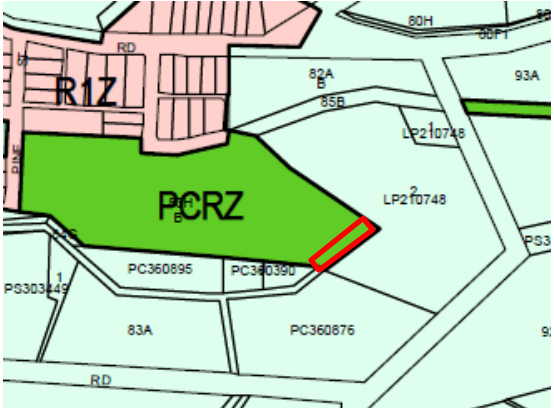
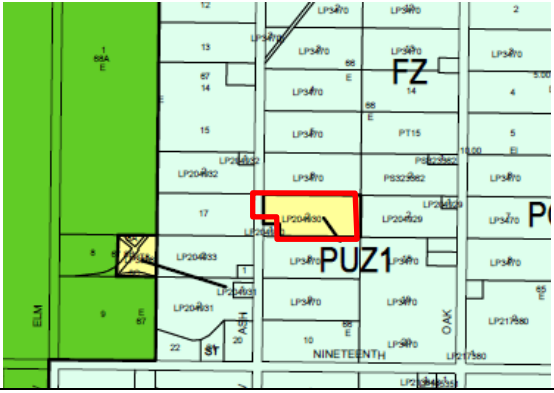


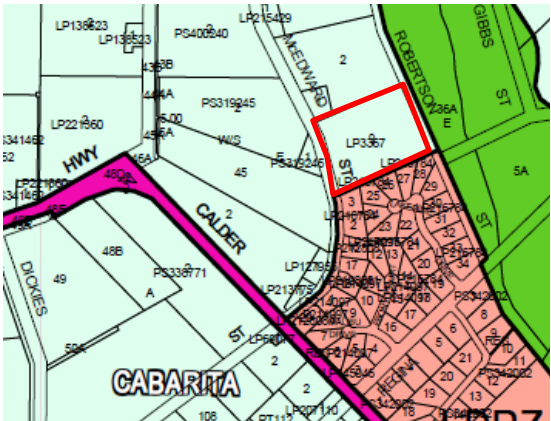
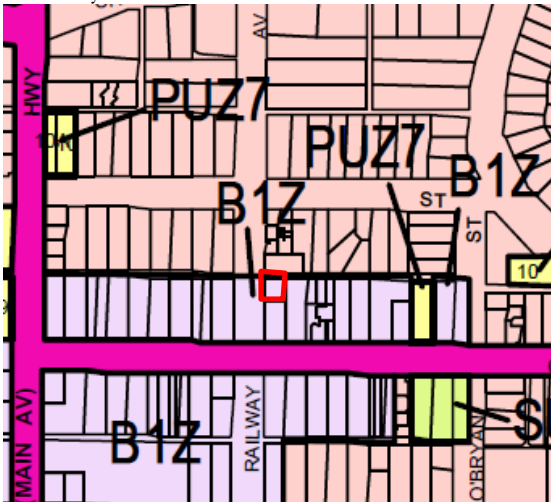
21	<p>Lot 2 Karadoc Avenue, Irymple</p> 	<p>Rezone from Farming Zone to Industrial zone</p>	<p>The land abuts to the rear of an industrial estate yet has a residential estate located on the opposite frontage. The submission refers to a recommendation by the C38 Panel that a further review be done for industrial land in Irymple. It is recommended this be done as part of the Irymple Town Structure Plan project.</p> <p><b><u>Recommendation</u></b> Submission is not supported at present and should be referred to the Irymple Town Structure Plan project for detailed strategic consideration.</p>
22	<p>Lot 1 Benetook Avenue Mildura</p> 	<p>Rezone from Farming Zone to Industrial 3 Zone</p>	<p>The land is located adjacent to the Fifteenth Street B4 corridor and on the proposed truck bypass route for Mildura (C38). The landowner has an investor that wishes to develop a truck stop. The land is located south of Fifteenth Street. This proposal should be referred for consideration under the Retail Strategy Review project. It is noted however the Benetook Ave IN3Z corridor to the north of Fifteenth Street is significantly underdeveloped and this use may be better located in this area to initiate the development of the corridor before rezoning for similar uses.</p> <p><b><u>Recommendation</u></b> Submission should be referred to the Retail Strategy Review for detailed strategic consideration.</p>

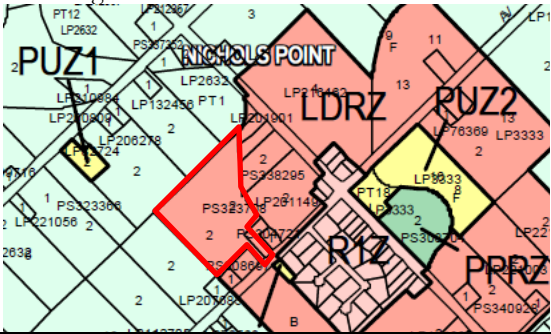
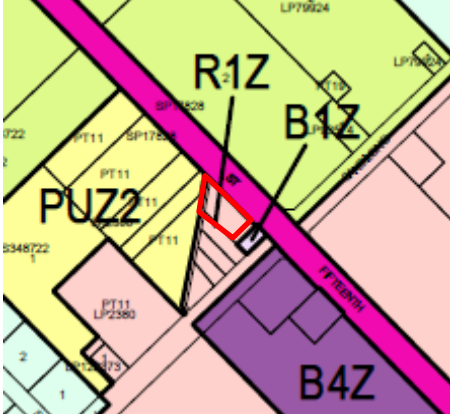
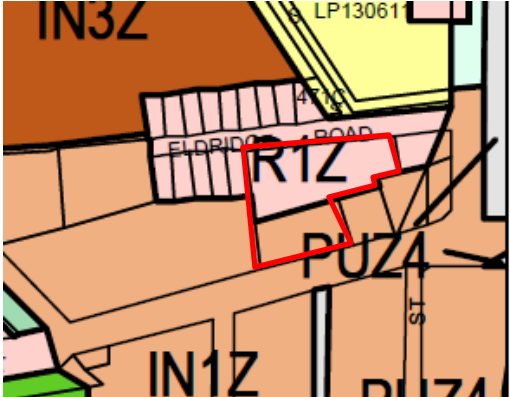
23	<p>523 Fourteenth Street Mildura</p> 	<p>Rezone from Farming Zone to Residential 1 Zone</p>	<p>The submitter wishes to develop the land for lots sizes varying between 1500m<sup>2</sup> and 2000m<sup>2</sup> and provide a product to the market that distinguishes itself from the traditional residential development at Mildura South. The LDRZ currently does not provide this opportunity so the R1Z would be required with some overlay to control lot size. The Mildura-Irymple Interface Study 2006 assessed this North Fifteenth Street precinct and recommended a lower density of residential development to complement the green belt in the precinct. The proposed lot size may be consistent with this approach however the study recommends retaining the land in the FZ until development is justified. The MSS now identifies the precinct as potential long term residential at a mix of densities. The Study recommends a review of residential strategies with consideration of potential LRDZ and R1Z to be accommodated as a high priority.</p> <p>The key point is that the strategic work has not been done to support the rezoning. This issue could be considered as part of the Low Density Residential Review update however it seems as though there is still ample land zoned and undeveloped for residential purposes in this area.</p> <p><b><u>Recommendation</u></b>  <b>Submission has merit and support of the M-I Study however the timing is the issue. The submission should be referred to the Housing Strategy for detailed strategic consideration.</b></p>
24	<p>Land from Cowra Avenue to Sandilong Avenue Mildura between Cureton and Eleventh Streets</p>	<p>Rezone from Farming Zone to Low Density Residential Zone</p>	<p>This submission recommends a significant new low density residential growth corridor for Mildura. The MSS currently identifies this land as a longer term residential opportunity. No strategic support has been provided and it is considered the submission should not be referred to the LDR Review update as the vision for the land is set already for long term residential growth.</p> <p><b><u>Recommendation</u></b>  <b>The submission not be supported or referred for further consideration</b></p>
25	<p>Corner Moonah and Dairtununk Avenue Cardross</p> 	<p>Rezone from Farming Zone to Low Density Residential Zone</p>	<p>The land is located south of Cardross which supports a school, sporting teams and local store. This submission proposes to expand Cardross to make it more sustainable. By increasing population levels and supporting services and facilities. Again this submission should be referred to the Housing Strategy for consideration.</p> <p><b><u>Recommendation</u></b>  <b>The submission not be supported at present however be referred to the Housing Strategy for detailed strategic consideration.</b></p>

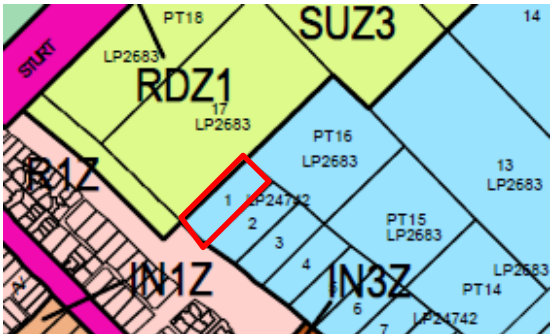
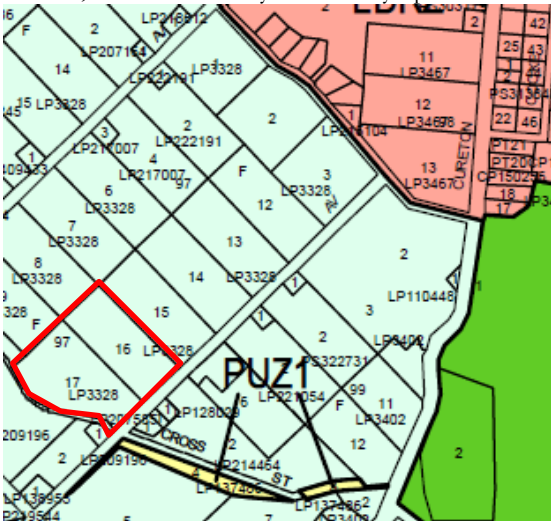
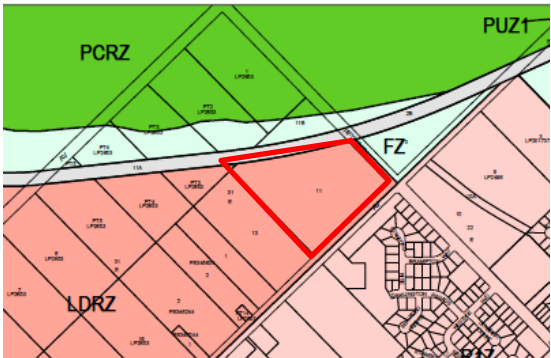
26	<p>681 Fifteenth Street Mildura</p> 	<p>Rezone from Residential 1 Zone to Business 4 Zone</p>	<p>The proposal is to rezone land to the rear of the Fifteenth Street B4Z corridor to accommodate the expansion of an existing business (spray equipment manufacturer) fronting Fifteenth Street. This would result in the new zone boundary being at a consistent depth to land further east. Structurally this would not compromise this corridor however the Etiwanda ODP designation this part of the land for a retardation basin. This matter would need further investigation and should be considered as part of the Retail Strategy Review project.</p> <p><b><u>Recommendation</u></b>  <b>This proposal has merit provided other issues related to the Etiwanda ODP are resolved. The submission should be referred to the Retail Strategy Review project for detailed strategic consideration.</b></p>
27	<p>315-345 Ontario Avenue Mildura</p> 	<p>Rezone from Farming Zone to a residential zone or RAZ</p>	<p>The land is located in an area of Farming Zone adjacent to the Mildura West urban area and the railway line. It is next door to a Farming supplies and wood yard. The submission indicates the land is not used for agriculture and should be considered for other zones. The potential zone would be the RAZ.</p> <p><b><u>Recommendation</u></b>  <b>This submission has merit and should be referred to the Housing Strategy for detailed strategic consideration.</b></p>

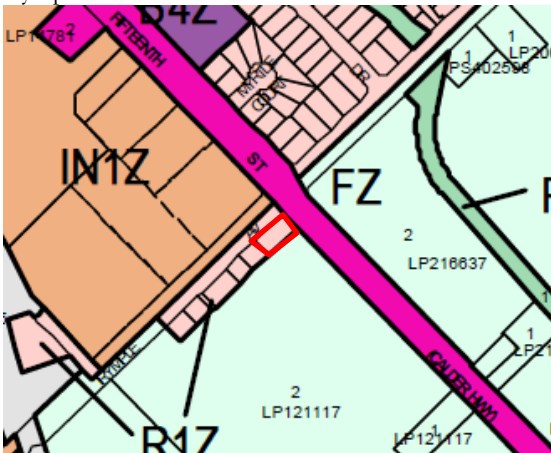
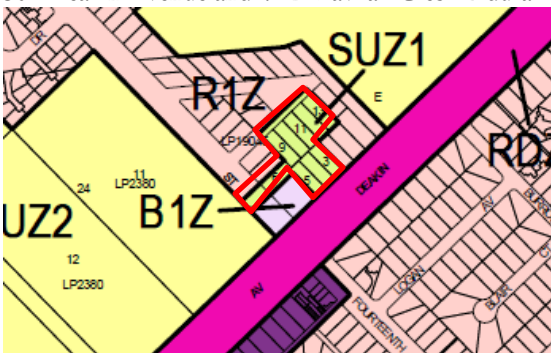


28	<p>CA 2104 Torney Rd Cardross</p> 	<p>Rezone from Public Park and Recreation Zone to Farming Zone</p>	<p>The DSE has identified this anomaly as the land has for some years been used by an adjoining property owner. The DSE is now selling the land and seeks to correct the zoning to the underlying FZ. Consideration should be given to the use of the Restructure Overlay to ensure land consolidation occurs.</p> <p><b><u>Recommendation</u></b> Support this submission as a rezoning and use of the RO as part of the implementation amendment.</p>
29	<p>TP 014795 former channel reserve</p> 	<p>Rezone from PPRZ to Farming Zone</p>	<p>Response is the same as that for Submission 28.</p>
30	<p>Ash Avenue,</p> 	<p>Rezone from Public Use Zone 1 to Farming Zone</p>	<p>This is a zone anomaly. The land has been privately owned for over 25 years and should not be zoned PUZ1. The underlying zone is FZ. This should be corrected as part of the implementation amendment.</p> <p><b><u>Recommendation</u></b> Submission supported. Rezone as part of the implementation amendment.</p>

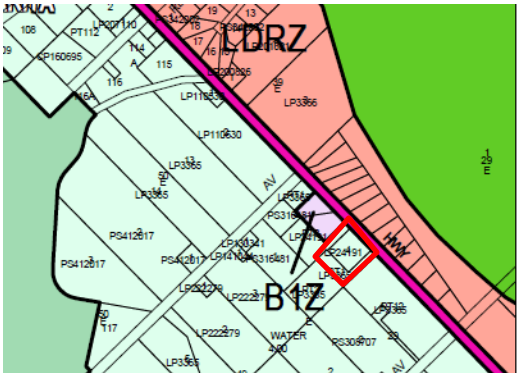
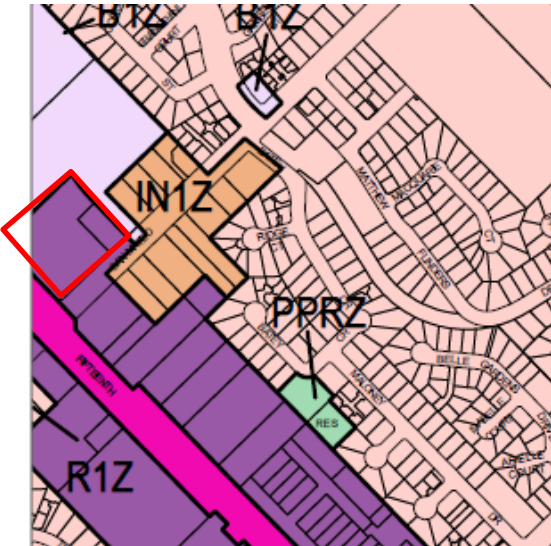
31	McEdward Street Mildura 	Rezone from Farming Zone to Low Density Residential Zone	<p>The land is located adjacent to the Lake Hawthorn LDR area. The adjacent lots sizes are 2500-3000m2. This is the preferred lot size for the land. At this stage without a change to the VPP the land would have to be rezoned to R1Z with an overlay to control lot size. This submission should be referred to the Housing Strategy project.</p> <p><b><u>Recommendation</u></b> The submission not be supported at present and be referred to the Housing Strategy for detailed strategic consideration.</p>
32	Refer to Submission 12		
33	2 Railway Avenue Merbein 	Rezone from Business 1 Zone to Residential 1 Zone	<p>The land accommodates the former Merbein Police Station. The new owner wishes to reuse it for a dwelling. A planning permit is required under the B1Z for a dwelling that does not meet the Section 1 condition (which it does not). Therefore a rezoning is not required.</p> <p><b><u>Recommendation</u></b> That the submission not be supported and advice the proponent to lodge a planning application with Council for a dwelling.</p>

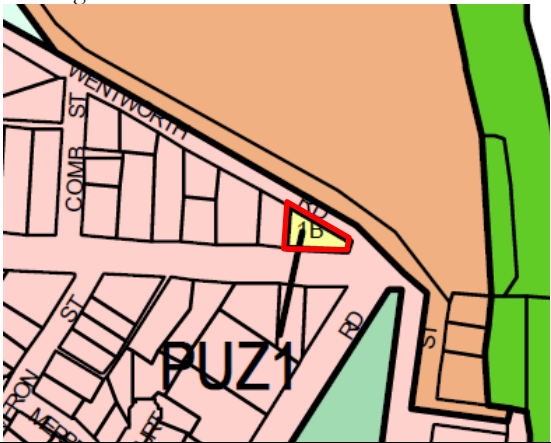
34	Koorlong Avenue Nichols Point 	Rezone from Low Density Residential Zone to Residential 1 Zone	<p>The key issue with this submission relates to the inability to create smaller lots than 0.4ha in a LDRZ. The only alternative is to rezone the land to R1Z and apply an overlay to control lot size. This matter has been identified as a key issue in this review. The matter should be considered further in the Housing Strategy project.</p> <p><b><u>Recommendation</u></b> The submission should be referred to the Housing Strategy for detailed strategic consideration.</p>
35	Lot 1 Fifteenth Street Irymple 	Rezone from Residential 1 Zone to Business 1 Zone and delete DDO11	<p>The land is located on the Calder Highway between a school and a Business 1 Zone. It has an area of 190m<sup>2</sup>. The neighbouring land supports a shop. There has been interest in developing this land for business purposes. Given the depth of the land and its context the submitter believes the DDO11 should be deleted as it does not allow the land to be developed as a minimum setback of 40m is required and this is greater than the current depth of the land. This submission should be referred to the Retail Strategy Review project for consideration.</p> <p><b><u>Recommendation</u></b> The submission has merit and should be referred to the Retail Strategy Review project for detailed strategic consideration.</p>
36	Lot 2 Nardoo Street Red Cliffs 	Part rezone from Residential 1 Zone to Industrial 1 Zone	<p>The land is occupied by industrial buildings that are partly in the IN1Z and the R1Z. The realignment of the zone boundary to include the buildings fully within the IN1Z is justified and supported for inclusion in the implementation amendment.</p> <p><b><u>Recommendation</u></b> The submission is supported and is to be included in the implementation amendment. A further strategic review of the area should be completed to resolve any interface conflicts between the R1Z and IN1Z.</p>

37	<p>18 Cureton Avenue Mildura</p> 	<p>Rezone from Urban Floodway Zone to a Residential 1 Zone and LSIO</p>	<p>The land is adjacent to the Mildura Marina site and one of a number of properties along Cureton Ave that may have similar issues. The submissions states there has been discussions with the Mallee CMA that indicate the site is not part of an active floodway and may have the potential to be rezoned for urban purposes. This submission has merit and should be discussed further with the Mallee CMA to ensure adjoining land is considered at the same time. The support of the CMA is critical to moving this issue forward.</p> <p><b><u>Recommendation</u></b>  The submission has merit and further discussions should take place with the Mallee CMA on any rezoning options. The issue should be considered in the preparation of the Strategic Framework Plan for Cowra Avenue north of Eleventh Street (2010/2011).</p>
38	<p>Lots 16, 17 and 10 Dewry Avenue Irymple</p> 	<p>Rezone from Farming Zone to Low Density Residential Zone</p>	<p>The submitter owns land that is located south of the Kings Billabong LDR area and separated from it by a number of other farming properties. The land is farmed for table grapes. The land is isolated and would need to be considered with other adjoining land however it is noted this would result in a significant expansion of LDR. To be consistent with other LDR submission it is proposed to refer it for consideration with the Housing Strategy project.</p> <p><b><u>Recommendation</u></b>  The submission is not supported at present and is to be considered further in the Housing Strategy for detailed strategic consideration.</p>
39	<p>Ranfurly Heights, Riverside Avenue Mildura</p> 	<p>Rezone from LDRZ to Residential 1 Zone</p>	<p>This submission relates to concerns with the LDR restriction on lot size of 0.4ha. It is part of a significant tract of LDR that remains undeveloped. The only other option that could be initiated at the local level is a rezoning of the land to R1Z with a suitable overlay to control lot size.</p> <p><b><u>Recommendation</u></b>  The submission cannot be supported at present however it should be referred to the Housing Strategy for detailed strategic consideration.</p>

40	Refer to submission 7		<p>This submission varies from Submission 7 in that it now proposes some of the land to be zoned Business 1 Zone next to the existing B1Z. The current B1Z is vacant and may be a mapping anomaly. The submission should not be supported for additional B1Z and consideration should be given to the back zoning of the B1Z to Farming Zone.</p> <p><b><u>Recommendation</u></b>  <b>The submission is not supported and the existing B1Z should be back zoned to Farming Zone as part of the implementation amendment.</b></p>
41	<p>Corner Fifteenth Street and Irymple Avenue Irymple.</p> 	<p>Rezone the land from Residential 1 Zone to a business zone</p>	<p>The land accommodates an antique centre and was started as a home occupation that required the operator to reside at the land. The business has now grown and there is a number of non compliance issues associated with the current use. The submission seeks a business zone so the use could operate as a without the restrictions of a home occupation. This issue should be dealt with under the Retail Strategy review project.</p> <p><b><u>Recommendation</u></b>  <b>The submission cannot be supported at present and should be referred to the Retail Strategy Review project for detailed strategic consideration.</b></p>
42	<p>301 Deakin Avenue and 4-12 Havilah Cres Mildura</p> 	<p>Rezone from Special Use Zone to a combination of Business 1 Zone and Residential 1 Zone</p>	<p>The Seventh Day Adventist Church owns the land and is proposing to relocate fully to a site next to their school (Henderson College) in Cowra Avenue. As the land will be surplus to their requirements the Church wishes to rezone the to a R1Z / B1Z mix with the B1Z along Deakin Avenue and the rear to residential. The current zone should not be retained if the use is going to change. The real of the land is suitable for residential development and the 3 lots fronting Deakin Avenue should be considered as part of the Retail Strategy Review project.</p> <p><b><u>Recommendation</u></b>  <b>The submission has merit however cannot be supported at present and should be referred to the Retail Strategy Review project for detailed strategic consideration.</b></p>



43	<p>Lot 1 Seventeenth Street Cabarita</p> 	<p>Rezone from Farming Zone to Business 1 Zone or Low Density Residential Zone</p>	<p>This submission is related to Submissions 7 and 40. The expansion of the B1Z zone is not warranted as the existing B1Z seems to be an anomaly on vacant undeveloped land. In regard to the LDR option this issue should be referred to the Housing Strategy project.</p> <p><b><u>Recommendation</u></b>  The submission for a B1Z cannot be supported. The submission for possible LDR should be referred to the Housing Strategy for detailed strategic consideration.</p>
44	<p>795-807 Fifteenth Street and 439-441 San Mateo Avenue Mildura</p> 	<p>Rezone from Business 4 Zone to Business 1 Zone</p>	<p>The land is occupied by the Gateway Hotel and Tavern. The neighbouring land in the B1Z has been purchased by Woolworths for the development of a Big W store. The submission considers the current B4Z does not fit the current use of the land. The B4Z is for bulky retail uses. The submission has merit and should be considered in light of the upcoming Retail Strategy Review project.</p> <p><b><u>Recommendation</u></b>  The submission has merit and should be referred to the Retail Strategy Review project for detailed strategic consideration.</p>

45	Whiting and Commercial Streets Merbein 	Rezone from PUZ1 to Residential 1 Zone	<p>The land accommodates a redundant and decommissioned water tower and is surplus to LMW requirements. It is appropriate the land be rezoned to the underlying zoning which is R1Z.</p> <p><b><u>Recommendation</u></b> The submission be supported and rezoned to R1Z as part of the implementation amendment.</p>
46	Regent Parrot habitat protection	Apply the ESO	<p>The DSE has suggested Iluka Resources amend the planning scheme to introduce the ESO to protect and enhance flightways for the Regent Parrot. This works are required under their EPBC license. The habitat works cover 56kms of road with 12.5kms of new plantings.</p> <p>The request has merit however clarification should be sought on the extent of the proposed ESO for mapping purposes.</p> <p><b><u>Recommendation</u></b> The submission be supported and the ESO be applied either in the implementation amendment or as a separate amendment.</p>

## **APPENDIX C**

### **LIST OF PLANNING SCHEME ANOMALIES**



## REVIEW OF PLANNING SCHEME ANOMALIES

No	Date	File No	Issue	Officer	Status
1	17/07/00	L10/0030/03(02)	Environmental Audit for Red Cliffs Power Station in Woomera Avenue completed. Site very contaminated. Include Environmental Audit Overlay? Site plan in folder	Andrew Cockerall	
2	29/08/00		Heritage Overlay Schedule	Andrew Cockerall	PSA being prepared
3	29/08/00		Christie Centre 115-117 Twelfth Street in PUZ6 Zone	Andrew Cockerall	
4	01/09/00		36-38 Box Street, Merbein, Sunraysia Community Health Services in PUZ6	Paul Godier	
5	26/9/00		Heritage Overlay HO150 - Located on the map at 99 San Mateo however written in the Scheme as "Millewa C Pumping Station"	Jacklyn Edlington	PSA being prepared
6	01/02/01		Map 27 HO 202 not shown on map as referenced in Scheme - Map attached	James Golsworthy	PSA being prepared
7	02/04/01		Schedule to Rural Zone - earthworks requiring permit	James Golsworthy	
8	05/09/01		DPO1 - Etiwanda Avenue - delete part of DPO1	Warrick Fisher	
9	05/09/01		61 Seventh Street delete HO overlay	James Golsworthy	PSA being prepared
10	09/11/01	PF23061	Map 25 and 26 Dyar Avenue Sec 49 Blk E (Sedgeman)	Warrick Fisher	
11	14/12/01		Freehold land in Murray Sunset National Park zoned as PCRZ (map 51/52) should it be a private zone	Michael Kirsch	PSA being prepared
12	20/12/01		HO126 - Irymple Station - building has been removed from site - is it still significant site without building	Michael Kirsch	
13	16/01/01		Map 25 - B1Z on Calder Highway is vacant land - Business down the road is RUZ		
14	11/09/02	PF1205	274 & 276 Cureton Avenue Mildura	James Golsworthy	
15	11/09/02		Lot 1 PS 71068 land part PCRZ part RUZ	Warrick Fisher	
16	11/09/02		Red Cliffs East School zoned Rural should be PUZ2	Matthew Kirby	
17	27/8/04		The DDO on the south east side of Deakin (near Fourteenth Street) affects part of some properties that are not on Deakin- should line be changed?	Gabby Perkins	
18	2/9/04	PF4734	174 Ninth Street, Mildura- HO39 displayed on overlay maps but not in the schedule. Please include	Kevin Leslie	PSA being prepared
19	2/9/04	Deakin Ave- Map 28	HO301 is shown on the planning scheme maps in the road reserve of Deakin Avenue, however in the Schedule to the overlay HO301 refers	Gabby Perkins	PSA being prepared

			to Pschye Pumping Station		
20	6/9/04	AEO1	Austlink (Driver Training Facility). In the AEO1 education facility is prohibited, however in the master plan and exhibited structure plan-austlink. Need to specify that education facilities (other than for a driver training facility) are prohibited, rather than prohibiting all education facilities. PD will be checking whether this can be included in C28 to make sure structure plan is consistent with the controls	Gabby Perkins	NA – C20 corrected
21	2/12/04	HO14	HO over Grand Hotel (cnr Langtree and Seventh Street) refers to the Workingmans Club whereas this is not the case, there is a HO14 on the real Workingmans site also	Gabby Perkins	PSA being prepared
22	2/02/05	HO122	House – CA 5-6 Sec 34 Blk F (1550 Walnut Avenue) refers to the former 'Lever' Homestead built from Koorlong Limestone, along with the associated 84 acre block. The house has apparently been demolished and the land subdivided with no record or reference to its Heritage Significance on file. The land is now known as the Federation Estate however the Overlay still applies.	Nathan Misiurka	PSA being prepared
23	15/2/05	R1Z	PF18262- Catholic School on the corner of Fitzroy Street and Fifteenth Street, Red Cliffs is partly zoned Business 1 and partly Residential 1. Probably more suitable for a PUZ or SUZ to more appropriately reflect the use.	Gabby Perkins	
24	12/07/05	HO136	Should be HO 36 House Magnolia Avenue	Trish Arnold	PSA being prepared
25	12/07/05	RUZ	Henderson College – Cowra Avenue Mildura	Trish Arnold	
26	31/10/05	HO205/R1Z	65 Douglas Avenue, Mildura Rural City Council Existing Moreton Bay Fig has been listed on the National Trust as State significance and they send letter in 11 September 2005 with the statement of significance and requested that it be covered by a planning scheme heritage control – it is currently but schedule to be updated.	Gabby Perkins	PSA being prepared
27	7/12/05	PF15257 / P05/500	Lot 2 PS 82724 Sec 20 Blk F, Karadoc Avenue, Nicholas Point. The subject site is zoned PUZ1 – Service and Utility. The owners (McDonald's) purchased the property from the First Mildura Irrigation Trust in 2002, however the zoning of the property has never been altered. Surrounding properties are zoned RUZ.	Leanne Wilson	
28	21/12/05	PF5672 / P05/556	16 Rosemount Avenue, Mildura. The site is zoned PUZ Schedule 3. It should be R1Z, the site is used for residential uses and is surrounded by R1Z.	Leanne Wilson	
29	27/1/06	PF22155 Tower Street	CA18 Township of Werrimull contains the Community Hall in a	Gabby Perkins	

		Werrimull	PUZ-6 zone, however it appears that the land is in private ownership, despite being a public use??		
30	28/02/06	PF19275 / P06/063	Heritage Overlay incorrectly shown on map – should relate to – 11 LP3569 130. Dwelling is listed in the Conservation Study, listed on page 43.	Leanne Wilson	PSA being prepared
31	24/03/2006		T & G Clock not listed on the heritage overlay	Trish Arnold	
32	26/04/2006	PF23139 (Lot 2 LP 204930)	Is located within PUZ1, is developed and has always been (according to current owner – Barich) with vines, should be RUZ.	Trish Arnold	
33	29/05/06	Pf3960	The standard heritage overlay square is on one title, whereas the heritage dwelling is actually across two titles. This needs to be shown across the two titles.	Chris Westwood	PSA being prepared
34	5/06/06	IN-0431244 OUT-0424769 INT-0411667	Revocation of public hall reserve and cemetery reserve at Linga	Peter Douglas	
35	21/06/2006		Max Whititing wanting the site of the Mildura Homestead listed on the heritage overlay	Trish Arnold	
36	28/08/2006	PF21599	Sacred Heart Primary School Merbein Is currently Residential 1 Zone and should be PUZ2	Trish Arnold	
37	26/10/2006	PF2253 & HO127	Corner 11 Street & Magnolia Avenue - HO127 does not exist in this location – vacant land in private ownership – Does not appear in heritage study – was it meant to be the adjacent shop?	Sarah Nickas	PSA being prepared
38	1/11/06	PF28047 and surrounding properties	Properties in Angel Grove, Irymple, currently zoned Farming, should be zoned LDRZ, old ¾ acre subdivision	Leanne Wilson	
39	29/11/06		Johnsons Trucks cnr 14 <sup>th</sup> and Benetook SMO to be removed	Peter Douglas	
40	2/1/07		HO177 on the eastern side of San Mateo Ave between Tarrango Dve and Sixteenth St should be reduced in size. The HO177 protects two dwellings fronting San Mateo Avenue, but extends over all of Lot 1 on TP 676626U, which is one of two lots that is subject to Planning Application No. P06/547 for a 76 lot subdivision. As the HO177 currently stands, planning permission will be required under the HO to construct a dwelling on many of the lots within the subdivision.	Matthew Cameron	PSA being prepared
41	19/1/07		Rezone Civic Centre in Madden Ave from B2Z to PUZ6 to reflect its use for local government purposes.	Matthew Cameron	
42	1 /03/07	SMO	Clause 44.02-2 a permit is required to subdivide land. This should	Courtney McGlashan	

			read after this <b>“this does not apply if a schedule to this overlay specifically states that a permit is not required”</b> The Schedule exempt the requirement if a Salinity Action Statement has been undertaken on the subject land. Comment from Matthew Cameron – a statewide amendment would be required to amend 44.02-2. Is it 44.02-2 that should be amended, or our schedule?		
43	10/04/07	HO35	Heritage Overlay 35 is not listed in the Schedule and exists upon 70 Lemon Avenue. The site is developed with an office known as Retireinvest. This overlay either should be removed or HO35 identified and listed in the schedule	Courtney McGlashan	PSA being prepared
44	19/7/2007	PF22330 Lot 2 PS 428258X – Ranfurly Way Mildura	PCRZ partly covers the private land. P07/211 (application for dwelling) was referred to DSE who commented in their letter that the zoning was probably an anomaly and should be corrected. See Trim Ref IN-0722838 See also No. 49 below (MC)	Trish Arnold	
45	21/9/07		Privately owned houses in Rosemont Ave, Mildura are still zoned PUZ from the days when they were owned by the hospital. They should be rezoned to R1Z to avoid the need for permits for buildings and works for dwellings.	Matthew Cameron	
46	21/9/07		HO301 on Map 28HO is incorrectly designated and should be shown as HO201. HO201 on Maps 28HO and 29HO should be shaded over the whole Deakin Avenue road reserve between Seventh and Fifteenth Streets, not just on isolated sites, if this is the intent of the schedule.	Matthew Cameron	
47	26/09/07	H0122 P00/498	Federation Gardens – Walnut Ave between 15 <sup>th</sup> and 16 <sup>th</sup> remove HO122 as house demolished for subdivision in approx 2000.	Sarah Nickas	PSA being prepared
48	26/09/07	H0175	Remove the HO175 on Map 32HO at the south-east corner of Cowra Ave and Cureton Ave, as the dwelling was apparently destroyed by fire and has not been there for a number of years.	Matthew Cameron	PSA being prepared
49	3/10/07	PCRZ PF 26270	PCRZ partly covers private land. See also No. 44 above. 157 Ranfurly Way, Lot 3, LP 203830	Matthew Cameron	
50	23/11/07	PUZ4 PF30878 Lot 6 PS 314234	Mansell Reserve – ½ site PUZ4 (Transport) – other ½ PPRZ	Andrea Collins	
51	4/12/07	HO17	HO17 is a site specific control for the St. Andrew’s Uniting Church, which is on the south-west corner of Eleventh Street and Deakin Ave.	Matthew Cameron	PSA being prepared

			However the HO17 is misplotted on the HO map between Tenth and Ninth Streets, closer to the Mildura Club.		
52	4/12/07	HO13	HO13 is a site specific control for the Mildura Club, which is on the south-west corner of Ninth Street and Deakin Ave. However the HO13 is misplotted on the HO map on land to the south of the Mildura Club.	Matthew Cameron	PSA being prepared
53	6/2/08	PF864	9 Chaffey Ave covers two lots, one is zoned R1Z whilst the other is zoned PUZ6 (Local Government). The PUZ6 should be rezoned to R1Z to reflect the use of the land as a private dwelling. NOTE: The land is either side is owned by Council and previous attempts at rezoning adjoining properties have caused public concern aka Don Carrazza– for information Sarah Nickas	Matthew Cameron	
54	13/02/08	PF23457	325 McEdward Street, Cabarita, Victoria, 3505 C.A. 109A Sec A To confirm if a mapping anomaly Andrea checking interim development order number 5. Rezone to FZ	Sarah Nickas	
56	29/2/08		HO214 refers to a date palm on the south side of Thirteenth St east of Ontario Ave in the schedule to the HO, whereas the HO214 is plotted in Lime Ave between Tenth St and Eleventh St on Map 27HO.	Matthew Cameron	PSA being prepared
56	04/04/08		Mildura South Development Contributions Plan (March 2005)  <b>REMOVE FROM REFERENCE DOCUMENT LIST AS ACTUALLY AN INCORPORATED DOC</b>	Sarah Nickas	
57	11/06/2008	PF859	The Bungalow  No Internal controls – why ? need to reassess as significant murray pine interiors – to discuss with Heritage advisor  Note Map info indicates HO208 which should be on Chaffey Ave and does not indicate HO206 (MORTON BAY FIG)  Also HO218 is at 37 Chaffey Ave not at 2-6 Chaffey  Check if date palm exists at this address and whether it should be listed.	Sarah Nickas	PSA being prepared
58	16/09/2008	PF2506	West side of Etiwanda Ave, north of Seventh Street. HO29 is shown	Matthew Cameron	PSA being prepared

			on the map, but there is no reference to HO29 in the schedule to the Heritage Overlay.		
59	18/9/08	NA	Seventh Street between Deakin Ave and San Mateo Ave possibly should be a RDZ1.	Matthew Cameron	
60	16/12/08	PF2269	HO47 Valetta is shown as HO 147 on Map 29HO Mapping needs to be corrected to shown HO47 also check HO147 is correctly mapped.	Sarah Nickas	PSA being prepared
61	16/12/08	PF15461 &PF15460	Check Titto's store – currently zoned FZ – adjacent property is B1Z correct as mapping anomaly	Sarah Nickas	

## **APPENDIX D**

### **MILDURA OLDER IRRIGATED AREA INCORPORATED DOCUMENT FEBRUARY 2010**

# **MILDURA RURAL CITY COUNCIL MILDURA OLDER IRRIGATION AREA INCORPORATED DOCUMENT, FEBRUARY 2010**

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## **Introduction**

This document is an incorporated document in the schedule to clause 81.01 of the Mildura Planning Scheme.

Pursuant to clause 52.03 of the Mildura Planning Scheme, the land identified in this incorporated document may be developed and used in accordance with the specific controls contained in this document.

If there is any inconsistency between the specific controls in this document and the general provisions of the Mildura Planning Scheme, the specific controls in this document will prevail.

## **Purpose**

To implement the recommendations of the Mildura Planning Taskforce, Final Report, December 2009.

To protect land for horticulture within the Mildura older irrigation area.

To provide for the growth and expansion of the horticultural industry within the Mildura older irrigation area.

## **The Land**

The land that is the subject of the specific controls in this document is the land zoned Farming Zone located within the gazetted irrigation districts of Mildura, Merbein and Red Cliffs, generally known as the Mildura older irrigation area and as indicated on the attached map.

## **What does this document provide for?**

### **Subdivision**

A permit must not be granted to create a smaller lot under clause 35.07-3 unless any of the following apply:

- The subdivision is to create a lot for an existing dwelling and all of the following requirements are met:
  - The dwelling must have existed on 29 May 2009 and the lot must be a minimum of 1 hectare.
  - The requirements of clause 35.07-2.
  - The subdivision must be a two lot subdivision. An agreement under section 173 of the Act must be entered into with the owner of each lot created which ensures that the land may not be further subdivided (other than for a resubdivision which is in accordance with the provisions of this incorporated document) and that no further dwellings will be constructed on either lot (unless the balance of the lot is 10 hectares or greater and is unencumbered by a section 173 agreement stating no



further dwelling). Any variation to this agreement, including amending or ending the agreement, requires approval from both the responsible authority and the Minister for Planning.

- The subdivision must not include lots that are disused channel reserves, other small utility lots and lots created via a vinculum (except a vinculum involving adjoining or abutting lots).
  - The dwelling must be a Class 1A building as defined by the current Building Code of Australia. This must be confirmed in writing by a building surveyor.
  - The dwelling (not including outbuildings) must be setback a minimum of 5 metres from any new boundary to minimise amenity and environmental impacts to or from adjoining land uses.
  - The lot created for an existing dwelling must have a minimum area of 0.4 hectares and a maximum area of 1.0 hectare.
  - The lot created for an existing dwelling must not be a battle axe shaped lot or a lot where access is via a carriageway easement or common property driveway.
  - The new boundaries must be positioned to protect the balance of the land for horticulture.
- The subdivision is the re-subdivision of existing lots (may include an existing dwelling) and the number of lots is not increased and all of the following requirements are met:
- The dwelling must have existed on 29 May 2009.
  - The requirements of clause 35.07-2.
  - An agreement under section 173 of the Act must be entered into with the owner of each lot created which ensures that the land may not be further subdivided (other than for a resubdivision which is in accordance with the provisions of this incorporated document) and that no further dwellings will be constructed on any lot. Any variation to this agreement, including amending or ending the agreement, requires approval from both the responsible authority and the Minister for Planning.
  - The subdivision must not include lots that are disused channel reserves, other small utility lots and lots created via a vinculum (except a vinculum involving adjoining or abutting lots).
  - The dwelling must be a Class 1A building as defined by the current Building Code of Australia. This must be confirmed in writing by a building surveyor.
  - The dwelling (not including outbuildings) must be setback a minimum of 5 metres from any new boundary to minimise amenity and environmental impacts to or from adjoining land uses.
  - The lot created for an existing dwelling must have a minimum area of 0.4 hectares.
  - The lot created for an existing dwelling must not be a battle axe shaped lot or a lot where access is via a carriageway easement or common property driveway.
  - The new boundaries must be positioned to protect the balance of the land for horticulture.
- The subdivision is by a public authority or utility service provider to create a lot for a utility installation.

## Dwellings

### Application requirements for dwellings

An application to use a lot for a dwelling must be accompanied by a written statement which explains how the proposed dwelling responds to the decision guidelines in Clause 35.07-6.

A permit must not be granted to use land for a dwelling under section 2 of the Table of uses to Clause 35.07-1, unless any of the following apply:

- The size of the lot is between 0.3 hectares and 1.2 hectares and all of the following requirements are met:
  - An application to use and/or develop land for a dwelling has been made before 31 December 2012.
  - The requirements of clause 35.07-2.
  - The lot must have a legal title at the date of gazettal of Amendment C65 to the Mildura Planning Scheme.
  - The dwelling (not including outbuildings) must be setback a minimum of 5 metres from any boundary to minimise amenity and environmental impacts to or from adjoining land uses.
  - The lot must not be a disused channel reserve, other small utility lot or a lot created via a vinculum (except a vinculum involving adjoining or abutting lots).
- The size of the lot is between 10 and 20 hectares and all of the following requirements are met;
  - The requirements of clause 35.07-2.
  - The lot must have a legal title that existed on 29 May 2009.or  
The lot is unencumbered by a Section 173 Agreement ensuring no further dwellings will be constructed .
  - The dwelling (not including outbuildings) must be setback a minimum of 5 metres from any boundary to minimise amenity and environmental impacts to or from adjoining land uses.
- The size of the lot is between 10 and 20 hectares and the lot was created via a consolidation of adjoining lots which were unencumbered by a Section 173 Agreement ensuring no further dwellings will be constructed and all the following requirements are met;
  - The requirements of clause 35.07-2.
  - An agreement under section 173 of the Act must be entered into with the owner of the lot created which ensures that the land may not be further subdivided. Any variation to this agreement, including amending or ending the agreement, requires approval from both the responsible authority and the Minister for Planning.
  - The dwelling (not including outbuildings) must be setback a minimum of 5 metres from any boundary to minimise amenity and environmental impacts to or from adjoining land uses.
- The land is identified in Table 1, Site Specific Provisions of this Incorporated Document and all the following requirements are met.
  - The requirements of clause 35.07-2.
  - The dwelling (not including outbuildings) must be setback a minimum of 5 metres from any boundary to minimise amenity and environmental impacts to or from adjoining land uses.

**Table 1: Site Specific Provisions**

Address of Land	Site Specific Provisions Applying to the Land
<p>Lot 2 PS 63286</p> <p>Lot 2 PS444390</p> <p>CA 652B 652C Sec B</p> <p>Lot 2 PS 408734E Sec 49 Blk E</p> <p>Lot 2 PS 208742L Sec 55 Blk F</p> <p>Lot 1 TP 675016E Sec 22 Blk F</p> <p>Lot 1 TP 849989T Sec 48 Blk E</p> <p>Lot 1 TP 674839M Sec 22 Blk F</p> <p>Lot 2 TP 674810N Sec 130 Blk F</p> <p>CA 383A Sec B Parish of Mildura</p> <p>Lot 1 and 2 TP 675099W Sec 97 Blk F</p> <p>Lot 2 PS 48497 Sec A</p> <p>Lot 3 PS 147497J Sec 9 Blk F</p> <p>Lot 2 PS 306580Y Sec G Parish of Merbein</p> <p>Lot 2 PS 313839S Sec 9 Blk F</p> <p>Lot 2 PS 437898H Sec B</p> <p>Lot 1 TP 673647C</p> <p>Lot 2 PS 324033D Sec F Parish of Merbein</p> <p>Lot 2 PS 416458G Sec B</p> <p>Lot 2 PS 602011Q Sec 139 Blk F</p> <p>Lot 2 PS 111114 Sec B</p> <p>CA 135 Sec B</p> <p>Lot 2 PS 529821J Sec 115 Blk F</p> <p>Lot 2 PS 440734W Sec B</p> <p>Lot 2 PS609046G</p> <p>Lot 1 TP802102J Section 73 Block E</p> <p>Lot 2 PS347069B</p> <p>Lot 1, PS219003M</p> <p>Lot 2, PS500956V</p> <p>Lot 1, PS316479F</p> <p>CA 9B, Sec B, Barnetts Road, Red Cliffs</p> <p>Lot 2 TP 848589R Sec 11 Blk F</p>	<p>The responsible authority may grant a permit for the use of the land for the purpose of a dwelling.</p>

### **Decision guidelines**

Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- How the proposed dwelling responds to the decision guidelines in Clause 35.07-6.
- How the environmental conditions of the land are or will be suitable for a residential use, in the event that potentially contaminated land is to be used for a sensitive use, including residential.



Map: Boundary of the Mildura Older Irrigation Area

