



MILDURA PLANNING SCHEME REVIEW

FINAL REPORT

FOR MILDURA RURAL CITY COUNCIL

June 2014

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ACKNOWLEDGEMENTS

Mildura Rural City Council would like to acknowledge the traditional custodians of the land and pay respects to elders past and present.

Project Control

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CONTENTS

Executive Summary	iii
Introduction.....	1
1.1 Project	2
1.2 Background.....	2
1.3 Method	2
1.4 Report.....	3
1.5 Engagement	3
Recent Strategic Work.....	4
2.1 Introduction	5
2.2 State	5
2.3 Regional.....	6
2.4 Council.....	7
Planning Audit	13
3.1 Introduction	14
3.2 Issues	14
3.3 Consistency with State Policy	27
3.4 Local Planning Policy Framework.....	28
3.5 Council Plan & Strategies	31
3.6 Consistency, Useability & Effectiveness	31
3.7 Strategic Gaps	32
3.8 Application of Provisions.....	34
3.9 Monitoring	45
Appendices.....	46
A: 2010 Review Gaps Addressed	47
B: Reformed Zones Changes.....	50
C: Overlays in Mildura	56
D: Other Provisions in Mildura.....	58

EXECUTIVE SUMMARY

CHAPTER 1: INTRODUCTION

This report has been prepared for public comment. It constitutes a review of the *Mildura Planning Scheme* (MPS), as required under Section 12B(1)(a) of the *Planning and Environment Act 1987*. It considers the impacts of recent planning reforms and recent strategic work; and has been informed by stakeholder and community contributions and the recommendations of the previous MPS review in 2010. The project scope excluded consideration of residential areas, apart from the Mixed Use Zone, because these areas have been examined in detail as part of the recently completed *Mildura Housing and Settlement Strategy* (December 2013).

CHAPTER 2: STRATEGIC WORK

Chapter 2 outlines strategic work that is either currently in progress or has recently been undertaken, including the *Loddon Mallee North Regional Growth Plan* (2013 Draft), *State Planning Policy Framework Review, Plan Melbourne* (2013 Draft), *Planning and Environment Act Regulation reforms* (2013), and the newly reformed zones (2013). It also discusses Council's recent strategic planning projects and associated amendments. Of particular note is the recently approved Amendment C64, which implemented the recommendations of the 2010 MPS review.

CHAPTER 3: PLANNING AUDIT

Chapter 3 outlines the findings of the MPS audit. It identifies a few issues that have not been addressed by Amendment C64. The current MPS is broadly consistent with State policy and generally complies with the relevant practice notes. Amendment C64 improved the usability and effectiveness of the MPS.

The recommendations provided in this chapter are as follows.

Farm accommodation

- Undertake further work to introduce policy guidelines outlining application requirements and decision guidelines associated with application for Group Accommodation in non-urban zones.

Emerging industries

- Include policy in the MSS that recognises and capitalises on the benefits of the Sunraysia modernisation project and the following emerging industries: sustainable energy (including solar parks and windfarms), mineral sand extraction and agricultural value-adding industries.

Industry protection

- Undertake further work to identify and protect important industries requiring buffer distances through the application of the Environmental Significance Overlay.

College leases

- Undertake further work to map College Lease sites, identify the development issues that exist in relation to the sites, and examine how these should be approached through discussion with the relevant departments (previously proposed by Council).

Mildura & Irymple urban transition area

- Undertake further work to review the controls in the Special Use Zones (SUZ8 & SUZ9) and Design and Development Overlays (DDO10 and DDO11) that apply to the Mildura and Irymple urban transition area.

Benetook Avenue industrial area

- Conduct an investigation into the operational issues of the DDO controls in the Benetook industrial area to ensure their workability (as previously proposed by Council and in the current MPS).

Deakin Avenue Boulevard

- Undertake further work to develop urban design guidelines for Deakin Avenue (as previously proposed by Council).

Flooding risks

- Undertake further work to analyse flooding risks and prepare mitigation strategies where localised inundation has occurred (as previously proposed and in the current MPS).

Infrastructure for residential development

- Prioritise the implementation of the *Mildura Housing and Settlement Strategy* (2013), particularly in relation to infrastructure provision and timing.

Planning coordination across State borders

- Establish regular liaison with adjoining jurisdictions on strategic planning directions, particularly in relation to Wentworth Shire in New South Wales.

Private car use

- Include policy in the MSS that aims to reduce reliance on the private car by encouraging development that promotes walking, cycling and the viability of public transport.

Social issues

- Identify opportunities to improve integration between the Municipal Strategic Statement and Municipal Health and Wellbeing Plan e.g. establish an urban form that can adapt to climate change and where parks and open spaces are in walking distance from urban housing.
- Undertake further work to use the MPS to support better health and wellbeing outcomes e.g. through development of a gambling policy.

Climate change and sustainability

- Include policy in the MSS that provides greater recognition of the issues of climate change and sustainability.
- Consider undertaking further work to integrate sustainability principles in all aspects of strategic planning.

Heritage

- Prepare a Heritage Strategy to review the protection of places and precincts of heritage significance, particularly in Mildura.
- Amend the MSS to make greater reference to the protection and management of sites and aspects of indigenous culture.

Anomalies

- Amend the *Mildura Planning Scheme* to address ordinance, zone and overlay anomalies listed in the *Mildura Planning Scheme Anomalies Register*.

Miscellaneous matters

- Include policy in the MSS that further emphasises the Rural City's assets as referred to in the *Loddon Mallee North Regional Growth Plan* (draft 2013).
- Include policy in the MSS that encourages the reuse of land in the case of former state government properties.
- Undertake further work to prepare policy guidelines for applications to use land for Caravan parks in the Farming Zone.

Consistency with State Policy

- Update the MPS to make reference to the *Loddon Mallee North Regional Growth Plan* once when it is finalised.

Local Planning Policy Framework

- Consider addressing the issue of repetition in the MPS in regards to population projections as part *Mildura Housing and Settlement Strategy's* (2013) implementation.
- Undertake further work to revise the maps in the MSS to provide a clear strategic framework plan.
- Remove reference to information that could become outdated regularly in Clause 21.01 e.g. a list of recent studies and reference to economic statistics.
- Update Clause 22.01 (Budget accommodation) to reflect the new residential zones when they are introduced.

Council Plans & Strategies

- Update the MSS to include details from the Council Plan (2013).
- Include reference the *Municipal Early Years Plan 2010-2013* (2011) in the MSS, namely its vision to develop a child-friendly city.

Consistency, Usability & Effectiveness

- Investigate whether the definitions provided in the *Victorian Planning Provisions* are adequate for Mildura Rural City in relation to the terms 'rural industry', 'store', 'warehouse' and 'shop' and if more clarity needs to be provided in the MPS.

Strategic Gaps

- Undertake further work to review the content of the zone schedules.
- Undertake further work to review the suitability of land with a long history of agricultural spraying for residential purposes.
- Undertake further work to review the retail strategy.

Application of Provisions

- Reinstate the section of the former Agricultural Land Local Policy that refers to the preferred uses in the FZ.
- Undertake further work to develop policy guidelines for inclusion in the MSS or a local policy regarding preferred uses in the Farming and Rural Conservation Zone.
- Undertake further work to prepare information for residents within activity centres to manage expectations regarding amenity (e.g. accommodation in the upper levels of buildings in Mildura CBD, retail premises along Deakin Avenue in the City Gate precinct).
- Vary the C1Z schedule to include a 80sqm leasable floor area limit for shops in the area long Deakin Avenue.
- Include policy in the LPPF to assist decision-making for supermarket applications in C2Z.
- Vary the IN1Z and IN3Z schedules to reinstate the 500sqm leasable floor area limit, except in Benetook Avenue IN3Z where the limit should only be reinstated for offices not associated with the service industry (this condition may need discussion with DTPLI).
- Provide objectives and decision guidelines in separate schedules to the Mixed Use Zone that reflect existing policies.
- Undertake further work to review and audit specific and particular provisions schedules and determine whether there is strategic justification for preparing local amendments to these provisions.
- Undertake further work to complete a full audit of the incorporated documents in the MPS to ensure documents are still relevant.

1

INTRODUCTION

1.1 PROJECT

Planisphere has been engaged by the Rural City of Mildura to review the *Mildura Planning Scheme* (MPS). The project has been undertaken because the *Planning and Environment Act 1987* requires each Council to review its planning scheme within twelve months of the adoption of its Council Plan.

The review process took into consideration recent planning reforms and strategic work, stakeholder views, and the 2010 *Mildura Planning Scheme Review* (recently implemented through Amendment C64). The form and content of the review has been guided by Department of Transport, Planning and Local Infrastructure (DTPLI) practice notes and audit requirements. The project scope excludes consideration of residential areas, apart from the Mixed Use Zone, because these areas are subject to the *Mildura Housing and Settlement Strategy* (December 2013).

1.2 BACKGROUND

Since its translation into a 'new format' planning scheme in 1999, the MPS has been reviewed twice, in 2003 and 2010. The latest review (2010) was implemented through Amendment C64 to the MPS, which was approved in March 2014.

1.3 METHOD

The project was undertaken in several parts with four key stages, as outlined below.

Stage	Task
A BACKGROUND WORK	1 Inception
	2 Analysis
	3 Initial Consultation
B ANALYSIS	4 Audit
	5 Assessment of Findings
	6 Report on Findings
C DRAFT FOR COMMENT	7 Policy Development & Implementation
	8 Draft Report
	9 Draft Report Presentation
D FINAL REPORT	10 Public Comment
	11 Final Draft Report
	12 Presentation to Council for Adoption

1.4 REPORT

The main body of the report comprises two chapters with numerous sections:

Chapter	Description
2: Recent strategic work	Recent strategic work that has been undertaken since 2009 (where the last planning scheme review (2010) left off).
3: Planning scheme audit	Findings of the planning scheme audit of the MPS and consultation findings.

1.5 ENGAGEMENT

A diverse range of stakeholders have an interest in this project and have been provided with the opportunity to participate in the review process. This report summarises and takes into consideration the stakeholder feedback that has been received. Details of the engagement process and findings are documented in a separate report titled *Mildura Planning Scheme Review: Engagement Report* (May 2014).

2

RECENT STRATEGIC WORK

2.1 INTRODUCTION

This section outlines recent strategic work that has been undertaken. It follows on from where the last planning scheme review (2010) left off in 2009.

This section is structured in the following manner:

- State
- Regional
- Council

2.2 STATE

SPPF REVIEW (IN PROGRESS)

The State Planning Policy Framework (SPPF) provides key policy directions for planning in Victoria. In July 2013, a Review of the SPPF was announced by the State Government of Victoria to ensure that new strategic policy directions, identified in the recently published metropolitan strategy *Plan Melbourne*, were consistent with land use policies across the State.

An Advisory Committee has been appointed to conduct and oversee the process, with a final report scheduled for publication in April 2014. Its role is to review policy matters relating to the *Vision for Victoria*, the key strategic directions of the proposed Metropolitan Planning Strategy *Plan Melbourne*, the eight Regional Growth Plans and the implications of the reformed zones throughout Victoria.

PLAN MELBOURNE (2013)

Plan Melbourne is the Metropolitan Planning Strategy for Melbourne and Victoria. Released in October 2013, *Plan Melbourne* provides a planning strategy based on ten key principles relating to sustainable growth, connectivity, strategic land use policy and housing affordability. *Plan Melbourne* introduces the concept of 'A State of Cities' which aims to integrate land use and transport planning to distribute growth more evenly across Victoria, particularly in regional cities, through the implementation of eight Regional Growth Plans. The Regional Growth Plans provide 20-30 year land use strategies to integrate metropolitan, peri-urban and regional planning policy and provide a greater connectivity between metropolitan and regional cities.

PLANNING & ENVIRONMENT ACT / REGULATIONS REFORMS (2013)

The Planning and Environment Amendment (General) Act 2013 (the General Act) implements a suite of state government election commitments through amendments to the *Planning and Environment Act 1987* (P&E Act). Introduced in October 2013, the General Act updates existing provisions within the P&E Act to improve and refine existing planning processes. Key reforms of the General Act include the abolition of Development Assessment Committees, introduction of the Planning Application Committee and improvements to the planning permit and planning scheme amendment process.

REFORMED ZONES (2013)

In July 2013, the State Government of Victoria announced the introduction of a number of new and reformed residential, commercial, industrial and rural zones into the *Victorian Planning Provisions*. This included the introduction of three new residential zones (to replace Residential 1, 2 and 3 zones) and two new commercial zones (to replace the business zones):

- Residential Growth Zone (RGZ)
- General Residential Zone (GRZ)
- Neighbourhood Residential Zone (NRZ)
- Commercial 1 Zone (C1Z)
- Commercial 2 Zone (C2Z)

In addition, as part of the same package, the following zones were modified:

- Low Density Residential Zone
- Mixed Use Zone
- Township Zone
- Rural Living Zone
- Green Wedge Zone
- Green Wedge A Zone
- Rural Conservation Zone
- Farming Zone
- Rural Activity Zone
- Industrial 1, 2 & 3 Zones

The reformed rural zones have been changed to increase the flexibility of the minimum lot size requirements for subdivision and also provide for a wider range of discretionary uses.

This review considers the implications of the reformed zones except for the residential zones which was subject to a separate project, the *Mildura Housing and Settlement Strategy* (December 2013).

2.3 REGIONAL

DRAFT LODDON MALLEE NORTH REGIONAL GROWTH PLAN (2013)

The draft *Loddon Mallee North Regional Growth Plan* (the 'Regional Growth Plan') addresses regional land use planning across the five municipalities of Buloke, Campaspe, Gannawarra, Swan Hill and Mildura. The plan is supported by eight guiding principles which are underpinned by key social, economic, environmental and heritage considerations. It aims to establish a strategic land use framework to accommodate future growth and identify opportunities to support the provision of regional infrastructure that will contribute to the long term sustainability of the

region. The plan will be used to inform decision making at State and local government levels and will be implemented through planning scheme amendments and other strategic projects.

Part C (section 13.2) of the Regional Growth Plan discusses the strategic role that Mildura will play in accommodating future growth, increasing tourism opportunities and enhancing connectivity to regional Victoria and interstate. Identifying the regional city as one of three main growth areas within the region, the expanding role of Mildura in providing key opportunities for increased transport and freight connectivity has been identified as a primary objective for future land use planning in the region. High growth projections to 2030 indicate that Mildura's population will steadily increase over the next fifteen years and that the municipality will need to accommodate up to an additional 500 dwellings per year. The plan considers opportunities for long term growth in Mildura and strategies to accommodate this future demand.

2.4 COUNCIL

STRATEGIC PLANNING PROJECTS

The following table identifies strategic planning projects have been completed, commenced or proposed since the 2010 *Planning Scheme Review*.

Project	Status	Description
Mildura Riverfront Master Plan (2005)	Completed & implemented in the MPS as part of Amendment C64.	The Riverfront Masterplan is a holistic strategy focusing on detailed design outcomes and guidelines for the development of Mildura's river front.
Mildura CBD Structure Plan (2007)	Completed & implemented in the MPS as part of Amendment C64.	<p>The Plan was prepared in conjunction with a review of the 1999 <i>Mildura Urban Design Framework</i> with reference to the Riverfront Masterplan area. It was adopted by Council in December 2007 and is proposed to be implemented in the MPS at Clause 21.04-11 (through Amendment C64).</p> <p>The Plan considered land bounded by San Mateo Avenue, Eleventh Street, Walnut Avenue and Seventh Street setting a vision for the land use and development in Mildura underpinned by six key priorities.</p> <p>Amendment C64 also seeks to introduce building height and set back provisions outlined in the Plan by amending the provisions of Schedule 3 to the Design and Development Overlay.</p>

Project	Status	Description
Site Salinity Management Guidelines (2009)	Completed & implemented in the MPS as part of Amendment C64.	<p>The Guidelines provide information to understand, identify and manage any potential risks associated with salinisation in areas proposed for growth in the Mildura township.</p> <p>Amendment C64 proposes to include the Guidelines as a reference document at Clause 21.06-7 to be used in conjunction with the proposed updated Schedule to the SMO.</p>
Council Plan 2009-2013 (2009)	Completed & implemented in the MPS as part of Amendment C64.	<p>The Council Plan provides strategic direction for Mildura with the aim to be '<i>the most livable, people friendly community in Australia</i>'. This vision is supported by five key objectives which focus on livability, environmental management, economic growth, active communities and management of resources.</p>
Mildura Murray Riverfront Central Precincts Feasibility (2010)	Completed.	<p>This Feasibility report evaluates and expands on the <i>Mildura Riverfront Masterplan (2005)</i> with the aim of further enhancing the strategic development opportunities along the riverfront that have developed since the 2005 report.</p> <p>The five part document outlines a conceptual framework that establishes a set of design principles and guidelines to refine the Central Precincts Master plan.</p>
Mildura Airport Masterplan (2010)	Completed & implemented in the MPS as part of Amendment C64.	<p>Adopted by Council in June 2011, the Airport Masterplan is proposed to be implemented through Amendment C64 by making it a reference document in the MPS at Clause 21.08-5.</p> <p>The primary purpose of the plan is to preserve land for future airport based activity in accordance with growth forecasts. Through the use of schedules to the DDO, it allows for buildings and works consistent with the plan to be exempt from planning permission.</p>
Ontario-Flora Land Use Vision & Urban Design Framework (UDF) (July 2010)	Completed & implemented through MPS as part of Amendment C66.	<p>The Land Use Vision and UDF sets out long term strategies and design directions encouraging sustainable future development that enhances the special character of the Ontario Flora Precinct.</p>
Mildura Golf Resort Redevelopment Masterplan (2012)	Completed and implemented through MPS as part of Amendment C66.	<p>This Masterplan establishes the strategic land use and development priorities for the Mildura Golf Resort to integrate residential and recreational activity with high quality development.</p>

Project	Status	Description
Fifteenth & Deakin Structure Plan (2012)	Completed & implemented in the MPS as part of Amendment C67.	Adopted by council in June 2012, the Plan provides a framework for integrated development of this sub-regional activity centre and its immediate hinterland and strategies to manage future land use and built form change. It provides specific policy objectives for the development of the area recognising opportunities for future growth.
Green Merbein (February 2012)	Completed. Not adopted by Council.	<p>Feasibility study commissioned by the Mildura Development Corporation in conjunction with State government (Department of Sustainability and the Environment and Regional Development Victoria) and Council. It was undertaken to assess the potential for profitable organic and/or biodynamic production in the Merbein Irrigation District (MID).</p> <p>The study found that organic production in the MID is feasible and the development and adoption of green initiatives could establish Merbein as a hub of quality and healthy food.</p>
Irymple Structure Plan (July 2012)	Completed & implemented through MPS as part of Amendment C67.	This structure plan provides an articulated vision for Irymple setting a framework for the integrated development and management of change and the physical environment. It sets targets and policy objectives to maximise opportunities for growth.
Council Plan 2013-2017 (2013)	Adopted by Council.	Retaining the same vision from the 2009-2013 Council Plan, this updated Plan continues to focus on the importance of community and livability as a key principle. It sets revised targets and actions for the implementation of further medium to long term strategic work focusing on community safety, health and wellbeing.
Mildura Housing & Settlement Strategy (2013)	Adopted by Council.	The report outlines a strategic planning framework and decision guidelines to inform appropriate land use and development, neighbourhood character, rezoning and future capacity. It provides a framework for all settlements throughout Mildura, focusing particularly on the north-eastern region where the highest levels of growth have been occurring.

Project	Status	Description
Mildura (Former Shire of Walpeup) Heritage Study Stage 2 (2012)	Completed & implemented in the MPS as part of Amendment C64 with further implementation as part of C79, which is currently on exhibition.	Stage 2 of the Heritage Study identifies important historical places in the Mildura to assist Council in making informed decisions about their value and future management. The Study, conducted in accordance with Heritage Victoria guidelines, also contains key recommendations based on the historical findings identified in Stage 1 of the study.
Ouyen Structure Plan (2006)	Completed & implemented in the MPS as part of Amendment C64.	The purpose of the Structure Plan was to provide a blueprint for the management and development of the Ouyen Township. It identifies opportunities for short, medium and long term development and provides an overall vision to guide strategic growth, having regard to the potential synergies between industrial and transportation growth.
Urban Design Guidelines for Deakin Avenue	Proposed to be undertaken in 2013-2014.	Full details of the brief have yet to be prepared.
Structure Plans for Cowra Avenue north of Eleventh Street	Proposed to be undertaken in 2013 – 2015.	Full details of the brief have yet to be prepared.
Industrial Review – Benetook Avenue	Proposed to be undertaken in 2013-2016.	Full details of the brief have yet to be prepared.
Vegetation Strategy	Proposed to be undertaken in 2015-2019.	Full details of the brief have yet to be prepared.
Mildura City Heart Strategic Plan	Proposed to be undertaken in 2012-2015.	Full details of the brief have yet to be prepared.
Mildura Tourism Strategic Plan	Proposed to be undertaken in 2014-2016.	Full details of the brief have yet to be prepared.
Public Open Space Strategy	Proposed to be undertaken in 2013-2016.	Full details of the brief have yet to be prepared.

RECENT PLANNING SCHEME AMENDMENTS

The table below describes amendments to the MPS completed or proposed between September 2009 (following on from the 2010 *Planning Scheme Review*) and May 2014. It excludes approximately 12 site specific amendments or minor changes to incorporated / reference documents prepared as part of separate amendments.

IN PROGRESS

Amendment	Status	Description
C79	On exhibition	Amends the Local Planning Policy and Heritage Overlay to provide reference and information regarding additional heritage items identified in the <i>Mildura (former Shire of Walpeup) Heritage Study Stage 2</i> .
C88	Submitted to the Department for Approval 24 April 2014	Facilitates the use and development of land in Carwarp Road, Carwarp for a bioenergy power plant by rezoning the affected land from the Farming Zone to the Special Use Zone – Schedule 10, amending the Schedule to the Public Use Zone 4 – Transport, amending the Schedule to Clause 52.17, and amending the Schedule to Clause 81.01 to introduce <i>The Bioenergy Power Plant Concept Masterplan</i> into the MPS as an incorporated document.

APPROVED

Amendment	Approval Date	Description
C64	Gazetted 13 March 2014	Implements the findings of the <i>Mildura Planning Scheme Review</i> conducted in 2010. Restructures and simplifies the form and content of the Local Planning Policy Framework, updates factual information, reduces the number of local policies through their incorporation into the MSS, edits the number of reference documents, amends the Design and Development Overlay Schedule for the Mildura CBD (DDO3) and the Airport (DDO6, DDO7 and DDO8) and Special Use Zone Schedule for the Mildura Airport (SUZ7), amends the Salinity Management Overlay Schedule and corrects a number of zone and overlay mapping and Schedule anomalies.
C67	Gazetted 16 May 2013	Implements the recommendations of the <i>Mildura Retail Strategy 2010</i> , the <i>Irymple Structure Plan (July 2012)</i> and the <i>Fifteenth & Deakin Structure Plan (July 2012)</i> ; updates the MSS, rezones land within the structure plan areas in Mildura and Irymple, applies the Design and Development Overlay and Environmental Audit Overlay to land within both structure plan areas, and introduces the <i>Mildura Retail Strategy (2010)</i> , <i>Irymple Structure Plan (2012)</i> and <i>Fifteenth & Deakin Structure Plan (2012)</i> .

Amendment	Approval Date	Description
C51	Gazetted 26 April 2013	Amends errors and anomalies in the Heritage Overlay Schedule and Heritage Overlay mapping. Adds the Heritage Overlay map number to the Heritage Overlay Schedule.
C66	Gazetted 9 August 2012	Rezones the Mildura Golf Course from Public Park and Recreation Zone to Comprehensive Development Zone, rezones land in Flora Avenue, Mildura from Low Density Residential Zone to Residential 1 Zone and applies a Design and Development Overlay to this land, rezones other nearby land. In addition it makes changes to the MSS and incorporates <i>Mildura Golf Resort Redevelopment Masterplan, June 2012</i> , into the MPS.
C69	Gazetted 12 July 2012	Rezones part of Buronga-Mildura South Road to the Road Zone-Category 1 and deletes the Public Acquisition Overlay from the northern splay corner at intersection of Fourteenth Street and Burongao-Mildura South Road and part of the Buronga-Mildura South Road between 500 Benetook Avenue and 567 Benetook Avenue, Mildura.
C68	Gazetted 28 June 2012	Rezones land at Fifteenth Street and San Mateo Avenue, Mildura from Business 4 Zone and Residential 1 Zone to Business 1 Zone and amends the Schedule to the Business 1 Zone to specify a maximum combined leasable floor area of 500m ² for 'Office' and 4,500m ² for 'Shop', to allow for the development of the land for a 'Shop' (including a supermarket and specialty shops).
C70	Gazetted 11 November 2010	Updates the Schedule to Clause 52.03 to provide site specific controls for land located on the north and south side of Rifle Range Road, Yatpool to facilitate the use and development of the Mildura Solar Park Project. Additional update to Clause 81.01 to introduce the <i>Mallee Solar Energy Facility Incorporated Document 2010</i> into the MPS.

3

PLANNING AUDIT

3.1 INTRODUCTION

This chapter outlines the findings of an audit that was undertaken using the *Continuous Improvement Review Kit* (Department of Sustainability and Environment, February 2006). The audit is structured in accordance with the Planning Scheme Audit Tool found at Appendix A1, taking into account policy changes that have occurred since the tool was developed. The key questions derived from this tool are included under the relevant headings.

The audit included analysis of the pre-C64 and the C64 versions of the MPS as well as input received during stakeholder engagement.

This section is structured under the following headings:

- Key Issues
- Consistency with State Policy
- Local Planning Policy Framework
- Council Plan and Strategies
- Objectives and Strategies
- Consistency, Useability and Effectiveness
- Strategic Gaps
- Application of Zones and Overlays
- Monitoring

3.2 ISSUES

Have any issues emerged with the Mildura Planning Scheme since any previous review?

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

The following section provides an overview of issues raised during stakeholder consultation (summarised in the grey boxes) and describes how (or if) the issue is currently addressed in the MPS. Matters raised in VCAT decisions and Planning Panel reports are referred to within the text as appropriate.

RURAL RESIDENTIAL PRESSURE ON AGRICULTURAL LAND

A recurrent issue in Mildura is pressure for rural residential subdivision and development on productive agricultural land, particularly in Mildura Old Irrigation Area (MOIA). Issues are most pronounced in the First Mildura Irrigation Trust area where lot sizes are 4 hectares or less (larger lots exist in the Merbein and Red Cliffs areas).

Mildura Older Irrigation Area (MOIA) is a horticultural area comprising Mildura, Merbein and Red Cliffs pumped irrigation districts. It is currently producing table grapes, dried grapes, wine grapes and citrus. Suitable soils, a firm Council planning policy commitment and confirmed Federal Government investment in irrigation infrastructure (via the Sunraysia Modernisation Project) reflect a commitment to ongoing use of the area for agricultural production. Nevertheless the subdivision

pattern of the area is highly fragmented and there are a substantial number of dwellings in the area that appear to be associated with rural residential rather than productive agricultural purposes.

Demand for rural residential subdivision and development appears to be strong in the MOIA, as reflected in the number of recent VCAT appeals pertaining to the area. Current demand may be exacerbated by approvals granted prior to the introduction of stringent planning controls in 2009 as well as the subsequent revision of those controls via a number of planning scheme amendments. This may have created expectations that the controls will change again in the future (i.e. to be further relaxed and allow greater residential use).

The controls in this area have previously been reviewed and changed through Amendments C58, C65 and C72 to the MPS, most recently in 9 February 2012 (refer to the table below).

Amendment	Amendment No. & date	Description	Key change
Mildura Older Irrigation Area Incorporated Document	C58 29 May 2009	Inclusion of document into Clause 81.01 based on findings from the Strategy Final Report (2008). Incorporated document to be used in conjunction with the schedule to Clause 52.03 (Specific Sites and Exclusions). Also amends the schedule to the Farming Zone.	Introduced incorporated document for FZ land in MOIA with subdivision conditions. Increased minimum subdivision area from 10ha to 40ha in irrigation district and minimum area for which no permit is required to use land for a dwelling from 10ha to 40ha & introduced other specifications in schedule.
Rural Areas Strategy	C30 12 June 2009	Amendment implements the recommendations of the Strategy (2005) which includes changes to the MSS and local planning policy relating to rural agriculture land uses. Introduction of Rural Areas Policy at Clause 22.06 (deletion of existing agricultural land policy). Replaces the schedule to Farming Zone.	None - Amendment refused

Amendment	Amendment No. & date	Description	Key change
Mildura Older Irrigation Area Incorporated Document	C59 24 September 2009	Facilitates the implementation of transitional arrangements for specific sites in the Mildura Older Irrigation Area. Amends Clause 52.03 and Clause 81.01 to update the Incorporated Document. Amends Clause 66.04 to make (the former) DPCD a referral authority for applications to use land for a dwelling on a specific site as identified in the incorporated document.	Adds provision that no permit is to be granted for use of land for a dwelling unless it falls within the 36 individual sites / areas specified Requires applicants seeking to use a lot for a dwelling to either submit a written statement (in accordance with guidelines of 35.07-6) and in accordance with section 55 Adds DPCD as referral authority for applications within MOIA region
Mildura Older Irrigation Area Incorporated Document	C65 9 March 2010	Provides transitional arrangements for land within the Farming Zone affected by the gazetted MOIA as shown on the maps of the Incorporated Document. Amends Clause 21.06 (reference documents) and the schedules to Clause 35.07, 52.03 and 81.01 to implement recommendations of the <i>Mildura Planning Taskforce, Final Report December 2009</i> , including a revised MOIA Incorporated Document (Feb 2010). Amends Clause 66.04 to remove the DPCD as a referral authority under Clause 52.03.	Adds allowance for a dwelling on a lot if it is between 0.3 and 1.2 ha or lot is between 10 and 20 (both conditions subject to specific requirements that must be met). Revises the number of individual sites / areas to 32. Reduced minimum area for which no permit is required to use land for a dwelling from 40ha to 20ha. Removes (the former) DPCD as a referral authority
Mildura Older Irrigation Area Incorporated Document	C72 9 February 2012	Introduces minor changes to the Incorporated Document including extending the date for which an application must be made to use and / or develop land for a dwelling on a lot of between 0.3 hectares and 1.2 hectares from 31 December 2012 to 10 January 2013 and deletes the requirement that a permit must not be granted to use land for a dwelling on a lot between the above dimensions unless the lot has a legal title at the date of the gazettal of Amendment C65 to the MPS.	Replaced incorporated document with minor changes to provide relaxed provisions / extend their use

The MOIA incorporated document provides clear direction but this also means that there is limited opportunity for discretion. The existing controls are clear and provide for greater certainty than previous controls for the area; although this results in less

flexibility for cases to be considered on their merits. Council's recent decisions in these areas have been supported by VCAT.

Land owners have raised concerns about the lack of discretion to take into account personal circumstances. They have stated that the land is of insufficient size for viable agricultural production, resulting in personal hardship, land degradation, maintenance issues and reduced land values.

Council is currently undertaking discussions with stakeholders regarding land in MOIA and the recommendations for this area will be informed by the results of this process.

RESIDENTIAL LAND USE CONFLICTS

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

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

FARM ACCOMMODATION

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

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

This loophole could be addressed by introducing detailed application requirements and decision guidelines e.g. by requiring additional evidence to justify the need for farm accommodation before approval. The guidelines should, among other things, address issues relating to itinerant worker accommodation and may operate along the same principles to dependant person unit provisions. Further discussion about decision guidelines in the Farming Zone is provided in [section 3.8](#).

RECOMMENDATION

Undertake further work to introduce policy guidelines outlining application requirements and decision guidelines associated with application for Group Accommodation in non-urban zones.

INDUSTRY PRESSURE ON AGRICULTURAL LAND

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

Recent changes to the Farming Zone have increased discretion to allow use and development for the purposes of Industry. Stakeholders have raised concerns about potential land use conflict and the diversion of development from Industrially zoned land. More guidance could be provided in relation to decisions about industrial development on FZ land. Further discussion about decision guidelines in the Farming Zone is provided in [section 3.8](#)

VALUE ADD TO AGRICULTURE

There are opportunities to add value to agricultural production in Mildura Rural City.

The key area where opportunities have been identified to value-add is Carwarp South. A powerplant fuelled by almond waste is proposed at Carwarp which could power 30,000 dwellings and provide potential for industrial clustering around the plant. This powerplant is close to solar generation facilities. This is the subject of Amendment C88 to the MPS which was described at [section 2.4](#). There is potential for additional solar energy collection in the future, building on the existing solar plant.

Value adding to agriculture is encouraged in Clause 21.03 of the C64 MPS. The MPS could specifically seek to encourage more complementary uses, such as almond growing near almond processing facilities, to capitalise on the City's strategic assets which include good transport links (air links and sealed roads), low labour costs and access to a key centre, Mildura, with all its services. [Section 3.8](#) considers how these complementary uses could be encouraged in the Farming Zone.

EMERGING INDUSTRIES

The MPS could better recognise emerging industries in the Rural City of Mildura including sustainable energy (including solar parks and windfarms), mineral sand extraction and allied industries and any new opportunities that arise from the Sunraysia modernisation project.

The 2010 review recommended that MPS reflect the development of the solar and mineral sands industries. This, however, does not appear to have been implemented through Amendment C64.

RECOMMENDATION

Include policy in the MSS that recognises and capitalises on the benefits of the Sunraysia modernisation project and the following emerging industries: sustainable energy (including solar parks and windfarms), mineral sand extraction and agricultural value-adding industries.

INDUSTRY PROTECTION

Larger industrial facilities and intensive animal industries could be better protected from the encroachment of other incompatible uses.

The EPA has suggested that Council consider applying Environmental Significance Overlays around larger industry and intensive animal industries to protect their buffers for future expansion and operation.

RECOMMENDATION

Undertake further work to identify and protect important industries requiring buffer distances through the application of the Environmental Significance Overlay.

INDUSTRIAL SUBDIVISION

Some industrial subdivisions have been undertaken without adequate consideration of their off-site effects.

EPA North West has submitted that industrial subdivisions are often constructed with little consideration for off-site environmental controls (e.g. dust and sediment). Council should consider this in the assessment of industrial subdivisions, particularly in regards to permit conditions.

INDUSTRIAL APPROVALS

Works and planning permit approvals for industrial applications could be better coordinated with the EPA.

EPA has developed a new process with the assistance of an inter-agency and local government working group to enable parallel processing of works approval and planning permit applications.

The process includes:

- a joint pre-application meeting with the proponent, local government, EPA and any other agency or referral authority who are likely to be asked for specific advice during the assessment of the proponent's applications
- joint advertising of applications
- coordinated community engagement activities and events

The EPA and Department of Transport, Planning and Local Infrastructure (DTPLI) have also developed a joint process to coordinate works approval and planning scheme amendment applications. Council should make use of these joint processes to ensure development does not occur without works approval.

MATERIALS RECYCLING

EPA has identified materials recycling businesses operating without permits or under the guise of other industrial uses.

The EPA has alerted Council to the fact that they have seen a trend in materials recycling businesses operation without permits, with incorrect permits or under the guise of other industry through Victoria. This seems to have increased since the inclusion of materials recyclers to 52.10 as a Note 1 referral. EPA has also noticed that there is an increasing number of businesses in the Mildura region accepting and storing waste without permission. Discussions between Council and the EPA are recommended in order to address this issue.

COLLEGE LEASES

College leases have restrained development, particularly on certain strategic sites.

Various properties in the municipality are subject to College lease arrangements. Students of schools in the region benefit greatly from the funding the leases provide. The 2010 *Planning Scheme Review* recommended that the MSS include policy about this land as there was no policy in the scheme. The current MSS includes a section on College lease land to ensure this land does not inhibit appropriate develop by ensuring strategically important land is able to be developed to support Council strategies for the area.

The *Mildura Housing and Settlement Strategy* (2013) identifies the two key issues with College lease land as:

- Large parcels of land within Mildura which are suitable for infill remain undeveloped as a result of a historic leasehold system (p.4 & 17)
- Low Density Residential land adjoining Lake Hawthorn which may not be suitable for development given the extent of the lake and other environmental and servicing considerations (p.19)

The report recommends that the Low Density Residential area be considered for rezoning once its development potential is ascertained (p.56). Council should consider undertaking further work to map College Lease sites, identify the concerns that exist and how these should be approached. This should occur with through discussion with the relevant departments as recommended at p.19 of the *Mildura Housing and Settlement Strategy* (2013).

RECOMMENDATION

Undertake further work to map College Lease sites, identify the development issues that exist in relation to the sites, and examine how these should be approached through discussion with the relevant departments (previously proposed by Council and existing in the current MPS).

MILDURA & IRYMPLE URBAN TRANSITION AREA

The transition area between Irymple and Mildura has been raised as an issue in terms of its appearance, setback controls and its controls in light of the reformed zone changes.

There is general community support for retaining a break between the towns. A SUZ applies to the land, providing controls in relation to the Mildura-Irymple Transition Area. Land owners have, however, argued that the controls, namely in regards to

setbacks, are too restrictive. Any review of the SUZ should take into account recent changes to the surrounding zones, including the Commercial and Industrial 3 Zones, which have altered the context in which the SUZ operates. The controls in this area (SUZ8, SUZ9, DDO10 and DDO11) may therefore need to be reviewed in terms of their purpose and effectiveness.

RECOMMENDATION

Undertake further work to review the controls in the Special Use Zones (SUZ8 & SUZ9) and Design and Development Overlays (DDO10 and DDO11) that apply to the Mildura and Irymple urban transition area.

BENETOOK AVENUE INDUSTRIAL AREA

The area along Benetook Avenue zoned Industrial 3 is not developing as intended for industry and as a heavy vehicle bypass route. Particular concerns have been raised in relation to the Public Acquisition Overlay (PAO), setbacks, development contributions and absence of attractions for heavy vehicle drivers.

The heavy vehicle bypass is identified in the current MSS and draft *Loddon Mallee North Regional Growth Plan* (2013). Despite clear signage, heavy vehicles are still travelling along Deakin Avenue. Attractions such as fuel and food along the route are needed to encourage vehicles to use Benetook Avenue instead.

Stakeholders advised that the take up of industrial land along Benetook Avenue for industrial uses has been slow due to a lack of services (sewerage and stormwater), the development contributions requirements and limitations applied by VicRoads associated with the Public Acquisition Overlay (PAO).

The Amendment C64 Panel Report (p.24) found that the mandatory setback of 25 metres required in DDO9 is unreasonable for allotments with very narrow depths e.g. 35 metres. Council will be conducting an investigation into the operational issues of the DDO in this area. The Panel recommended that the required setback be reduced where it is impractical, however, this recommendation was not adopted by Council.

The Panel report for Amendment C38 which introduced the controls had previously concluded that the setbacks were appropriate to provide a generous and uniform setback and create an attractive landscaped setting for buildings.

The recent VCAT decision *Freeman v Mildura Rural CC*¹ upheld the planning policies and controls in place and acknowledged the extent of the strategic work that underpinned them.

RECOMMENDATION

Conduct an investigation into the operational issues of the DDO controls in the Benetook industrial area to ensure their workability (as previously proposed by Council and in the current MPS).

¹ Freeman v Mildura Rural CC [2013] VCAT 1857

DEAKIN AVENUE BOULEVARD

Greater guidance and / or controls are needed to facilitate land use and design that creates a grand boulevard along Deakin Avenue.

The need for urban design guidelines for Deakin Avenue was raised as an issue during consultation. This project has been included in the Council Plan and is intended for completion during 2013-2014.

RECOMMENDATION

Undertake further work to develop urban design guidelines for Deakin Avenue (as previously proposed by Council).

FLOODING RISKS

The risk of flooding needs to be better taken into account when the development of land is considered.

Stakeholders submitted that existing planning controls do not adequately reflect the risk of inundation from rain events in areas outside the 1:100 year flood incidence level. It was submitted that the floods that occurred in 2011 extended beyond land identified by overlays in the planning scheme.

The 2010 review identified the urgent need to provide local content in the schedule to the Floodway and Land Subject to Inundation Overlays (FO & LSIO). It also noted that a local consultant was preparing this material on behalf of the CMA in relation to catchment flooding. However, this did not consider rain event flooding. Since this time no changes have been made to these overlays. Further analysis and the preparation of mitigation strategies may be required where localised inundation has occurred.

RECOMMENDATION

Undertake further work to analyse flooding risks and prepare mitigation strategies where localised inundation has occurred (as previously proposed and in the current MPS).

INFRASTRUCTURE FOR RESIDENTIAL DEVELOPMENT

Developers raised concerns regarding the adequacy, and timing of, provision for residential infrastructure in growth areas (see flooding discussion above), increasing expectations regarding infrastructure provision and the financial feasibility of developing land within a Development Contributions Plan Overlay.

The Development Contributions Plan Overlay (DCPO) requirements which apply to Low Density Residential Zoned (LDRZ) land were identified by stakeholders as an impediment to development. There is demand for low-density residential use, such as at Nichols Point, but this is said to be constrained by the development contributions required to provide services in these areas.

VCAT has previously been critical of the lack of clarity for landowners about the timing of provision of infrastructure services in designated growth areas. In *Costa v Mildura Rural CC* [2008] VCAT 1562 (7 August 2008) the Tribunal stated (at paragraph 9):

'... we are concerned that the council has failed to demonstrate an adequate commitment to resolving the strategic planning issues surrounding the provision of infrastructure in a timely manner. It is reasonable that land owners in areas that have been identified for future growth by being zoned residential should have an indicative and realistic time frame available to them so they may plan for the release of their land. However, we found a clear picture as to future strategic planning for Red Cliffs to be lacking on the part of the council. For example, whilst one of the council's strategies refers to "Council's infrastructure programme as indicated on the Town Structure Plans", there does not seem to be anything of this nature on the plans. We therefore have no idea what this means, particularly in respect of the Red Cliffs Town Structure Plan ...'.

The Panel report (p. 32) for Amendment C64 identifies the need to review the DCP, its timing and costs, in light of changes to the minimum lot size introduced through the reformed zones. This issue has been considered as part of the *Mildura Housing and Settlement Strategy* (December 2013).

In the past, development has been permitted in areas with inadequate infrastructure and services (and in areas where no DCPO applies). Council officers submitted that the community is increasingly demanding infrastructure and services in isolated areas equivalent to the infrastructure in urban areas. An example was provided of an aged care development approved in Mildura which has created demand for improved footpath infrastructure to enable residents on scooters to access the central city.

RECOMMENDATION

Prioritise the implementation of the *Mildura Housing and Settlement Strategy* (2013), particularly in relation to infrastructure provision and timing.

RIVERFRONT

Stakeholders were supportive of proposed waterfront improvements and advocated for accelerated implementation.

Stakeholders acknowledged the importance of the Murray River as a recreational and tourism asset. Extensive planning of the riverfront area in Mildura has occurred but the majority of changes on the ground are still to be implemented. The 2005 masterplan was recently implemented in the MPS as part of Amendment C64.

PLANNING COORDINATION ACROSS STATE BORDERS

Coordinated planning across State borders is important but has proved problematic to date.

Stakeholders noted that limited planning occurs across the State borders due to legislative differences and perception barriers. The *Murray River Settlement Strategy* which was undertaken with surrounding jurisdictions has been prepared but its status

is unclear. The draft *Loddon Mallee North Regional Growth Plan* considers these nearby areas but does not coordinate with planning in South Australia and in New South Wales.

RECOMMENDATION

Establish regular liaison with adjoining jurisdictions on strategic planning directions, particularly in relation to Wentworth Shire in New South Wales.

PRIVATE CAR USE

The MPS could place more emphasis on reducing reliance on the private car.

This could be achieved by ensuring the implications of urban land use development decisions are considered e.g. low density residential areas tend to be car dependant because there is less capacity to provide a viable public transport service.

RECOMMENDATION

Include policy in the MSS that aims to reduce reliance on the private car by encouraging development that promotes walking, cycling and the viability of public transport.

SOCIAL ISSUES

The MPS could better address spatially-related social issues. These include accessibility, mental health, obesity and alcohol (e.g. managing access to fast food and liquor outlets, improving accessibility through subdivision design).

Concerns exist regarding the density of liquor outlets and fast food outlets in certain areas and their proximity to schools. To date limited analysis has been undertaken to justify an amendment to the planning scheme. Elements of the *Community Health and Wellbeing Plan* (2013) could be included in the MSS. Further work could be undertaken to use the planning system to support better health outcomes e.g. through development of a gambling policy.

RECOMMENDATIONS

Identify opportunities to improve integration between the Municipal Strategic Statement and Municipal Health and Wellbeing Plan e.g. establish an urban form that can adapt to climate change and where parks and open spaces are in walking distance from urban housing.

Undertake further work to use the MPS to support better health and wellbeing outcomes e.g. through development of a gambling policy.

CLIMATE CHANGE & SUSTAINABILITY

The issue of climate change and sustainability needs greater recognition in the MPS.

This was recommended in the 2010 review and is currently reflected in the MPS with the inclusion of Amendment C64. There may be scope to provide more direction regarding land use and design to support the recognition of these issues. The *Mildura Housing and Settlement Strategy* (December 2013) recognises the issue of climate change and sustainability in relation to the design and development of residential areas. Further work could be undertaken to consider ways that sustainability can be embedded into strategic planning (including reduced reliance on private car use).

RECOMMENDATIONS

Include policy in the MSS that provides greater recognition of the issues of climate change and sustainability.

Consider undertaking further work to integrate sustainability principles in all aspects of strategic planning.

HERITAGE

Council's heritage overlay requires review to ensure that there is adequate protection for places of Indigenous and European cultural heritage significance.

Council officers have identified a need to prepare a heritage strategy and review the application of the Heritage Overlay in relation to places of European Cultural Heritage Significance. This is considered to be particularly important in areas subject to development pressure in central Mildura.

Notwithstanding the operation of the *Aboriginal Cultural Heritage Act 2006*, additional strategic guidance is required concerning the protection and management of sites and aspects of Indigenous culture.

RECOMMENDATIONS

Prepare a Heritage Strategy to review the protection of places and precincts of heritage significance, particularly in Mildura.

Amend the MSS to make greater reference to the protection and management of sites and aspects of indigenous culture.

ANOMALIES

The planning scheme review provides an opportunity address scheme and map anomalies identified since the previous review.

Council officers maintain an anomalies register to identify planning scheme corrections that warrant resolution as part of the planning scheme review.

The register currently identifies the following issues:

Issue	Action required
Flood mapping errors affecting land in Wentworth Avenue, Yelta	Update Land Subject to Inundation and/or Environmental Significance Overlay map(s) in consultation with Mallee Catchment Management Authority
Text formatting error in Design and Development Overlay, Schedule 4 'Industrial Areas'.	Correct formatting error in Clause 5.0 'Decision Guidelines'. The first dot point should be included in the preceding sentence.
Private land incorrectly included in the Public Conservation and Resource Zone.	Rezone land from Public Conservation and Resource Zone to Farming Zone.
Private land on Yelta Grain Corp site included in the Public Use Zone.	Rezone privately owned land to Farming Zone.
Error in <i>Mildura Town Structure Plan</i> in the Municipal Strategic Statement at Clause 21.10	Area identified for 'longer term residential development opportunities' to be mapped correctly.

RECOMMENDATION

Amend the *Mildura Planning Scheme* to address ordinance, zone and overlay anomalies listed in the *Mildura Planning Scheme Anomalies Register*.

MISCELLANEOUS MATTERS

A number of other issues were raised during stakeholder consultation for which there was limited additional information available to undertake analysis and provide a response. These are listed here for the purposes of noting:

- Recognition of the region's environmental, agricultural and tourism assets
- The reuse of land should be considered in the case of school closures
- Planning should occur for the hospital and adjacent ambulance sites
- There are regulatory concerns associated with hostel, backpacker and caravan park accommodation despite the budget accommodation local policy which is to be retained.
- Planning should be involved in major projects at an earlier stage.

RECOMMENDATIONS

Include policy in the MSS that further emphasises the Rural City's assets as referred to in the *Loddon Mallee North Regional Growth Plan* (draft 2013).

Include policy in the MSS that encourages the reuse of land in the case of school closures.

Undertake further work to prepare policy guidelines for applications to use land for caravan parks in the Farming Zone.

3.3 CONSISTENCY WITH STATE POLICY

OBJECTIVES OF PLANNING IN VICTORIA

Does the planning scheme further the objectives of planning in Victoria?

The MPS furthers the objectives of planning in Victoria found at section 4 of the *Planning and Environment Act 1987*. It provides a framework for decision-making throughout the municipality and responds to the existing key issues. The Amendment C64 Panel Report concluded that the amendment was consistent with the *Objectives of Planning in Victoria*.

LINKS WITH STATE POLICY

Does the planning scheme advance the strategic directions in the SPPF and adequately implement State policy applicable to the municipality?

Are there clear links between the SPPF and the LPPF?

The *Mildura Planning Scheme* advances the strategic directions in the existing State Planning Policy Framework (SPPF) and other State policy, namely *Plan Melbourne* (2013 draft) and the *Loddon Mallee North Regional Growth Plan* (2013 draft). In line with these directions, the scheme reflects the importance of Mildura as a regional centre and the importance of protecting the environment and agricultural land and providing for housing.

The Municipal Strategic Statement (MSS) builds on State policy directions and uses a consistent format. The MSS reflects the structure of the existing SPPF as shown in the table below. It combines similar themes used in the SPPF (e.g. settlement and housing) to avoid repetition.

Existing SPPF		C64 MSS	
11	Settlement	21.04	Settlement and housing
12	Environmental and landscape values	21.05	Environment
13	Environmental risks		
14	Natural resource management	21.06	Natural resource management
15	Built environment and heritage	21.07	Built environment and heritage
16	Housing	21.04	Settlement and housing
17	Economic development	21.08	Economic development
18	Transport	21.09	Transport and infrastructure
19	Infrastructure		

The scheme will need to be updated when the *Loddon Mallee North Regional Growth Plan* is approved. Links with State policy will be strengthened when the regional plans are finalised and implemented in the revised SPPF. The local sections of the scheme should also be updated to reflect the regional plan. For example, greater emphasis should be placed on the municipality's strategic assets such as the area's regional wetlands as identified in the growth plan.

RECOMMENDATION

Update the MPS to make reference to the *Loddon Mallee North Regional Growth Plan* once it is finalised.

3.4 LOCAL PLANNING POLICY FRAMEWORK

NEW LOCAL POLICIES

Are there particular planning issues that would benefit from a new or revised local policy?

Are there documents that should be included as a local policy (eg Advertising Policy or Urban Design Guidelines)?

The latest DTPLI practice note dealing with local policies, *PNo8 Writing a Local Planning Policy* (2013), encourages guidance to be included in a zone, overlay or in the MSS where possible to avoid the need for a local policy. Amendment C64 reduced the number of local policies in the MPS. Particular planning issues that may benefit from further guidance are considered in [section 3.2](#).

REPETITION & CONFLICT

Is there repetition or conflict in the LPPF of the Mildura Planning Scheme, such as between housing and settlement policies?

A review of the current Local Planning Policy Framework (LPPF), stakeholder consultation, VCAT decisions and Panel Reports has not identified any conflicts associated with the LPPF. Some repetition exists in the current Municipal Strategic Statement (MSS) in terms of population projections; however this appears to be acceptable in the context. It is anticipated that these figures will require revising now that the *Mildura Housing and Settlement Strategy* (2013) has been adopted and once it is introduced into the scheme. This will provide an opportunity to reduce repetition, if required.

MSS PRACTICE NOTES

Does the MSS comply with PNo4 Writing a Municipal Strategic Statement (October 2013)?

Has the LPPF been assessed against the relevant VPP Practice Notes?

Amendment C64 MSS included improvements on the previous version of the Mildura Planning Scheme which achieve general compliance. The following table provides an overview of formatting improvements.

Format prior to Amendment C64		Current Format		Recommended Format	
21.01	Municipal Profile	21.01	Municipal profile	21.01	Municipal profile
21.02	Key Influences	21.02	Key influences and issues	21.02	Key issues and influences

Format prior to Amendment C64		Current Format		Recommended Format	
21.03	Vision and Strategic Land Use Framework	21.03	Vision and strategic framework	21.03	Vision and strategic framework plan
21.04	Strategic Directions			Themes	(preferably matching the SPPF i.e. Settlement, Environmental & Landscape Values etc.)
21.04-1	Settlement and Housing	21.04	Settlement and housing		
21.04-2	Environment	21.05	Environment		
		21.06	Natural resource management		
		21.07	Built environment and heritage		
21.04-3	Economic Development	21.08	Economic development		
21.04-4	Infrastructure	21.09	Transport and infrastructure		
		21.10	Local areas	Local area plans	
21.05	Monitoring and Review				
21.06	Reference Documents				

The current MSS lacks a clear strategic framework plan which shows the overall vision for the municipality.

At Clause 21.01 of the MSS there is reference to information that could become outdated regularly e.g. a list of recent studies and reference to economic statistics. The practice note recommends that this should be avoided.

LOCAL POLICY PRACTICE NOTES

Do the local policies comply with PNo8 Writing a Local Planning Policy (September 2013) and any other relevant practice notes?

The 2010 review recommended that a number of policies be removed from the planning scheme and some moved into the MSS as shown in the following table. The Panel for Amendment C64 found that the review of local policies was undertaken soundly and used the appropriate Practice Notes and Guidelines.

The Amendment C64 Panel Report was released in August 2013 prior to the release of Practice Note *PNo8 Writing a Local Planning Policy*, itself released in September 2013. As previously mentioned, the practice note discourages the use of local policies where other policy and provisions can be used instead. This is reflected in the removal of most local policies as part of Amendment C64 to the MPS, illustrated in the following table.

Format prior to Amendment C64		Current Format	
22.01	Introduction	22.01	Budget accommodation
22.02	Woorlong Wetlands Policy		
22.03	Deakin Avenue Function and Appearance		

Format prior to Amendment C64	Current Format
	Policy
22.04	Budget Accommodation Policy
22.05	Public Lands Policy
22.06	Agricultural Land Policy
22.07	Service Agency Policy
22.08	Heritage Precincts Policy
22.09	Mildura Airport Policy
22.10	Mildura CBD Car Parking Policy

The local policy Clause 22.01 Budget accommodation should be updated to reflect the new residential zones when they are introduced.

Parts of Clause 22.06 Agricultural Land Policy have been moved to the MSS in the C64 version but the wording is less specific regarding preferred uses on Farming Zone land. One planner identified MPS' local policies as its clear strength, particularly Clause 22.06. Council is open to reintroducing Clause 22.06. This is also discussed at [section 3.8](#).

RELEVANCE

Is any aspect of the local content of the Mildura Planning Scheme not relevant to land use decision-making?

The proposed MSS and other local content in the planning scheme do not include policy or provisions not relevant to land use decision-making.

UNSUPPORTED POLICIES & GUIDELINES

Is council relying on adopted council policies or guidelines in decision-making that are not included in the planning scheme?

Council does not appear to rely on adopted policies or guidelines not in the MPS.

RECOMMENDATIONS

Consider addressing the issue of repetition in the MPS in regards to population projections as part *Mildura Housing and Settlement Strategy's* (2013) implementation.

Undertake further work to revise the maps in the MSS to provide a clear strategic framework plan.

Remove reference to information that could become outdated regularly in Clause 21.01 e.g. a list of recent studies and reference to economic statistics.

Update Clause 22.01 (Budget accommodation) to reflect the new residential zones when they are introduced.

3.5 COUNCIL PLAN & STRATEGIES

Do the LPPF objectives align with land use and development objectives of the Council Plan?

Since the last review, do changes to the Council Plan require amendments to the LPPF?

The MSS needs to be updated to include reference to the revised Council Plan. The vision in the Council Plan (2013) has not changed since the previous Council Plan (2009) which is included in the proposed MSS. The list of actions included as part of the Vision in Clause 21.03 and the quotes from the plan at the start of each theme should be updated to reflect the most recent Council Plan.

Through consultation, Council staff also suggested that the *Municipal Early Years Plan 2010-2013* (2011) should be referenced in the MPS, particularly its vision to develop a child-friendly municipality.

RECOMMENDATIONS

Update the MSS to include details from the Council Plan (2013).

Include reference the *Municipal Early Years Plan 2010-2013* (2011) in the MSS, namely its vision to develop a child-friendly city.

3.6 CONSISTENCY, USEABILITY & EFFECTIVENESS

EFFECTIVENESS OF OBJECTIVES & STRATEGIES

Do the objectives in the MSS adequately reflect the land use and development outcomes council wants to achieve?

Do all the objectives have specific land use or development outcomes?

Are the objectives being achieved?

Do the objectives successfully guide planning decisions?

Are the strategies clearly linked to and achieving the objectives?

Are the strategies achieving the desired outcomes?

Do the strategies help inform planning decisions?

The 2010 review found that the objectives and strategies of the MPS do not necessarily achieve their purpose and need a substantial restructure, rewriting and the removal of unnecessary material. It recommended the use of a single objective supported by related strategies. This provides a nexus between objectives and strategies and ensures there are no 'floating' objectives without strategies. This is provided for in the current version MPS. The C64 Panel report commended the review and supported the amendment subject to minor changes.

In response to a survey undertaken as part of the audit process, a Council officer noted that policies in relation to Farming Zone, which were in some cases contentious, are being upheld at VCAT.

There are a number of key issues that relate to objectives and strategies. These relate to specific controls and are discussed in further detail at [section 3.2](#) and [section 3.8](#).

USEABILITY

Are the MSS and LPP expressed in plain English?

Is the intent and language of the LPPF clear, usable and effective in meeting council land use objectives and decision-making?

Are there superfluous or inconsistent policies, overlays and schedules that no longer contribute to council planning goals and objectives?

Does the local content of the Mildura Planning Scheme need simplification or clarification in any area?

Are improvements to the statutory drafting of the planning scheme required?

Amendment C64 improved the useability of the LPPF, as reflected in the Panel Report. Council planners have found that the scheme provides certainty for the decision-making process.

One Council planner submitted that the definitions provided in the *Victorian Planning Provisions* are too broad and require need greater differentiation in Mildura Rural City particularly in relation to the terms 'rural industry', 'store', 'warehouse' and 'shop'. Further investigation is required to verify the nature of this issue and whether an amendment is warranted.

RECOMMENDATION

Investigate whether the definitions provided in the Victorian Planning Provisions are adequate for Mildura Rural City in relation to the terms 'rural industry', 'store', 'warehouse' and 'shop' and if more clarity needs to be provided in the MPS.

3.7 STRATEGIC GAPS

Has council reviewed the progress made on strategic gaps and actions identified in the last review?

Have changes been made to the SPPF that require amendments to the LPPF?

Does council have commitments, policies or programs to address particular planning issues that should be included in the planning scheme?

2010 REVIEW GAPS

Amendment C64 addressed the majority of the strategic gaps and actions identified in the last review. An analysis of the actions that have been taken since the previous review is available at [Appendix A](#). The recommendations which are still to be implemented are:

- Include community health and wellbeing section in the MSS (see [section 3.2](#) which recommends greater emphasis on social issues throughout the MPS).
- Undertake a general review of the zone schedules (N.B. [section 3.8](#) includes suggested changes to the zone schedules).
- Implement local content schedule for FO and LSIO (see [section 3.2](#) for further detail in regards to this issue).
- Review the suitability of land for residential purposes with a long history of agricultural spraying.
- Review and audit specific and particular provisions schedules (see [section 3.8](#) for further detail).
- A full audit of the incorporated documents schedule should be completed to ensure all documents are still relevant (see [section 3.8](#) for further detail).
- Undertake a retail strategy review.

COUNCIL WORK

Strategies that have not been implemented into the planning scheme and are not subject to an amendment that is underway are:

- Mildura Murray Riverfront Central Precincts Feasibility (2010)
- Council Plan 2013-2017 (2013)
- Mildura Housing & Settlement Strategy (2013)

The *Mildura Housing & Settlement Strategy* (2013) is expected to be implemented in the MPS prior to the completion of this review. The report, *Green Merbein* (2012), could also be considered for referencing in the MPS as mentioned in [section 3.2](#).

Proposed projects that should be referred to in the MSS and implemented in the MPS when complete are:

- Mildura South Urban Design Plan
- Urban Design Guidelines for Deakin Avenue
- Structure Plans for Cowra Avenue north of Eleventh Street
- Vegetation Strategy
- Mildura City Heart Strategic Plan
- Mildura Tourism Strategic Plan
- Public Open Space Strategy

RECOMMENDATIONS

Undertake further work to review the content of the zone schedules.

Undertake further work to review the suitability of land for residential purposes with a long history of agricultural spraying.

Undertake further work to review retail strategy.

3.8 APPLICATION OF PROVISIONS

Are the VPP tools successful in achieving the objectives, strategies and desired outcomes?

Are there any VPP tools used that are no longer useful or effective? Should these be modified or deleted from the planning scheme?

Are the tools clearly linked to the objectives and strategies in the LPPF (are they strategically driven or do they provide for a strategic outcome)?

REFORMED RURAL ZONES

The reformed rural zones were introduced by Amendment VC103 to the MPS on 5 September 2013. The key features of the new zones and why they were reformed are outlined in Practice note, *PN53 Reformed Rural Zones for Victoria* (September 2013).

The purpose of the zones that apply in Mildura Rural City² are generally as follows:

	Reformed Zone Purpose	Previous Zone Purpose
Farming Zone	Agricultural land use Encourage the retention of employment and population to support rural communities	Agricultural land use
Rural Conservation Zone	Conservation of environmental and landscape values.	

The key changes relevant to Mildura are:

- In the Farming Zone (FZ) the use of land for the purposes of:
 - Industry and Warehouse is no longer prohibited (Section 3). A permit is now required (Section 2).
 - Rural industry is now as-of-right (Section 1), subject to conditions. Previously a permit was required (Section 2).
 - Rural store is now allowed as-of-right (Section 1).
- In the Rural Conservation Zone (RCZ) a number of formerly prohibited uses (Section 3) are now discretionary (Section 2).
- Relaxed permit triggers for alterations and extensions to dwellings and farm buildings in both the FZ and RCZ.
- Mandatory requirement for section 173 agreement restricting further subdivision have been removed in both the FZ and RCZ.

A more detailed list of the changes to the FZ and RCZ can be found at [Appendix B](#).

² The analysis under each heading is limited to the zones and overlays currently applied within the MPS and therefore excludes other provisions such as the Rural Activity Zone and Green Wedge Zones.

APPLICATION

Of the rural zones, the FZ and RCZ apply in Mildura Rural City Council as shown in the following table.

Zone	Application
Farming Zone	Large areas of the municipality, particularly along the corridors of Red Cliffs-Meringur Road and Mallee Highway
Rural Conservation Zone	Near the Woorlong Wetlands and isolated pockets of privately owned land at Wyperfield National Park

COUNCIL STRATEGIES

Existing strategies relevant to the rural zone reforms are outlined in both the current MPS and in the MPS prior to Amendment C64 ('pre-C64 MPS').

The current MPS includes the objective to protect and support the agriculture and horticulture industries (Clauses 21.06 and 21.08). The pre-C64 MPS aimed more specifically to retain high value rural land for agricultural and horticulture (Clause 22.06). It includes the following policy which provides more detail in terms of the desired land uses:

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

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

POTENTIAL ISSUES

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

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

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

The revised FZ and RCZ include reformed provisions that provide greater scope for alteration and extension of dwellings without the need for a planning permit. Given that these provisions relate to existing dwellings they are unlikely to have significant implications in relation to land use conflict.

The reformed FZ and RCZ also remove the requirement for a Section 173 agreement to prevent further subdivision of land after the initial subdivision has been approved. This may contribute to further subdivision and development within rural areas, however there is no mechanism to modify these changes through the LPPF. It is noted that the reforms do not affect the MOIA Incorporated Document and the use of these agreements is encouraged in the case of all rural dwelling excisions at Clause 21.10 of C64 version.

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

RECOMMENDATIONS

Reinstate the section of the former Agricultural Land Local Policy that refers to the preferred uses in the FZ.

Undertake further work to develop policy guidelines for inclusion in the MSS or a local policy regarding preferred uses in the Farming and Rural Conservation Zone.

NEW COMMERCIAL ZONES

INTRODUCTION

The reformed commercial zones were introduced by Amendment VC100 to the MPS on 12 July 2013. The key features of the new zones and why they were reformed are outlined in Practice note, *PN52 Reformed Residential, Commercial and Industrial Zones for Victoria* (July 2013).

Reformed Zone	Previous Zone
Commercial 1 Zone (C1Z):	Business 1 Zone (B1Z)
– Creation of vibrant mixed use commercial centres	– Retailing and complementary commercial, entertainment and community uses
– Complementary residential development	
	Business 2 Zone (B2Z)
	– Offices and associated commercial uses
	Business 5 Zone (B5Z)
	– Offices and multi-dwelling units with common street access
Commercial 2 Zone (C2Z)	Business 4 Zone (B4Z)
– Commercial areas (offices, appropriate	– Bulky goods retailing and manufacturing

manufacturing and industries, bulky good
retailing, other retail uses and associated
commercial services)

industry and associated business services

The key changes relevant to Mildura Rural City in relation to C1Z and C2Z are:

- Accommodation is now allowed as-of-right (Section 1) in C1Z subject to a condition limiting the ground level frontage to 2metres.
- Retail premises now allowed as-of-right (Section 1) in C1Z.
- Cinemas, cinema-based entertainment facilities and small food and drink premises now allowed as-of-right (Section 1) in C2Z.

A more detailed list of all the changes to the business / commercial zones can be found at Appendix B.

APPLICATION

Commercial 1 and 2 Zones apply in Mildura Rural City Council as shown in the following table. The Commercial 1 Zone (C1Z) now applies to the majority of commercial areas in Mildura Rural City, both within Mildura itself and the main towns. The Commercial 2 Zone (C2Z) applies in a number of precincts along Fifteenth Street, Mildura.

Reformed Zone	Previous Zone	Application
Commercial 1 Zone (C1Z)	Business 1 Zone (B1Z)	Mildura, Irymple, Merbein and Red Cliffs
	Business 2 Zone (B2Z)	Eleventh Street / Deakin Street, Mildura
	Business 5 Zone (B5Z)	Deakin Avenue, Mildura
Commercial 2 Zone (C2Z)	Business 4 Zone (B4Z)	Fifteenth Street in Mildura and Irymple

COUNCIL STRATEGIES

Existing strategies relevant to the commercial zone reforms are outlined in:

- The MPS
- Mildura Housing and Settlement Strategy (2013)
- Fifteenth Street Structure Plan, 2010

The *Mildura Housing and Settlement Strategy (2013)* supports carefully planned and orderly residential development in the Rural City (p.4). It specifically promotes housing in Mildura CBD (p.4) and as close as possible to the town centre in Red Cliffs (p.20).

The key locations for commercial development in Mildura Rural City as defined in the MPS are:

Area	Role	Zoning
Mildura CBD	Primary activity centre (retail, commercial, financial, community service, recreation and entertainment uses)	Mostly C1Z & MUZ Some R1Z & PUZ

City Gate Activity Centre (on Fifteenth Street from Deakin Avenue to San Mateo Avenue)	Sub-regional activity centre (retail)	Mostly C1Z Some C2Z & PUZ
Fifteenth Street (San Mateo Avenue to Benetook Avenue)	Homemaker / bulky good retailing centre	C2Z
Fifteenth Street (Benetook to Cowra Avenue)	Smaller scale restricted retailing within landscaped setting	SUZ9
Convenience centres (including small town centres, neighbourhood centres and local shops)	Limited retail facilities to residents	C1Z, MUZ, TZ etc.

The relevant strategies that apply to the commercial zoned areas are shown in the following table. This is illustrated in the maps in Clause 21.10.

Area	Policy
1. Deakin Avenue B5Z area	Tourist accommodation is encouraged in MPS and <i>Fifteenth Street Structure Plan</i> (2010) Ribbon retail development is discouraged in <i>Fifteenth Street Structure Plan</i> (2010) p.24
2. Main stretch of C2Z / B4Z land, on Fifteenth Street, Mildura between San Mateo Avenue and Benetook Avenue	Homemaker / bulky good retailing in C64 MPS Core retail is not encouraged in this area, it is encouraged west of San Mateo Avenue (<i>Fifteenth Street Structure Plan, 2010, p.23</i>)
3. C2Z / B4Z at south west corner of Fifteenth Street and San Mateo Avenue, Mildura	A small area is located in City Gate retail core, a sub-regional centre in C64 MPS
4. C2Z / B4Z generally along south side of Fifteenth Street between Deakin Avenue and San Mateo Avenue	Designated for peripheral retail, accommodation and professional services (Clause 21.10, C64 MPS) Core retail activities should be consolidated to the north-eastern side of Fifteenth Street between Deakin and San Mateo Avenue away from this area (<i>Fifteenth Street Structure Plan, 2010, p.23</i>)
5. C2Z / B4Z on Deakin Avenue	Tourist accommodation is encouraged in MPS and <i>Fifteenth Street Structure Plan</i> (2010) Ribbon retail development is discouraged in <i>Fifteenth Street Structure Plan</i> (2010) p.24

POTENTIAL ISSUES

Residential Areas

The C1Z may facilitate the development and use of additional dwellings in commercial areas. Although this outcome would most likely support strategic directions for core

retail areas, there is some potential for amenity-related conflicts between residential and commercial or entertainment uses to arise. Given that residential uses are as of right the preparation of a local policy would be ineffective as there would be no permit trigger to invoke its application. In the absence of a policy, Council could consider developing information kits for new residents in commercial areas.

Potential Commercial Leakage

The new commercial zones have the potential to dilute the concentration of activities in Mildura CBD and the City Gate Activity Centre, contrary to the existing strategic framework. This is a key issue for the areas numbered in the above table: Deakin Avenue B5Z area (1) and for the Fifteenth Street C2Z / B4Z areas (2-5), as described below.

Area 1: Deakin Ave C1Z

Policy encourages tourist accommodation and discourages retail development along Area 1, Deakin Avenue B5Z. The application of the C1Z will increase the potential for retail uses in locations formerly identified for offices and multi-unit developments. This could potentially draw retail activity and development away from core retail areas. The zone schedule can be modified to specify a maximum leasable floor area for Shop uses, for example a 4,500sqm maximum leasable floor area provision applies to the City Gate Activity Centre. Consideration should be given to amending the schedule to limit retail activity elsewhere within the C1Z to 80sqm³.

Commercial 2 Zone

In the Fifteenth Street C2Z area, a number of uses no longer require planning permission including shops in conjunction with a supermarket, offices, small food and drink premises and cinemas. Supermarkets are now allowed up to 1,800 square metres and adjoining or with access to a Road Zone, subject to a permit. This may result in shops, restaurants, take away food shops and cinemas being directed toward the C2Z areas in Fifteenth Street at the expense of Mildura and Irymple town centres. This is more likely to be an issue if planning permission is granted for a supermarket. Policy would be useful to aid decision-making for supermarket applications in C2Z.

Area 2: Fifteenth St C2Z Bulky Goods

Existing policy suggests that uses such as shops, cinemas and small food and drink premises should be directed away from the homemaker / bulky good retailing centre towards the core retail area. As these uses no longer require a permit it is not possible to exclude them from this location unless the land is rezoned. A rezoning is not considered to be warranted.

Area 3: Fifteenth St C2Z Core Retail

The changes to the zone support the uses intended in this sub-regional centre under the *Fifteenth Street Structure Plan (2010)*. No changes are considered necessary.

³ As it is not possible to prohibit a discretionary use, an 80sqm limit is recommended. This would provide for small scale shops and is consistent with the provisions of the Residential 1 Zone and Neighbourhood Residential Zone which limit the size of convenience shops.

Areas 4 & 5: Fifteenth St C2Z Professional Services & Deakin Ave C2Z

Policy identifies these areas as outside core retail activity locations. The application of C2Z in these areas could draw retail activity and development from core retail areas. In both these cases, however, Council has no way of controlling small food and drink premises and cinemas which are discouraged in this area. A rezoning is not considered to be warranted.

RECOMMENDATIONS

Prepare information for residents within activity centres to manage expectations regarding amenity (e.g. accommodation in the upper levels of buildings in Mildura CBD, retail premises along Deakin Avenue in the City Gate precinct).

Vary the C1Z schedule to include a 80sqm leasable floor area limit for shops in the area along Deakin Avenue previously zoned B5Z where shops were prohibited.

Include policy in the LPPF to assist decision-making for supermarket applications in C2Z.

REVISED INDUSTRIAL ZONES

INTRODUCTION

The reformed industrial zones were introduced by Amendment VC100 to the MPS on 12 July 2013. The key features of the new zones and why they were reformed are outlined in Practice note, *PN52 Reformed Residential, Commercial and Industrial Zones for Victoria* (July 2013).

	Reformed Zone Purpose	Previous Zone Purpose
Industrial 1 Zone	Manufacturing industry, the storage and distribution of goods and associated uses	
Industrial 3 Zone	Industries and associated uses Limited retail opportunities including convenience shops, small scale supermarkets and associated shops in appropriate locations	Industries and associated uses

The industrial zones have been the subject of less significant change than many of the other reformed zones, at least from the perspective of non-metropolitan Councils. The most significant change relevant to Mildura relates to the use of land for an Office, a permit-required (Section 2) use in both the IN1Z and IN3Z. Previously a default maximum leasable floor area of 500sqm applied. This has now been removed as a default provision, although planning authorities may specify a maximum floor area limit through schedules to the zones.

APPLICATION

Industrial 1 and 3 Zones apply in Mildura Rural City Council as shown in the following table.

Zone	Application
Industrial 1 Zone (IN1Z)	Sites in and around Mildura, including in Irymple, Merbein and Red Cliffs and to the south and west of Red Cliffs
Industrial 3 Zone (IN3Z)	Along Benetook Avenue and Seventh Street East, Mildura and at the outskirts of Red Cliffs

COUNCIL STRATEGIES

Existing strategies relevant to the industrial zone reforms are outlined in:

- The MPS
- Mildura Retail Strategy, 2010
- Mildura Industrial Land Use Strategy Update, 2006
- Fifteenth Street Structure Plan, 2010

As outlined above, the reformed Industrial Zones provide greater discretion to approve offices in industrial area. Other than the Benetook Avenue IN3Z area, where commercial activities are encouraged in association with service industry, offices are generally not encouraged in industrial areas.

Office and commercial uses are encouraged in the following locations:

- In and around Mildura CBD, the Rural City's primary activity centre (*Mildura Retail Strategy, 2010*, p.28). Offices are specifically encouraged in precincts E of Mildura CBD as identified in Clause 21.10. Offices are also encouraged in precinct G, which is designated for a mix of uses (Eastern Mixed Use).
- Benetook Avenue, as associated activities for service industry (Clause 21.10).
- Irymple, on commercially zoned land along Fifteenth Street (Clause 21.10).
- City Gate Precinct, professional services area (Clause 21.10).
- Ouyen, consolidate commercial activity area (see map at Clause 21.10).

POTENTIAL ISSUES

In the absence of a floor area limitation, there is potential for new office development to be attracted to industrial areas due to lower land prices. Given the importance of value-adding industries to the regional economy, and the relative scarcity of land suitable for industrial purposes, this would likely be contrary to the economic interests of the region; and would certainly be contrary to the current strategic planning framework.

Consideration should be given to reinstating the 500sqm floor area limit via schedules to the industrial zones in order to discourage stand-alone office developments. An exception may be considered in the Benetook Avenue IN3Z area, where Clause 21.10 specifically encourages activities associated with service industries. A refinement of that Clause should be considered to provide additional guidance for office applications.

Further analysis would need to be undertaken to determine any alternative floor area limits. The proposed industrial review program (Council Plan 2013-2017, p.19) could consider this issue.

RECOMMENDATIONS

Vary the IN1Z and IN3Z schedules to reinstate the 500sqm leasable floor area limit except in Benetook Avenue IN3Z where the limit should only be reinstated for offices not associated with the service industry (this condition may need discussion with DTPLI).

NEW & REVISED RESIDENTIAL ZONES

INTRODUCTION

The reformed residential zones were introduced by Amendment V8 (new zones) and Amendment VC100 (revised zones) to the MPS on 1 July 2013 and 12 July 2013 respectively. The key features of the new zones and why they were reformed are outlined in Practice note, *PN52 Reformed Residential, Commercial and Industrial Zones for Victoria* (July 2013). Another practice note, *PN50 Reformed Residential Zones* (July 2013), has also been provided to assist with the application of the new residential zones.

APPLICATION

The residential zones apply in Mildura Rural City Council as shown in the following table.

Current Zone	Application
Residential 1 Zone (R1Z)	Mildura, Irymple, Merbein and Red Cliffs with some small areas outside townships
Mixed Use Zone (MUZ)	Area at Orange and Lemon Avenue, Mildura (1), area at Koorlong Avenue and Waltham Avenue, Irymple (2), area at Fifteenth Street / Karadoc Avenue, Irymple (3) and small area at Fifth Street, Nichols Point (4)
Low Density Residential Zone (LDRZ)	Mildura, Irymple, Merbein and Red Cliffs with some small areas outside townships
Township Zone (TZ)	Small townships in the municipality

Apart from the Mixed Use Zone (MUZ), the implications of the reformed residential zones have been addressed as part of the *Mildura Housing and Settlement Strategy* (2013) project.

COUNCIL STRATEGIES

Existing strategies relevant to the industrial zone reforms are outlined in:

- The MPS
- Mildura Retail Strategy, 2010
- Irymple Structure Plan, 2010
- Nichols Point Report for Residential Development Plan, 2007

The relevant strategies that apply to the mixed use zoned areas are shown in the following table.

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

POTENTIAL ISSUES

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

The revised MUZ can be tailored for different areas. For each of the four areas, its role can be specified in its objectives. Areas 1-3 have policy that could be translated into objectives for separate schedules. Other policy considerations could be included in decision guidelines e.g. historical integrity of the Lemon Street heritage residential area for area 1. Siting and design requirements can also be varied in the schedule. The Mildura CBD DDO₃ includes design controls and guidance for area 1. This does not need to be included in the zone as well.

RECOMMENDATIONS

Provide objectives and decision guidelines in separate schedules to the Mixed Use Zone that reflect existing policies.

SPECIAL USE ZONES

APPLICATION

The Special Use Zone applies in Mildura Rural City as shown in the following table.

Zone	Application
Special Use Zone (SUZ)	Central Mildura, Mildura Airport, between Irymple and Mildura, in Red Cliffs and north east of Red Cliffs

POTENTIAL ISSUES

The Special Use Zones (SUZ) in Mildura Rural City provide for flexibility which is particularly useful for specific purposes, including major projects. The recent zone reforms have not altered the provisions of the Special Use Zone, although they do affect the surrounding context. This may result in changes to the surrounding uses. Submissions concerning the design guidelines provided in the SUZ were also raised in [section 3.2](#) in relation to the Mildura and Irymple urban transition area.

OTHER ZONES

APPLICATION

The other zones that apply in Mildura Rural City are shown in the following table.

Zone	Application
Public Conservation and Resource Zone (PCRZ)	Large areas of the municipality, most of which is National Parks
Public Park & Recreation Zone (PPRZ)	Generally in and around townships
Public Use Zone (PUZ)	Generally in and around townships
Comprehensive Development Zone (CDZ)	Mildura Golf Course
Road Zone 1 (RDZ1)	
Urban Floodway Zone (UFZ)	Along the edge of the Murray River in Mildura
Commonwealth Land (CA)	Area at corner of River Avenue and Sturt Highway, Merbein South

OVERLAYS

The suite of overlays used by Mildura Rural City is identified in [Appendix C](#). Issues that have been raised with specific overlays are considered below.

DDO

Issues with the design guidelines provided in the Design and Development Overlays (DDO) were raised in [section 3.2](#) in relation to the Mildura and Irymple urban transition area.

DEVELOPMENT CONTRIBUTIONS

The Development Contributions Plans (DCP) have improved the level of provision of some infrastructure. Based on stakeholder feedback, the current DCPs may require a review to ensure sufficient land is available, that they provide adequate funding and they are updated to reflect growth scenarios of the *Mildura Housing and Settlement Strategy* (2013).

OTHER PROVISIONS

Appendix D provides a list of other provisions that either already apply within the MPS, or which could potentially be applied. The 2010 report recommended that a review and audit of specific and particular provisions schedules be conducted. This has not occurred to date. It is recommended that a review be undertaken to determine whether there is strategic justification for preparing local amendments to these provisions.

RECOMMENDATION

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

INCORPORATED DOCUMENTS

The MPS include 15 incorporated documents. A full audit of these documents was recommended in the 2010 review but has not been undertaken to date. It is recommended that such an audit be undertaken prior to the next MPS review.

RECOMMENDATION

Undertake further work to complete a full audit of the incorporated documents in the MPS to ensure documents are still relevant.

3.9 MONITORING

Is the planning scheme being regularly monitored and reviewed?

Are there monitoring processes targeting the key strategic objectives of the scheme?

Are the monitoring processes the most appropriate means of measuring the performance of the objectives?

Can the monitoring of the planning scheme be improved?

The Department of Transport, Planning and Local Infrastructure (DTPLI) no longer expects the MSS to include a section on monitoring and review. The mandatory four-yearly planning scheme review provides an appropriate mechanism to review the effectiveness of the scheme.

A

APPENDICES

A: 2010 REVIEW GAPS ADDRESSED

ACTION	ACHIEVED				COMMENT
	YES	NO	UNDER WAY	OTHER	
MSS					
Reflect elements of Community Plans	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The MPS incorporates elements of Local Community Plans.
Include reference to Climate Change	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Reference made in clause 21.02.
Include reference to sustainability principles	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Reference made throughout the MPS.
Include community health and wellbeing section	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No references in the current MSS.
Include an implementation section which allows some of the current local planning policies to be translated back into the MSS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Implementation section included in each Clause of the current MPS.
Ensure objectives and strategies meet their intended purpose	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Clearer structure of themes in the current MPS since the implementation of Amendment C64.
Redistribute content to more appropriate areas of the MSS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Restructure implemented through Amendment C64.
Reduce the length of the Municipal Profile	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Reduced to one page in the current MPS since the implementation of Amendment C64.
Refocus Key Issues	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Redistributed through MSS by the implementation of Amendment C64.
Update data information from the 2006 census and the new Council Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Updated in the current MPS by the implementation of Amendment C64.
Conduct a policy neutral translation of the MSS and LPPF under section 20(4)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Amendment C64 was implemented through a standard amendment process rather than under section 20(4).
Introduce new Local Areas section for each town	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Introduced by new clause (21.10) as part of Amendment C64.
Local Planning Policies					
Delete 6 policies and the introduction from the LPPF	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	8 policies and the introduction deleted from the local planning policies as part of Amendment C64.
Zones & Overlays					
General review of the zone schedules	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	General review of the zone schedules has not occurred but will be considered to some extent in this review.

ACTION	ACHIEVED				COMMENT
	YES	NO	UNDER WAY	OTHER	
Implement local content schedule for FO and LSIO	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No existing schedule for FO or LSIO in Planning Scheme.
Review the suitability of land for residential purposes with a long history of agricultural spraying	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Consider a 0.2ha min lot size for the LDRZ	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	State Government reforms now permit lots to be subdivided to a minimum of 0.2 hectares where reticulated sewerage is connected.
Introduce the Farming and Rural Conservation Zones to the Mildura Planning Scheme	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Implemented through Amendment C37.
Specific Provisions & Incorporated Documents					
Continue utilising the provisions of Clause 55 and 56	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Review and audit specific and particular provisions schedules	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	While no overall review has occurred, changes to the DDO, SUZ and SMO schedules were implemented as part of Amendment C64.
Audit the incorporated documents schedule to ensure all documents are still relevant	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Strategic Documents					
Consider a Housing Strategy to implement the new residential zones	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Action identified in Council Plan 2013-2017 and has been undertaken as part of the <i>Mildura Housing and Settlement Strategy</i> (2013).
Implement recommendations from <i>Cutting Red Tape</i> in Planning	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Implemented through Amendment C44.
Improve management of the Older Irrigation areas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Improved through various amendments including C59 and C65.
Complete Review of the Environment Strategy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<i>Council Plan 2009-2013</i> proposes implementation of <i>2010-2015 Strategy</i> and development of <i>2015-2019 Strategy</i> .
Complete Review of the Municipal Public Health Plan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<i>Council Plan 2009-2013</i> proposes development of new Municipal Public Health and Wellbeing Plan <i>2013-2017</i> .
Ensure actions from the new Council Plan are consistent with the issues and further strategic work	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Actions of <i>Council Plan 2009-2013</i> were implemented through Amendment C64.

ACTION	ACHIEVED				COMMENT
	YES	NO	UNDER WAY	OTHER	
requirements of the MSS					
Undertake a retail strategy review	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Not yet commenced since 2010 publication and is not listed as one of Council's proposed projects. The 2010 strategy was recently implemented in the MPS as part of Amendment C67.
Undertake a review of the 2003 low density residential strategy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The <i>Mildura Housing and Settlement Strategy</i> (2013) considers implications of LDRZ.
Other					
Investigate funding opportunities with DPCD (DTPLI) and RDV	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contribution funding received for the <i>Mildura Housing and Settlement Strategy</i> (2013).This is an ongoing action.

B: REFORMED ZONES CHANGES

FARMING ZONE

The Farming Zone (FZ) now includes in its purpose 'to encourage the retention of employment and population to support rural communities'. It no longer includes 'to protect and enhance natural resources and the biodiversity of the area' in its purpose though this is retained in the decision guidelines.

Previously uses not listed in section 1 and 2 were prohibited. Now any uses not listed in sections 1 or 3 require a permit. As such, all the uses that are no longer prohibited that are listed below, now require a permit.

Changes to the table of uses:

- Camping and caravan park is no longer prohibited with conditions
- Bed and breakfast is no longer prohibited with conditions
- Primary and secondary schools are no longer prohibited
- **Industry** is no longer prohibited
- Transfer station is no longer subject to any conditions (previously restricted to 500sqm with no construction or demolition or commercial and industrial waste)
- Rural industry no longer requires a permit
- Motor racing track is no longer prohibited
- Amusement parlour is now a prohibited activity (previously required a permit)
- Nightclub is now a prohibited activity (previously required a permit)
- Pleasure boat facility is no longer prohibited
- Landscape garden supplies no longer prohibited
- Market no longer prohibited
- Primary produce sales no longer require a permit subject to conditions
- Transport terminal is no longer prohibited
- **Warehouse** is no longer prohibited with rural store now as-of right (with conditions)
- Arts and craft centre is no longer prohibited
- Cinema-based entertainment facility is no longer prohibited
- Display home no longer prohibited
- Research centre is no longer prohibited
- Saleyard is no longer prohibited
- Service station is no longer prohibited
- Veterinary centre is now prohibited (previously required a permit)

Other changes include:

- reducing the restrictions for alterations and extensions to dwellings and farm buildings
- removing the requirement for a mandatory **section 173 agreement** which restricts future **subdivision** after an initial subdivision is approved

RURAL CONSERVATION ZONE

The purpose of the Rural Conservation Zone (RCZ) has not changed.

Previously uses not listed in section 1 and 2 were prohibited. Now any uses not listed in sections 1 or 3 require a permit. As such, all the uses that are no longer prohibited that are listed below, now require a permit.

Changes to the table of uses:

- Bed and breakfast allows for 10 persons (previously 6)
- Group accommodation requirement so to be in conjunction with Agriculture, Rural industry or winery; maximum of 6 dwellings and minimum lot size of 40 removed.
- Animal boarding is no longer prohibited
- Primary and secondary schools are no longer prohibited
- Restaurant conditions have been removed
- Freezing and cool storage condition has been removed (it is no longer required to be in conjunction with agricultural produce, or products used in agriculture)
- Cemetery is no longer prohibited
- Crematorium is no longer prohibited
- Display home is no longer prohibited
- Freeway service centre is no longer prohibited
- Funeral parlour is no longer prohibited
- Helicopter landing site is no longer prohibited
- Hospital is no longer prohibited
- Research centre is no longer prohibited
- Saleyard is no longer prohibited
- Service station is no longer prohibited

Other changes include:

- Reducing the restrictions for alterations and extensions to dwellings and farm buildings.
- Removing the requirement for a mandatory **section 173 agreement** which restricts future **subdivision** after an initial subdivision is approved.

COMMERCIAL 1 ZONE

The purpose of the Commercial 1 Zone (C1Z) is to apply to commercial centres (like B1Z) but also include office uses (like B2Z and B5Z) and residential uses at complementary to the centre (B5Z also encouraged residential but it specified multi-dwelling units).

Changes to the table of uses:

- **Accommodation** now as-of-right provided that any frontage at ground level restricted to 2 metres (other than a bed and breakfast and caretaker's house).
- Animal keeping, animal training and horse stables are now allowed in B5Z areas with a permit (previously prohibited)
- Education centres now allowed as-of-right with no conditions (primary and secondary now allowed in B1Z and education centres no longer need a permit in B2Z and B5Z)
- Industry is no longer prohibited in B5Z
- Stone extraction is no longer prohibited
- Cinema no longer requires permit in B2Z and B5Z
- Exhibition centre no longer requires a permit
- Place of worship no longer requires a permit provided that the gross floor area of all buildings does not exceed 250 square metres
- **Retail premises** no longer need a permit (most uses previously needed a permit and some were prohibited in B5Z such as shops)
 - Shops leasable floor areas can be limited in the schedule
 - Adult sex bookshops must be at least 200m from sensitive uses
- Transport terminal no longer prohibited in B5Z
- Warehouse no longer prohibited in B5Z
- Brothel no longer prohibited in B5Z
- Cinema-based entertainment facility no longer requires a permit for B2Z and B5Z
- Service stations are no longer subject to the condition that they be located at least 30m from sensitive uses in B5Z

The C1Z schedule includes the following variations.

Land	Maximum leasable floor area (m ²) for office	Maximum leasable floor area (m ²) for shop (other than restricted retail premises)
832 Fifteenth Street & 469 San Mateo Avenue, Mildura	500	4,500
All other land	500 per lot	None specified

COMMERCIAL 2 ZONE

The Commercial 2 Zone (C2Z) essentially combines the purposes of the two zones it supersedes:

- Development of offices and manufacturing industries and associated commercial uses (B3Z) and
- Development of bulky goods retaining and manufacturing industry and associate business services (B4Z).

Changes to the table of uses:

- Residential hotel is now allowed with a permit
- Motel is now allow with a permit in B4Z
- Primary and secondary schools are now allowed with a permit
- Stone extraction is no longer prohibited
- Office is now allowed as-of-right with no conditions (previously required a permit in B4Z)
- Cinema is now allowed as-or-right provided that the site adjoins or has access to a Road Zone
- Food and drink premises are now allowed as-of-right provided that the leasable floor area must not exceed 100 square metres
- Postal agency is now allowed as-of-right in B4Z
- **Shop** is now allowed as-of-right provided that it is conjunction with a supermarket, has a combined leasable floor area of 500 square metres, adjoins or has access to a Road Zone (previously prohibited except for convenience shop which required a permit)
 - Restricted retail premises & trade supplies are now allowed as-of-right without conditions in B3Z
 - Supermarkets are only as-of-right on land within an urban growth boundary and in metropolitan Melbourne where the leasable floor area does not exceed 1,800 square metres and the site adjoins or has access to a Road Zone
 - Outside Melbourne and the urban growth boundary, supermarkets are allowed with a permit up to 1,800 square metres and on site adjoining or with access to a Road Zone
- Shipping container storage is now allowed as-of-right provided that it is located away from sensitive uses
- Cinema-based entertainment facility is now allowed as-of-right provided that it adjoins or has access to a Road Zone.
- Home occupation now requires a permit in B3Z
- Service station now requires a permit in B4Z

MIXED USE ZONE

The purpose of the Mixed Use Zone (MUZ) has been modified to replace the following statement: 'to encourage residential development that respects the neighbourhood character' with:

- To provide for housing at higher densities.
- To encourage development that responds to the existing or preferred neighbourhood character of the area.
- To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.

The revised MUZ can be tailored for different areas by specifying:

- Objectives
- Variations to ResCode requirements
- Maximum building height
- Exemption from notice and review
- Application requirements
- Decision guidelines

Changes to the table of uses:

- Place of worship no longer has conditions relating to type of activities, maximum site area or road access and instead of a gross floor area capped at 180 square metres, it has a maximum leasable floor area of 250 square metres (it still allowed as-of-right)
- **Office** no longer needs a permit provided the leasable floor area does not exceed 250 square metres
 - Medical centre no longer needs a permit provided the gross floor area does not exceed 250 square metres
- **Food and drink premises** no longer need a permit provided that the leasable floor area does not exceed 150 square metres.
- **Shop** (other than adult sex bookshop) no longer needs a provided that the leasable floor area does not exceed 150 square metres.
 - A combined leasable floor area limit can no longer be specified in the schedule for trade supplies.

INDUSTRIAL 1 ZONE

The purpose of the Industrial 1 Zone (IN1Z) has not changed. The only change to its table of uses is:

- **Office** no longer has a leasable floor area limit of 500 square metres though a limit can be introduced into the schedule

INDUSTRIAL 3 ZONE

The Industrial 3 Zone (IN3Z) purpose now includes reference to retail opportunities: 'to allow limited retail opportunities including convenience shops, small scale

supermarkets and associated shops in appropriate locations'. Some changes have been made to its table of uses:

- **Shop** is now allowed as-of-right provided that it is conjunction with a supermarket and adjoins or has access to a Road Zone but is prohibited if these conditions are not met
 - Convenience shop is now allowed as-of-right without conditions
 - Supermarkets leasable floor areas must not exceed 1800 square metres, must adjoin or be within 30m of a Road Zone and must be on land within an urban growth boundary and in metropolitan Melbourne
- **Office** no longer has a leasable floor area limit of 500 square metres though a limit can be introduced into the schedule
- Stone extraction is no longer prohibited

Supermarkets are now allowed as-of-right within an urban growth boundary and in metropolitan Melbourne subject to other conditions. If these conditions are not met, as is the case in Mildura Rural City which is outside metropolitan Melbourne, then a supermarket is prohibited. This will generally prevent shops from establishing with supermarkets. It may be possible for shops to be established in conjunction with supermarkets in a neighbouring zone. In Benetook Avenue, this will not be possible because the zoning of surrounding properties generally prohibits supermarkets⁴.

⁴ Supermarkets are prohibited in the following zones that surround the IN3Z in Mildura Rural City: Farming Zone, Commercial 2 Zone, Special Use Zone 9, Urban Floodway Zone, Low Density Residential Zone, Industrial 1 Zone and Residential 1 Zone (R1Z). Should the R1Z be translated to Residential Growth Zone where supermarkets may be allowed, its condition that *"the land must have the same street frontage as the land in the commercial zone or Mixed Use Zone"* will prevent this from allowing a supermarket on a property adjacent to the IN3Z. The Public Use Zone provides potential for a supermarket but this is very unlikely given the conditions that it *"must be carried out by or on behalf of the public land manager"* and it must be for the purpose of education at PUZ2 and local government at PUZ6.

C: OVERLAYS IN MILDURA

ENVIRONMENT & LANDSCAPE OVERLAYS

Environmental Significance Overlay

ESO1: Murray River Corridor

ESO2: Mildura Waste Water Treatment Plant & Reuse Centre

ESO3: Merbein Mushrooms Buffer Area

ESO4: Incompatible Land Use Buffer Area

Vegetation Protection Overlay

VPO1: Roadside Vegetation Protection Area

HERITAGE & BUILT FORM OVERLAYS

Heritage Overlay

Design and Development Overlay

DDO1: Deakin Avenue

DDO2: Town Entrances

DDO3: Mildura CBD

DDO4: Industrial Areas

DDO6: Mildura Airport – Obstacle Height Area No.1

DDO7: Mildura Airport – Obstacle Height Area No.1

DDO8: Mildura Airport – Obstacle Height Area No.1

DDO9: Benetook Avenue Precinct

DDO10: Fifteenth Street Special Use (Business Precinct)

DDO11: Fifteenth – Special Use (Community Uses) Precinct

DDO12: Fifteenth & Deakin Structure Plan Area

DDO13: Irymple Structure Plan Area

Development Plan Overlay

DPO1: Residential Areas

DPO2: Low Density Residential Areas

DPO3: Ontario-Flora Development

LAND MANAGEMENT OVERLAYS

Salinity Management Overlay

Floodway Overlay

Land Subject to Inundation Overlay

OTHER OVERLAYS

Public Acquisition Overlay

PAO1: VicRoad for road widening

PAO2: Mildura Rural Council for public open space

PAO3: Grampians Wimmera Mallee Water for waste water treatment facility

Airport Environs Overlay

AEO1

AEO2

Environmental Audit Overlay

Development Contributions Plan Overlay

DCPO1: Development Contributions Plan – Infrastructure Works

DCPO2: Development Contributions Plan – Infrastructure Works

DCPO3: Development Contributions Plan – Infrastructure Works

D: OTHER PROVISIONS IN MILDURA

There are 10 opportunities to provide local content for issues contained in clause 52 of the MPS. 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 52.32 Wind Energy Farms
- Clause 52.37 Post box and Dry stone walls

Clause 52.32 Wind Energy Farms is new since the last review.

Local content is provided in the schedules to the following clauses:

- Clause 52.03 which specifies which areas are subject to incorporated documents (as contained in clause 81) that guide use and development.
- Clause 52.17 which includes reference to the Goulburn-Murray Water Native Vegetation Code of Practice, February 2011.
- Clause 52.32 which specifies where a wind energy facility is prohibited: all land within 5km of a residential zone, business zone or special purpose zone in the urban area of Mildura.