

Planning and Environment Act 1987

Panel Report

Moira Planning Scheme Amendment C77

Front page

13 June 2017

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the Act
Moirra Planning Scheme Amendment C77

13 June 2017

A handwritten signature in black ink, appearing to read 'M. Kirsch', with a long, sweeping horizontal stroke extending to the right.

Michael Kirsch, Chair

Contents

| | Page |
|---|-----------|
| 1 Introduction..... | 1 |
| 1.1 The Amendment..... | 1 |
| 1.2 Panel process..... | 1 |
| 1.3 Council’s proposed changes..... | 2 |
| 1.4 The Panel’s approach | 2 |
| 2 Background..... | 4 |
| 2.1 Moira Small Towns and Settlements Strategy Plan, July 2013 | 4 |
| 2.2 Review of the Moira Planning Scheme, April 2016..... | 6 |
| 2.3 Anomalies..... | 7 |
| 3 Planning context..... | 8 |
| 3.1 Policy framework..... | 8 |
| 3.2 Planning scheme provisions | 8 |
| 3.3 Ministerial Directions and Practice Notes..... | 9 |
| 3.4 Conclusion | 10 |
| 4 Township issues..... | 11 |
| 4.1 Bundalong..... | 11 |
| 4.2 Bearii..... | 15 |
| 4.3 Cobram | 20 |
| 4.4 Strathmerton..... | 22 |
| 4.5 Koonoomoo..... | 28 |
| 4.6 Yarrawonga..... | 32 |
| 4.7 Numurkah..... | 33 |
| 5 Agency submissions | 35 |
| 5.1 Environment Protection Authority..... | 35 |
| 5.2 Department of Education and Training..... | 36 |
| 5.3 North East Water..... | 37 |
| 5.4 Department of Environment, Land, Water and Planning | 38 |
| 5.5 Goulburn Broken Catchment Management Authority | 39 |
| 5.6 Country Fire Authority..... | 39 |
| 5.7 Goulburn-Murray Water | 41 |
| 5.8 Department of Economic Development, Jobs, Transport and Resources | 41 |
| 6 Other issues..... | 42 |
| 6.1 Rutherglen-Koonoomoo high pressure gas transmission line | 42 |
| 6.2 Environmental Significance Overlay Schedule 2 (Murray River Corridor) | 43 |
| 6.3 Consequential changes to Clause 22..... | 43 |

Appendix A Submitters to the Amendment

Appendix B Document list

List of Tables

| | Page |
|---|-------------|
| Table 1 Parties to the Panel Hearing..... | 1 |

List of Figures

| | Page |
|--|-------------|
| Figure 1 Summary of settlement role and growth capacity | 5 |
| Figure 2 Bundalong – exhibited zonings | 11 |
| Figure 3 Exhibited Bundalong Framework Plan | 12 |
| Figure 4 Bearii – exhibited zonings..... | 16 |
| Figure 5 Bearii – Council’s revised zoning | 17 |
| Figure 6 Bearii - Planning Scheme overlays..... | 18 |
| Figure 7 Strathmerton – exhibited Township Zone | 23 |
| Figure 8 Strathmerton – exhibited DPO13..... | 23 |
| Figure 9 Exhibited Strathmerton Framework Plan..... | 25 |
| Figure 10 Strathmerton WMF draft ESO area..... | 27 |
| Figure 11 Koonoomoo – exhibited rezonings | 29 |
| Figure 12 Koonoomoo – RLZ areas not included in the exhibited zoning map | 30 |
| Figure 13 Koonoomoo – MSTSSP Settlement Strategy..... | 30 |

List of Abbreviations

| | |
|--------|---|
| CFA | Country Fire Authority |
| C1Z | Commercial 1 Zone |
| DEDJTR | Department of Employment, Development, Jobs and Transport |
| DELWP | Department of Environment, Land, Water and Planning |
| DPO | Development Plan Overlay |
| DPO13 | Development Plan Overlay Schedule 13 |
| EPA | Environment Protection Authority |
| ESO | Environmental Significance Overlay |
| ESO1 | Environmental Significance Overlay Schedule 1 |
| ESO2 | Environmental Significance Overlay Schedule 2 |
| FZ | Farming Zone |
| GBCMA | Goulburn Broken Catchment Management Authority |
| GMW | Goulburn-Murray Water |
| GPN30 | General Practice Note: Potentially Contaminated Land |
| GRZ | General Residential Zone |
| GVW | Goulbourn Valley Water |
| HPGTP | High Pressure Gas Transmission Pipeline |
| IN1Z | Industrial 1 Zone |
| LDRZ | Low Density Residential Zone |
| LPPF | Local Planning Policy Framework |
| MD1 | Ministerial Direction No 1 Potentially Contaminated Land |
| MSS | Municipal Strategic Statement |
| MSTSSP | Moirra Small Towns and Settlements Structure Plan |
| NEW | North East Water |
| PCRZ | Public Conservation and Resource Zone |
| PPN02 | Planning Practice Note: Public Land Zones |
| PPN04 | Planning Practice Note: Writing a Municipal Strategic Statement |
| PPN37 | Planning Practice Note: Rural Residential Development |
| PPN46 | Planning Practice Note: Strategic Assessment Guidelines |
| PPN64 | Planning Practice Note: Local planning for bushfire protection |

| | |
|---------------|---|
| PUZ2 | Public Use Zone Schedule 2 |
| PPRZ | Public Park and Recreation Zone |
| RAZ | Rural Activity Zone |
| Review Report | Review of the Moira Planning Scheme, April 2016 |
| RLZ | Rural Living Zone |
| SPPF | State Planning Policy Framework |
| TZ | Township Zone |
| WMF | Wastewater Management Facility |

Executive summary

(i) Summary

Moira Planning Scheme Amendment C77 (the Amendment) seeks to:

- implement the Moira Small Towns and Settlements Strategy Plan, July 2013
- implement the Review of the Moira Planning Scheme, April 2016
- correct various zone anomalies.

Council's position on the Amendment and submissions was further informed by the Moira Small Towns and Settlement Strategy Addendum Report, February 2017.

The Amendment is a significant undertaking by Council and the culmination of wide-ranging strategic work over recent years.

The Amendment was exhibited between 8 December 2016 and 28 February 2017 and attracted 31 submissions.

Many submissions were focused on specific towns and issues, while some raised broader issues. There were no submissions that fundamentally challenged or opposed the underlying strategic basis for the Amendment.

The Panel has focussed on the issues raised in submissions, rather than review the Amendment and background documents from 'first principles'. In this context, it is satisfied that the Amendment should be adopted, subject to Council undertaking some further analysis of various issues, including the potential contamination of land being rezoned.

The Panel has also recommended that some of the proposals relating to Bundalong, Bearii and Strathmerton not proceed until Council has addressed issues raised in submissions and discussed in this report.

In relation to Bundalong, the Panel supports the exhibited rezonings but believes that Council should prepare a more comprehensive structure plan that builds on the town's existing infrastructure and development potential. In light of this, the Panel has recommended that the designation of the future growth area to the south of the town be deleted from the Bundalong Framework Plan until this work is done and there has been a more comprehensive analysis of future growth options.

In relation to Bearii, the Panel does not believe that the application of the Township Zone has been strategically justified and has recommended that the Rural Living Zone be applied instead. Council should give further consideration to Bearii's settlement role and the various constraints that limit its development potential in order to assess whether the Township Zone or Low Density Residential Zone might be applied in the future.

In relation to Strathmerton, the Panel has recommended that various elements of the Amendment not proceed until the buffer area to the Strathmerton Wastewater Management Facility is finalised and the implications of the buffer are considered. The Panel has also recommended that the Township Zone not be applied at the eastern end of Findlay Street because of the industrial activity and zoning in that area.

In addition, the Panel has supported various changes to the Amendment sought in submissions and supported by Council.

Finally, the Panel commends Council and its officers for the commissioning the extensive strategic work that underpinned the Amendment and for preparing the Amendment.

(ii) Recommendations

Based on the reasons set out in this Report, the Panel recommends that the Moira Planning Scheme Amendment C77 be adopted as exhibited, subject to the following:

1. Include the changes shown in Council's 'final' version of the Amendment, appended to its Part A submission, subject to the modifications set out in the subsequent recommendations.
2. Include the following text in Clause 21.07-6 (Bundalong) 'Local area implementation':

Prepare and implement a comprehensive structure plan for Bundalong.

3. Delete the following text from Clause 21.07-6 (Bundalong) 'Local area implementation':

Identify land for future growth to the south.

4. Delete the 'Long term residential growth' designation from the Bundalong Framework Plan at Clause 21.07-6.
5. Apply the Rural Living Zone instead of the Township Zone in Bearii.
6. Replace the Grasso Drive area designation 'Short term Low Density Residential to provide buffer to farming areas' with 'short term residential' in the Cobram Framework Plan at Clause 21.07-2.
7. Delete the Township Zone and Development Plan Overlay Schedule 13 from the land owned by McColl's Transport at the eastern end of Findlay Street, Strathmerton.
8. Delete the Township Zone from the area south of Arthur Street, Strathmerton.
9. Delete the Strathmerton Framework Plan at Clause 21.07-10.
10. Retain the existing zoning of the Wunghu, Tungamah, Waaia, Invergordon, Katamatite and Katunga primary schools.
11. Replace the Overview in Clause 21.05-5 (Fire) with:

Fire risk is a significant issue in vegetated riverine areas and isolated bushland areas. Fire risk is also an issue in agricultural areas and grasslands, particularly at the urban/grassland interface of settlements.

12. Include the following additional strategy in Clause 21.05-5 (Fire):

Strategy 1.2 *Consider the need for and implementation of bushfire and grassfire protection measures outside the Bushfire Management Overlay.*

- 13. Rename Clause 21.03-6 to 'Development around High Pressure Gas Transmission Pipelines' and reposition it as a new Clause 21.05-7.**
- 14. Delete the proposed changes to the Environmental Significance Overlay Schedule 2 (Murray River Corridor).**

The Panel also recommends that, before adopting the Amendment, Council should:

- 15. Consult with the owners of land in Koonoomoo that was intended to be zoned Rural Living Zone but not included in the exhibited map. Council should explain the extent of the proposed rezoning and confirm that the landowners support the rezoning.**
- 16. Satisfy itself that the Amendment is consistent with Ministers Direction No 1 Potentially Contaminated Land and General Practice Note 30 Potentially Contaminated Land. In doing so, Council should consult with the Environment Protection Authority.**

1 Introduction

1.1 The Amendment

Moirra Planning Scheme Amendment C77 (the Amendment) proposes to:

- implement the Moirra Small Towns and Settlements Strategy Plan, July 2013
- implement the Review of the Moirra Planning Scheme, April 2016
- correct various zone anomalies.

1.2 Panel process

The Amendment was prepared by the Moirra Shire Council as Planning Authority.

The Department of Environment, Land, Water and Planning (DELWP) authorised the Amendment in a letter dated 2 September 2016, subject to various conditions relating to the strategic justification for elements of the Amendment, further consultation and other matters.

The Amendment was placed on public exhibition between 8 December 2016 and 28 February 2017 and attracted 31 submissions, including three late submissions.

At its meeting of 22 March 2017, Council resolved to refer the submissions to a Panel. As a result, a Panel to consider the Amendment was appointed under delegation from the Minister for Planning on 17 April 2017 and comprised Mr Michael Kirsch (Chair).

A Directions Hearing was held in relation to the Amendment on Tuesday 12 April 2017 in Cobram.

The Panel inspected various sites and areas referred to in submissions on Wednesday 3 May 2017.

The Panel then met at the Council offices in Cobram on Thursday 4 May 2017 to hear submissions about the Amendment. Those in attendance at the Panel Hearing are listed in Table 1.

Table 1 Parties to the Panel Hearing

| Submitter | Represented by |
|--------------------------------------|---|
| Moirra Shire Council | Jorine Bothma (Manager Town Planning and Building) and Peter Stenhouse (Planning Coordinator) |
| Department of Education and Training | Geoffrey Mills (Senior Project Manager) |
| Country Fire Authority | Darren Viney |
| Lemon Tree Rise Pty Ltd | Briana Barnes (Spiire) |
| Linsey Weppner | |
| Leon van Ieperen and Peter Elliott | |
| Fiona Stevens | |
| Bundalong Tavern and Villas | Nick Vlahandreas (Oxley and Company) who called economic evidence from Paul Squires |

1.3 Council's proposed changes

Following its consideration of submissions, Council proposed changes to the Amendment, including:

- the Municipal Strategic Statement
- the existing Environmental Significance Overlay Schedule 2 (ESO2)
- the exhibited Development Plan Overlay Schedule 13 (DPO13)
- various zoning changes.

Most of these changes are included in the revised Amendment documentation appended to Council's Part A submission¹ and made available before the Hearing. The Panel refers to this material as Council's 'final' version of the Amendment to distinguish it from the 'exhibited' version of the Amendment.

At the Directions Hearing, the Panel discussed whether some of the proposed changes warranted further notification to potentially affected parties. The Panel subsequently directed that Council address this in its Part B submission, specifically in relation to its proposed changes to the ESO2 and DPO13. The ESO2 is discussed further in chapter 6.2 and the DPO13 is addressed in chapter 5.8.

Council also proposed changes to the exhibited zoning regime² for Bearii following its consideration of further strategic work³ prepared during the exhibition of the Amendment. At the Directions Hearing, the Panel queried whether the proposed changes should proceed without potentially affected parties having had the opportunity to consider and make submissions about them. Council submitted that the proposed changes were widely understood in the Bearii community, but that landowners had not been formally advised or notified of the changes. In light of this, the Panel directed that Council advise all affected landowners of its revised position, invite written submissions on the proposed zoning changes and invite participation at the Panel Hearing. This process led to two further written submissions and a request to be heard at the Hearing from an existing submitter. The issues affecting Bearii are discussed in chapter 4.2 of this report.

1.4 The Panel's approach

The Panel considered all written submissions made in response to the exhibition of the Amendment; as well as further submissions, evidence and other material presented to it during the Hearing, and observations from site visits.

The Panel has reviewed a large volume of material and has had to be selective in referring to the more relevant or determinative material in the report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the report.

The Panel notes that some submissions supported specific elements of the Amendment that are not in contention, including, for example, the submission from Katunga Fresh.

¹ Appendices B, C, D, F, G, H, I, J, K, L, M, N, O and P.

² Council proposed that areas exhibited as Township Zone have the Rural Living Zone applied instead.

³ The Moira Small Towns and Settlements Strategy Plan Addendum Report.

The Panel has focussed on the issues raised in submissions and has not reviewed all elements of the Amendment or the background documents.

This report considers the issues under the following headings:

- Planning context
- Township issues
- Agency submissions
- Other issues

2 Background

2.1 Moira Small Towns and Settlements Strategy Plan, July 2013

2.1.1 Overview

The Moira Small Towns and Settlement Strategy Plan⁴ (the MSTSSP) was commissioned by Council and provides a framework for managing twenty-two of the Shire's small towns and settlements.

It was informed by a Context Report (March 2013) that investigated strategic influences, servicing and infrastructure, social influences, economic influences, environmental influences, population levels and trends, land supply and demand, and planning impacts.

The overarching settlement vision is:

The small settlements of Moira will be cohesive, inclusive communities with individual identities. These proud communities will work pro-actively and collaboratively to plan for a viable and sustainable future.

They will be welcoming communities, integrating new residents, encouraging the participation of youth and embracing cultural diversity.

The environment and local history are recognised as community assets which should be protected and promoted for the future benefit of the communities and visitors.

The Moira Shire will have connected communities with the skills and resources to recognise, maintain and build upon their individual strengths and opportunities.

For each settlement, the MSTSSP defines its role, main features, existing infrastructure, policy/strategy references, residential demand/supply, development opportunities and constraints, growth capacity, expected outcomes, recommendations and justification.

A summary of the settlement role and growth capacity for each centre is shown in Figure 1.

The MSTSSP provided the basis for various elements of the exhibited Amendment.

2.1.2 Implementation

The Amendment implements the MSTSSP by:

- including content in the new Clause 21.03-4 (Small towns and settlements)
- inserting local area framework plans and content for Barmah, Bundalong, Katamatite, Katunga, Picola, Strathmerton, Tungamah and Wunghnu in Clause 21.07
- including it as a reference document at Clause 21.03-6
- rezoning land in Bearii, Bundalong, Invergordon, Katamatite, Katunga, Koonoomoo, Kotupna, Picola, St James, Strathmerton, Tungamah, Waaia and Wunghnu to provide for further rural residential, low density and township residential

⁴ Prepared by Spiire.

development, and to reflect existing uses and settlement patterns, public land use and recreation reserves.

| Settlement | Role | | | | Growth Capacity | | | | Zoning/Land Supply (existing) | | | |
|-------------|------------|---------|--------|----------|-----------------|----------|-----|-------------|-------------------------------|--------------|---------|--|
| | Small Town | Village | Hamlet | Locality | High | Moderate | Low | Constrained | Township | Rural Living | Farming | |
| Barmah | | | | | | | | | 14 lots* | 8 lots* | | |
| Bearli | | | | | | | | | | | | |
| Bundalong | | | | | | | | | 115 lots** & 8ha | 21 lots** | | |
| Burramine | | | | | | | | | | | | |
| Invergordon | | | | | | | | | | | | |
| Kaarimba | | | | | | | | | | | | |
| Kamatite | | | | | | | | | 30ha*** | | | |
| Katunga | | | | | | | | | 15ha*** | | | |
| Kolupna | | | | | | | | | | | | |
| Koonoomoo | | | | | | | | | | | | |
| Lake Rowan | | | | | | | | | | | | |
| Lower Moira | | | | | | | | | | | | |
| Muckatah | | | | | | | | | | | | |
| Naring | | | | | | | | | | | | |
| Picola | | | | | | | | | 14ha*** | | | |
| St James | | | | | | | | | 4 lots** | | | |
| | | | | | | | | | 40 lots & 44ha | | 15ha | |
| Tungamah | | | | | | | | | 40 lots & 6ha | | | |
| Waaia | | | | | | | | | 50 lots**** & 13.5ha | | | |
| Wilby | | | | | | | | | 35 lots** | | | |
| Wunghnu | | | | | | | | | | | | |
| Yalca North | | | | | | | | | | | | |
| Yarroweyah | | | | | | | | | | | | |

* Vacant lots partly located outside of the Floodway Overlay
 ** Potential for further subdivision
 *** Includes infill land
 **** Some lots contained within subdivisions that have not been constructed (many being crown allotments)

Figure 1 Summary of settlement role and growth capacity

2.1.3 Addendum Report, February 2017

During the exhibition of the Amendment, Council received a review of various elements of the MSTSSP and the Amendment. Council advised that it initiated the review in response to the DELWP letter of authorisation that raised various issues about elements of the Amendment.

This review is documented in the MSTSSP Addendum Report⁵, which further considered rural living development and changes to the policy framework. It also reviewed various exhibited rezonings in Bearii, Bundalong, Invergordon, Katunga, Koonoomoo, Strathmerton, Wunghnu and Yarroweyah.

The Addendum Report generally supported the MSTSSP and Amendment, however it recommended a change to the exhibited zoning in Bearii:

Delete the Township Zone from land north and south of Ferris Street and east of Furness Street and replace it with the Rural Living Zone.

This recommendation is discussed in chapter 4.2 of this report.

2.2 Review of the Moira Planning Scheme, April 2016

2.2.1 Overview

The Review of the Moira Planning Scheme⁶ (the Review Report) followed previous reviews conducted in 2002 and 2007. The Review Report found that the Planning Scheme needed to be updated and reformatted, and included 25 specific recommendations.

The Review Report also anticipated that the MSTSSP would be implemented in conjunction with the review.

These recommendations informed the preparation of the revised Local Planning Policy Framework (LPPF) that is proposed by the Amendment.

2.2.2 Implementation

The Amendment introduces a new Municipal Strategic Statement (MSS) with revised content and a new structure. The Amendment either deletes Local Planning Policies or repositions the strategic intent and policy guidance into the MSS.

Specifically, the Amendment will:

- replace Clause 21.01 Municipal Overview with new Clause 21.01 Municipal Profile
- replace Clause 21.02 Vision for Moira with new Clause 21.02 Vision
- replace Clause 21.03 Environment with new Clause 21.03 Settlement and include the Moira Small Towns and Settlement Strategy 2013 as a Reference Document
- replace Clause 21.04 Settlement with new Clause 21.04 Environment and Heritage
- replace Clause 21.05 Economic Development with new Clause 21.05 Environmental Risks

⁵ Prepared by Spectrum Planning Solutions.

⁶ Prepared by Spectrum Planning Solutions.

- replace Clause 21.06 Performance Monitoring and Review with new Clause 21.06 Economic Development
- replace Clause 21.07 Reference Documents with new Clause 21.07 Local Areas
- delete Clause 22.01 Agriculture policy
- delete Clause 22.02 Rural Activity Zone Policy
- delete Clause 22.03 Application Notification
- delete Clause 22.04 Goulburn Valley Highway Environs Policy
- delete Clause 22.05 Car Parking Policy.

2.3 Anomalies

The Amendment also includes various mapping changes intended to correct anomalies and errors identified in the past. These anomalies include the rezoning of various parcels of public land.

3 Planning context

Council provided a response to the Strategic Assessment Guidelines as part of the Explanatory Report.

The Panel has reviewed Council's response and the policy context of the Amendment, and has made a brief appraisal of the relevant zones and other relevant planning documents.

3.1 Policy framework

3.1.1 State Planning Policy Framework

The Panel has had regard to the following clauses in the State Planning Policy Framework (SPPF):

- 11.02-1 Supply of urban land
- 11.07-1 Regional planning
- 11.12 Hume
- 13.03-1 Use of contaminated and potentially contaminated land
- 13.05-1 Bushfire planning strategies and principles
- 14.01-1 Protection of agricultural land
- 16.02-1 Rural residential development
- 19.03-6 Pipeline infrastructure.

Where relevant, the Panel discusses these clauses in chapters 4 to 6.

3.1.2 Local Planning Policy Framework

Although the Amendment makes comprehensive changes to the Local Planning Policy Framework (LPPF), various elements are retained and are relevant to the Amendment and submissions. These include the following clauses:

- 21.04-1 Key Issues and Challenges (Housing in rural areas)
- 21.04-4 Settlement Strategies (Cobram and Numurkah)
- 21.05-1 Key Issues and Challenges (Agriculture)
- 22.01 Agricultural Policy.

The Panel is satisfied that the Amendment is generally consistent with the elements of the LPPF that are to be retained.

3.2 Planning scheme provisions

3.2.1 Zones

The Amendment applies a range of zones; however, the key zones are the Rural Living Zone (RLZ), Low Density Residential Zone (LDRZ) and the Township Zone (TZ).

The purposes of the RLZ are:

To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

To provide for residential use in a rural environment.

To provide for agricultural land uses which do not adversely affect the amenity of surrounding land uses.

To protect and enhance the natural resources, biodiversity and landscape and heritage values of the area.

To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.

The schedule to the RLZ applies an 8 hectare ‘minimum subdivision area’ and ‘minimum area for which no permit is required to use land for a dwelling’.

The purposes of the LDRZ are:

To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

To provide for low-density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater.

The LDRZ provides for 0.4 hectare lots (or greater) that do not have reticulated sewerage and 0.2 hectare lots (or greater) that are connected to reticulated sewerage.

The purposes of the TZ are:

To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

To provide for residential development and a range of commercial, industrial and other uses in small towns.

To encourage development that respects the neighbourhood character of the area.

To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

3.3 Ministerial Directions and Practice Notes

3.3.1 Ministerial Directions

The Panel has considered the Amendment against the following Ministerial Directions.

The Form and Content of Planning Schemes (s7(5))

The Amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes under Section 7(5) of the Act.

Ministerial Direction No 1 – Potentially Contaminated Land (MD1)

The submission from the Environment Protection Authority raised issues related to ‘potentially contaminated land’ that are discussed in chapter 5.7 of this report.

Ministerial Direction No 11 - Strategic Assessment of Amendments (MD11)

The Amendment is consistent with Ministerial Direction 11 (Strategic Assessment of Amendments) and Planning Practice Note 46 (Strategic Assessment Guidelines)⁷.

3.3.2 Planning Practice Notes

Planning Practice Note: Public Land Zones (PPN02)

Submissions raised issues related to the application of 'public land zones' that are discussed in chapter 5 of this report.

Planning Practice Note: Writing a Municipal Strategic Statement (PPN04)

The Amendment is generally consistent with PPN04.

General Practice Note: Potentially Contaminated Land (GPN30)

Submissions raised issues related to 'potentially contaminated land' that are discussed in chapter 5.7 of this report.

Planning Practice Note: Rural Residential Development (PPN37)

Council provided an assessment of the Amendment against PPN37. The Panel is satisfied that the Amendment is generally consistent with the Practice Note.

Planning Practice Note: Local planning for bushfire protection (PPN64)

Submissions raised issues related to the 'bushfire' provisions in the Amendment that are discussed in chapter 5 of this report.

3.4 Conclusion

The Panel concludes that the elements of the Amendment that it has considered are generally supported by, and implement, the relevant sections of the State and current Local Planning Policy Framework. However, some submissions raised issues that are relevant to various Ministerial Directions and Practice Notes and are discussed in the following chapters.

⁷ An updated Planning Practice Note: Strategic Assessment Guidelines was released following the Hearing.

4 Township issues

4.1 Bundalong

4.1.1 The issue

The issue is what zones should apply in Bundalong.

The current zoning in Bundalong is a mixture of Low Density Residential Zone (LDRZ), Rural Activity Zone (RAZ) and Farming Zone (FZ). The Amendment proposes to extend the LDRZ to the south and north-west, and apply the Township Zone (TZ) to two parcels of land as shown on Figure 2. It also includes the Bundalong Framework Plan at Clause 21.07-6 (refer to Figure 3), together with various implementation actions.

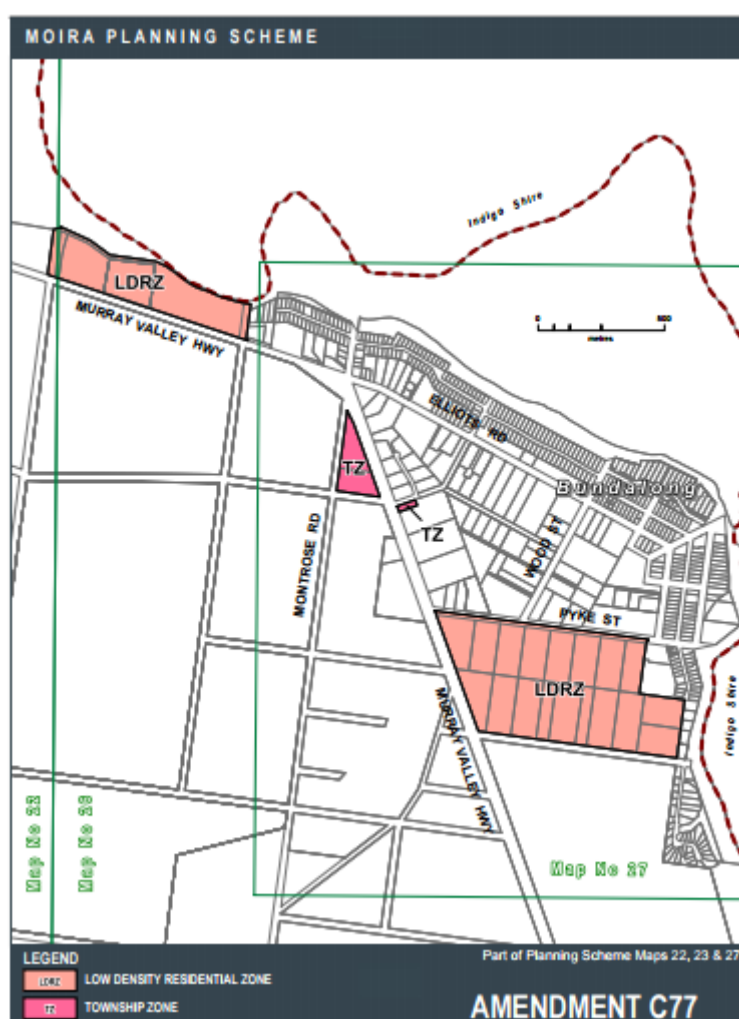


Figure 2 Bundalong – exhibited zonings

The MSTSSP identifies Bundalong as a ‘village’ and describes its ‘main features’ as follows:

- Population of 336 (2011 Census of Population and Housing)
- 15 kilometres east of Yarrawonga
- Located adjacent to Ovens River

- Significant tourist destination with many dwellings being used as holiday homes
- Fastest growing small town in the Moira Shire
- Previously adopted Bundalong Strategy encouraged expansion

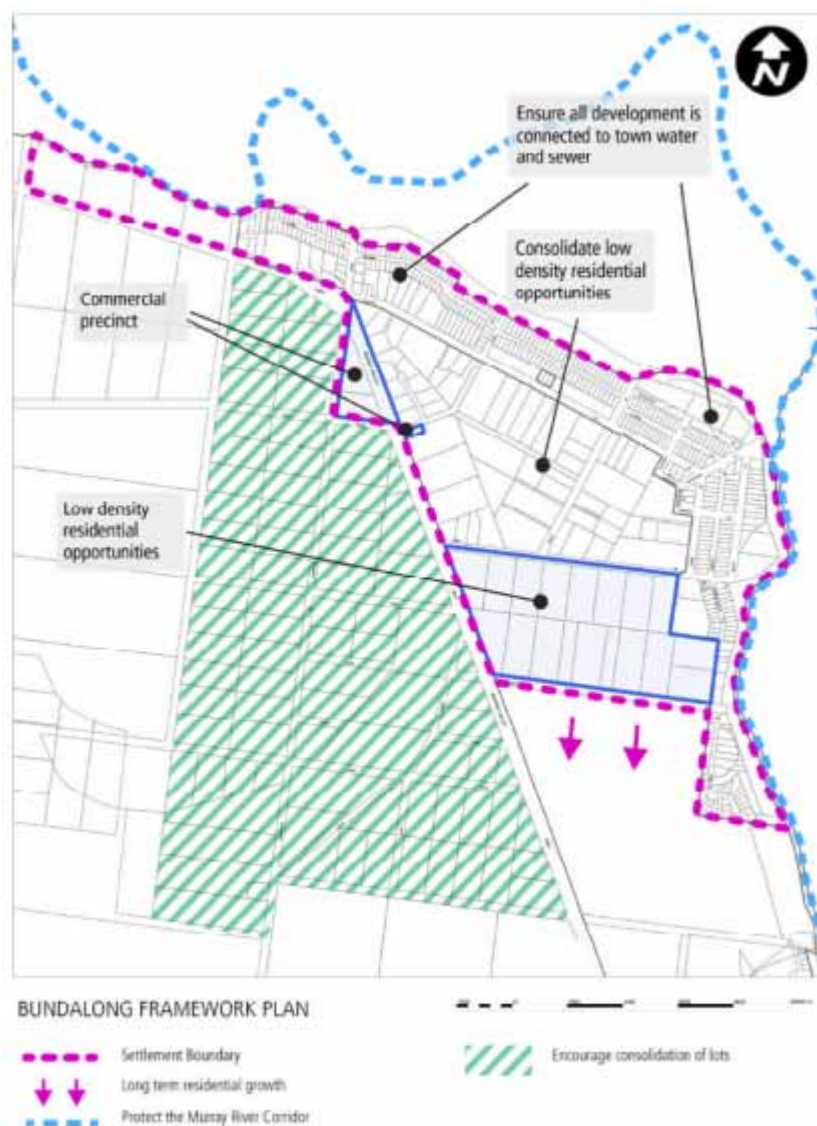


Figure 3 Exhibited Bundalong Framework Plan

The MSTSSP also notes that the village has reticulated water and sewerage and a range of commercial and community facilities.

Bundalong was the subject of the Bundalong Structure Plan that was adopted by Council in 2007, but not implemented.

Bundalong was also referred to in the Panel report for Amendment C51⁸ that was one of a group of regional amendments that implemented a regional rural land use strategy. That report considered issues associated with land use and zoning in Bundalong and

⁸ Moira Planning Scheme Amendment C51 Panel Report 26 March 2012

recommended that Council work with the then Department of Planning and Community Development to undertake strategic planning for the area.

4.1.2 Submissions and evidence

The Bundalong elements of the Amendment attracted several submissions, most of which supported the Amendment, with some promoting more intensive development and seeking a 'residential' or 'township' zone. One submitter opposed the LDRZ and preferred that it remain 'rural residential'.

Leon Van Ieperen and Peter Elliott made a joint submission at the Hearing and highlighted the development potential of the town. While they supported the exhibited LDRZ, they believed that the TZ should be applied more extensively.

Fiona and Craig Stevens supported the exhibited application of the LDRZ in the north-west of the town, noting that this area has access to reticulated services and has a 'low density residential' character.

Brett Butler was represented at the Hearing by Nick Vlahandreas (Oxley and Company) who called economic evidence from Paul Squires. Mr Butler owns the Bundalong Tavern and associated accommodation units that are proposed to be zoned TZ.

Mr Vlahandreas supported the rezoning of his client's land on the basis that it '*essentially corrects an anomaly and applies a more suitable zone having regard to its use as a tavern and accommodation units*'. He also submitted that the adjoining area to the south of Sullivan Road (partly owned by his client) would be a suitable site for a 'town hub'. He noted that this area had been identified for '*low density residential*' development in the 2007 Bundalong Strategy Plan, which had also found that there is potential for an activity hub/centre in the area. He highlighted that Bundalong is the '*fastest growing small town*' in the Shire and submitted that the Amendment did not recognise or provide for this growth.

Mr Vlahandreas relied on the evidence of Mr Squires who supported the exhibited TZ, but also advocated the application of that zone to the south of Sullivan Road, based on the demand for residential development, the extent of existing infrastructure and the lack of opportunity under the current and exhibited zones to develop a town centre. He also submitted that Council's application of the TZ across the Shire had been inconsistent.

Mr Vlahandreas requested that the Panel support an extension of the TZ to the south of Sullivan Road, but also submitted that if this was considered to be a '*transformation*' of the Amendment, the Panel should recommend that the exhibited Bundalong Framework Plan be changed '*to increase the settlement boundary to facilitate the future rezoning of this land for commercial, social and residential use*'.

Tomkinson Group (on behalf of Papalia Glanvil Cattlin) supported the exhibited LDRZ zoning in the Austins Road area, but suggested that a Development Plan Overlay (DPO) might be a useful mechanism to ensure a functional subdivision layout in the area.

Maureen Winter submitted that 24-26 Austins Road should '*remain rural residential, as it is at present and not be re-zoned*'. Ms Winter submitted that '*closer settlement*' would have a range of negative amenity impacts.

Council supported the exhibited Amendment on the basis that the proposed rezonings were consistent with the MSTSSP. In response to submissions about extending the TZ or applying a DPO, Council advised that it would refer these matters to *'another amendment process'*.

4.1.3 Discussion

Bundalong is a growing community that is well serviced by infrastructure and a range of commercial facilities. Although the town's attributes and infrastructure capacity are noted in the MSTSSP, neither it nor the Amendment provide any significant opportunities for long-term growth, beyond an expansion of the area zoned LDRZ. The Amendment principally updates the zoning to reflect existing land uses and subdivision, rather than provide for future growth. In contrast, the 2007 Bundalong Structure Plan sought to build on the town's potential and provided a plan for future growth. Despite the limited scope of the Amendment, the Panel is satisfied that the exhibited rezonings should proceed because they better reflect existing development, correct various zoning anomalies and at least provide some opportunity for future growth that will take advantage of the town's infrastructure and attractions.

Various submitters sought a broader application of the TZ and greater development potential in recognition of existing infrastructure, recent development rates and anticipated future demand. Based on the material presented to it and from its inspection of the area, the Panel agrees that Bundalong has the capacity to accommodate growth beyond that envisaged in the MSTSSP and provided for in the Amendment, and agrees that it is a desirable residential location that is likely to attract continuing demand for new dwellings.

Mr Vlahandreas submitted that the Bundalong Structure Plan 2007 provided a more appropriate framework for future development and that the Panel should give it reasonable weight because it had been adopted by Council, albeit in 2007. Mr Vlahandreas also submitted that the Structure Plan provided support for additional development and the broader application of the TZ, including the 'town hub' proposal advocated by his client.

While the Structure Plan provides useful background material and one view about how Bundalong might develop, the Panel does not believe that it can attribute the Structure Plan the weight sought by Mr Vlahandreas. Although Council adopted the Structure Plan, it has since decided to base the Bundalong elements of Amendment C77 on the MSTSSP, which is clearly the more 'current' document. Nevertheless, it seems to the Panel that the Structure Plan, in some respects, provides a more comprehensive and progressive plan for Bundalong than the comparatively limited analysis and plan in the MSTSSP. In noting this, the Panel has not formed any views about the merits of the Structure Plan, it is simply contrasting the detail and content of the two documents.

While the Panel acknowledges the submissions that sought a broader application of the TZ, it does not believe that this should occur as part of Amendment C77. As Mr Vlahandreas noted, rezoning additional land TZ could be considered a *'transformation'* of the Amendment and potentially affected parties and stakeholders should have the opportunity to consider any broader application of the TZ. Equally important, there would need to be process by which any additional development opportunities and rezonings were assessed and strategically justified. This would require a broader analysis and process than provided in the MSTSSP.

Mr Vlahandreas suggested that as an interim position, the Bundalong Framework Plan could be amended to expand the Settlement Boundary (refer to Figure 3) to facilitate the future rezoning of his client's land. The Panel does not support this approach because it would preempt the further investigations that would be necessary to identify where and what type of growth should occur, and to more fully explore the town's commercial and community needs, including the 'town hub' proposal.

As the Panel foreshadowed at the Hearing, it believes that Council should prepare a new and more comprehensive structure plan for Bundalong, that expands on the work done in the MSTSSP and addresses the longer-term growth of the town. The Panel also believes that the need for this work should be referenced in Clause 21.07-6 (Bundalong). This work could consider whether a Development Plan Overlay might be warranted in some areas as suggested in the Tomkinson Group submission. It might also consider whether a Restructure Overlay or some other mechanism might be applied to the area outside the Settlement Boundary that has the designation 'Encourage consolidation of lots' on the Bundalong Framework Plan.

For these reasons, it would be premature to identify the area to the south of Austins Road for 'Long term residential growth' until this structure planning is completed and the options for accommodating longer term growth, including consolidation and closer subdivision, are better understood.

In relation to Ms Winter's submission, the Panel agrees that applying the LDRZ to the area north of Austins Road will potentially change the character of that area, but does not believe that the change will be as significant as suggested by Ms Winter. The area already consists of lots generally between 1 and 2.4 hectares and has an existing rural living character. Although the LDRZ will allow further subdivision, the Panel does not believe that the underlying character of the area will fundamentally change.

4.1.4 Recommendation

The Panel recommends:

Include the following text in Clause 21.07-6 (Bundalong) 'Local area implementation':

Prepare and implement a comprehensive structure plan for Bundalong.

Delete the following text from Clause 21.07-6 (Bundalong) 'Local area implementation':

Identify land for future growth to the south.

Delete the 'Long term residential growth' designation from the Bundalong Framework Plan at Clause 21.07-6.

4.2 Bearii

4.2.1 The issue

The issue is what zones should apply in Bearii.

Bearii is currently within the Farming Zone (FZ). The Amendment proposes to apply the Rural Living Zone (RLZ) and Township Zone (TZ) as shown on Figure 4. Council advised that Bearii is an old Crown subdivision.

The MSTSSP identifies Bearii as a ‘hamlet’ and describes its ‘main features’ as follows:

- Population of 136 (2011 Census of Population and Housing)
- 30 kilometres west of Cobram
- Proximity to Ulupna Island & Murray River
- Mixture of temporary and permanent dwelling types
- Holiday makers/campers visiting Murray River.

The MSTSSP also notes that Bearii has no reticulated water or sewerage, and that the only community facility is a hall. There have been few dwelling approvals in recent years and there is an adequate number of vacant lots (and lots capable of re-subdivision) to satisfy projected demand.

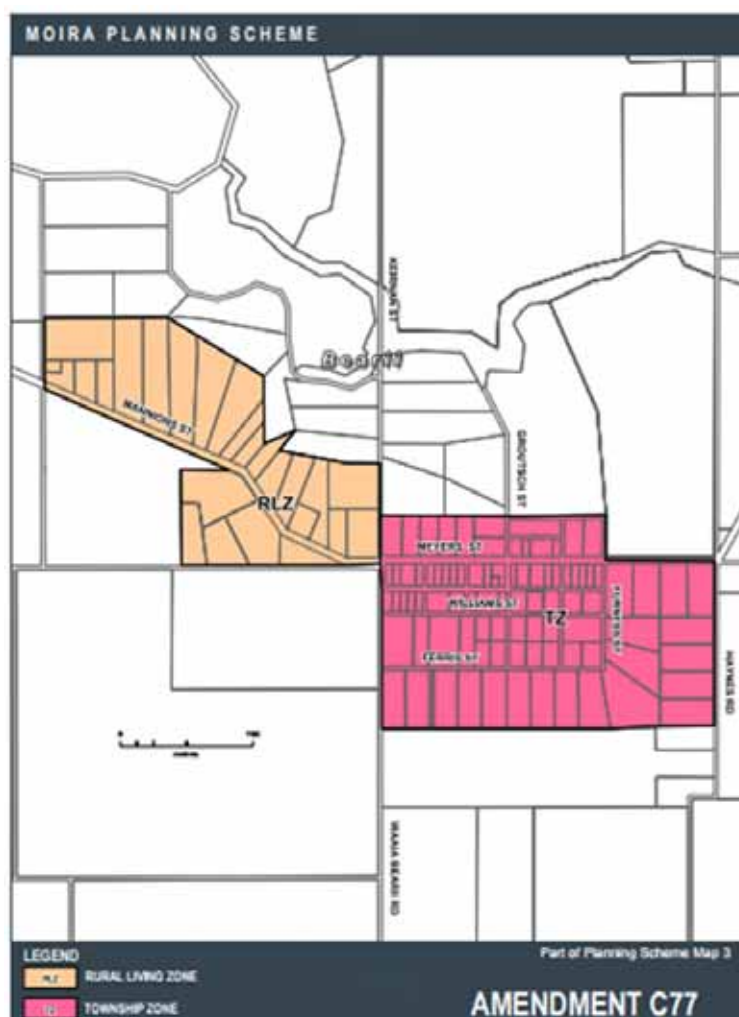


Figure 4 Bearii – exhibited zonings

As discussed in chapter 2, Council commissioned a review of the MSTSSP, resulting in the preparation of the MSTSSP Addendum Report. This report noted the lack of services and the limited demand for dwellings in Bearii and recommended:

Delete the Township Zone from land north and south of Ferris Street and east of Furness Street and replace it with the Rural Living Zone.

Council adopted this recommendation and submitted that the exhibited Amendment should be modified accordingly (refer to Figure 5). As discussed in chapter 1.3, the Panel directed that Council undertake further notification about this proposed change.



Figure 5 Bearii – Council's revised zoning

4.2.2 Submissions

Ronald Nettleton opposed the exhibited rezonings in Bearii and the creation of smaller lots. He noted that that Bearii *'has absolutely nothing to offer'* and has *'no public transport, shop, school etc'*.

Linsey Weppner supported the exhibited application of the TZ in Bearii and to her Ferris Street property, and opposed Council's post-exhibition proposal to replace part of the exhibited TZ with the RLZ. Following the further notification directed by the Panel, Ms Weppner attended the Hearing and outlined her interest in subdividing her property.

Tony and Kim Walker lodged a written submission in response to the further notification directed by the Panel. They supported the exhibited TZ over their Ferris Street property and opposed the RLZ, submitting that they should have the opportunity to subdivide the property. They submitted that further subdivision at Bearii would encourage *'growth in population, rates and revenue'* and would not adversely impact the rural character of the area.

Council submitted that the exhibited Amendment should be modified to reflect the recommendation of the Addendum Report.

4.2.3 Discussion

The proposed application of the TZ in Bearii raises several issues. As Mr Nettleton noted, it has no reticulated water or sewerage, it has no commercial services and the only community facility is a small hall. It is also remote from other towns in the area and the commercial and community services that they provide. Some of the area proposed to be rezoned is subject to restrictive overlays, including the Rural Floodway Overlay, the Land Subject to inundation Overlay and the Environmental Significance Overlay Schedule 2 (refer to Figure 6). There has also been very little demand for development in recent years.

The Panel was advised that existing dwellings source water from bores, although Council was unable to provide any advice about long-term supply capacity and there is no discussion of this in the MSTSSP.

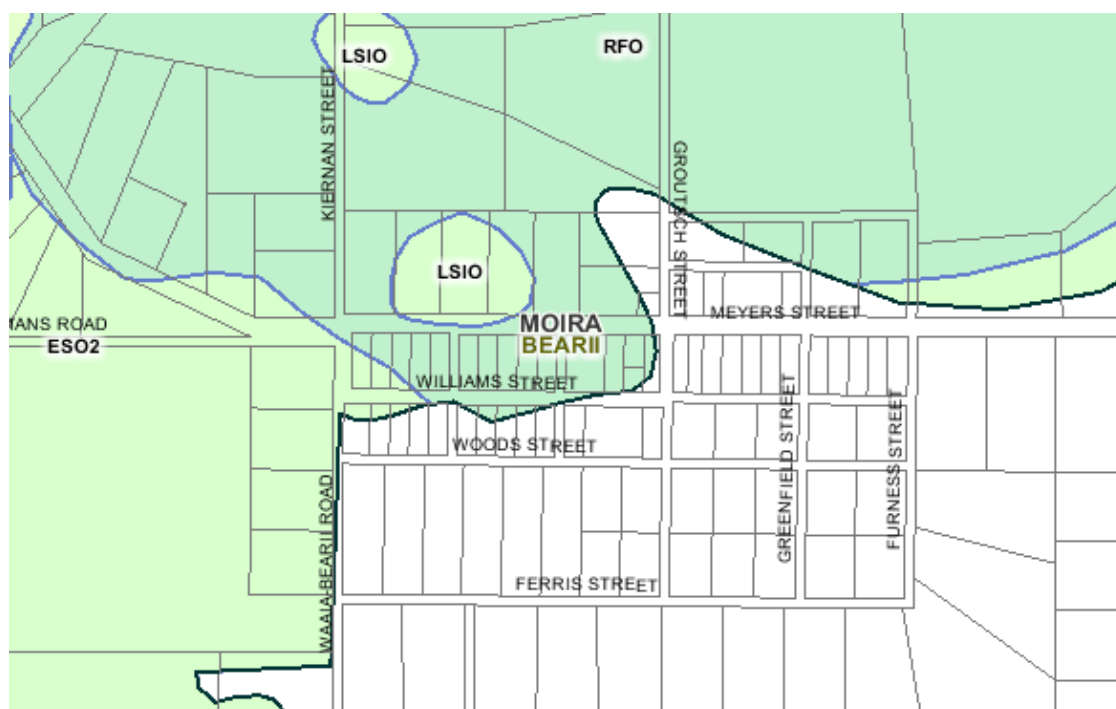


Figure 6 Bearii - Planning Scheme overlays

The exhibited Amendment applied the TZ to approximately 160 hectares, while Council's reduced TZ area is approximately 40 hectares.

The Addendum Report found that reducing the TZ area would reduce the 'theoretical' lot yield from 50 (estimated in the MSTSSP) to approximately 10 lots, assuming a 0.4 hectare subdivision minimum. The Panel has not formed a view about the merits of this assessment, but more fundamentally questions why the TZ is proposed for this area instead of the RLZ or LDRZ in light of the anticipated 0.4 hectare lot size that presumably reflects servicing and environmental constraints.

The TZ is essentially an 'urban' zone and includes the purpose:

To provide for residential development and a range of commercial, industrial and other uses in small towns.

In contrast, the purposes of the LDRZ include:

To provide for low-density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater.

The TZ allows various uses and development (including a dwelling) without a permit and it is not clear that this would be an acceptable approach in a remote, environmentally sensitive area that has few services.

It seems to the Panel that the lack of infrastructure and the environmental constraints, severely limit the capacity of Bearii to support development – particularly conventional urban development typically associated with the TZ. It might have a limited role as a rural living or low density residential area, but it is difficult to see it growing much beyond that in the immediate future.

In particular, the Rural Floodway Overlay is a major constraint on subdivision and development as highlighted by the ‘purposes’:

- *To identify waterways, major floodpaths, drainage depressions and high hazard areas which have the greatest risk and frequency of being affected by flooding.*
- *To ensure that any development maintains the free passage and temporary storage of floodwater, minimises flood damage and is compatible with flood hazard, local drainage conditions and the minimisation of soil erosion, sedimentation and silting.*

The Panel raised these issues during the Hearing and Council responded that the additional development facilitated by the TZ would provide the impetus for establishing infrastructure and providing services. The Panel is not satisfied that this is a sensible approach to planning small settlements or funding infrastructure provision.

Council also submitted that the zoning reflected existing development. While this might be true in relation to the proposed RLZ areas, the link is less obvious in relation to the TZ areas which have a ‘low density residential’ character rather than a ‘town’ character. It seems to the Panel that the LDRZ is a more suitable zone than the TZ.

For these reasons, the Panel does not support the application of the TZ within Bearii, either as exhibited or as now proposed by Council. Council needs to further consider Bearii’s settlement role, its constraints and development capacity, and then determine the appropriate zoning framework, potentially including a mix of LDRZ, RLZ and FZ instead of the TZ. In the interim, the Panel believes that the RLZ should be applied to the areas exhibited as TZ on the basis that the current FZ that applies to these area is inappropriate. The RLZ will better reflect the character of the area and existing housing development than the FZ, and limit future subdivision and development until Council has reviewed the issues affecting Bearii.

It follows that the Panel does not support the Weppner and Walker submissions that supported the TZ and the opportunity to subdivide their properties. The Panel also notes that the opportunity to subdivide Ms Weppner’s property on Ferris Street is constrained by the lack of access to a constructed section of Wood Street (on the northern boundary) as well as by the zoning.

The exhibited RLZ along Mannions Street, to the west, reflects the existing subdivision and development in that area and is a suitable zone. The Panel is satisfied that this should proceed.

Finally, the Panel notes Mr Squires' observation (in relation to Bundalong) about Council's use of the TZ in different towns and that the approach in Bearii contrasts with the approach in Bundalong. Bearii has very little capacity or justification for growth, yet the Amendment seeks to rezone a significant area TZ. Bundalong, on the other hand, has access to reticulated services, commercial and community facilities, and is the fastest growing town in the Municipality, yet the Amendment makes very little provision for growth, other than some additional LDRZ. These differing approaches are a weakness of the Amendment and the MSTSSP, and raise concerns about whether the proposed zoning regimes in other towns (that have not been raised in submissions and considered by the Panel) have similar issues.

4.2.4 Recommendation

The Panel recommends:

Apply the Rural Living Zone instead of the Township Zone in Bearii.

4.3 Cobram

4.3.1 The issues

The issues are:

- whether the references to the Grasso Drive residential area in the exhibited Cobram Framework Plan are correct
- whether there should be changes to the 'retail' provisions in the exhibited Municipal Strategic Statement (MSS)
- the appropriate zoning of 9 Burke Court, Cobram
- the need for additional serviced residential land in Cobram.

4.3.2 Grasso Drive area

(i) Submissions

Briana Barnes (Spiire) made submissions on behalf of Lemon Tree Rise Pty Ltd relating to the designation of an 8 hectare lot on Grasso Drive⁹ in the exhibited Cobram Framework Plan at Clause 21.07. Ms Barnes noted that the Framework Plan legend identifies the land as:

Short term Low Density Residential to provide buffer to farming areas.

Ms Barnes advised that the land is zoned General Residential Zone (GRZ), is subject to the Development Plan Overlay Schedule 8 and a development plan and subdivision application have been prepared for the land. Ms Barnes noted that the current Cobram Town Structure Plan (Map 1 Clause 21.04-5) includes the site within a broader area designated '*Short term residential*', consistent with the Cobram Strategy Plan 2007¹⁰ that identified the land as '*Urban – short term*'. Ms Barnes submitted that the designation on the exhibited Cobram

⁹ Lot 1 on Plan of Subdivision 713446.

¹⁰ Figure 12: Cobram Strategy.

Framework Plan was an error and that the *'short term residential'* designation on the current Cobram Town Structure Plan should be carried over.

Council agreed that the exhibited designation of this area was a drafting error and proposed to replace it with a suitable reference.

(ii) Discussion

The Panel accepts Council's advice on this issue and agrees that the exhibited designation of this land is inappropriate given the current MSS references to *'short term residential'* development and the GRZ zoning.

Council's final Amendment documentation does not address this issue and therefore a separate recommendation is necessary.

(iii) Recommendation

The Panel recommends:

Replace the Grasso Drive area designation *'Short term Low Density Residential to provide buffer to farming areas'* with *'short term residential'* in the Cobram Framework Plan at Clause 21.07-2.

4.3.3 Retailing

(i) Submissions

Debra Butcher (Debra Butcher Consulting) lodged a written submission in relation to retailing in Cobram, and raised issues related to:

- perceived inadequacies in the exhibited Clauses 21.06 (Economic Development) and 21.07-1 (Cobram)
- the deletion of the current strategy in Clause 21.04-4 to *'Undertake a retail/business floor space analysis for Cobram'*
- the inclusion of a *'town retail centre'*¹¹ boundary in the exhibited Cobram Framework Plan at Clause 21.07-1
- the need to review the retail references in the Cobram Structure Plan 2007, and the existing and exhibited MSS retailing provisions.

Council did not support this submission and advised that a draft *'Economic Retail Analysis'* has been prepared for Cobram and Yarrawonga. Depending on the outcome of that process, the retailing provisions in the Planning Scheme might be updated through a future amendment. Council submitted that this project would provide the mechanism to address the issues raised in the submission.

(ii) Discussion

The Panel notes the work being undertaken by Council and agrees that that process would provide the mechanism to review and update the issues raised by Ms Butcher.

¹¹ The reference is *'consolidate town retail centre'*.

In relation to the 'town centre' boundary in the Cobram Framework Plan, this area is not identified in the current Cobram Town Structure Plan but generally reflects the existing area zoned Commercial 1 Zone (C1Z). For this reason, the Panel does not believe that it needs to be removed from the exhibited Cobram Framework Plan. Nevertheless, the Panel notes that the boundary (and the area zoned C1Z) might change following the further work being undertaken by Council.

4.3.4 9 Burke Court, Cobram

Catherine Cole lodged a written submission requesting that 9 Burke Court be zoned '*residential*'. It seems that this lot (or part of it) might be incorrectly zoned Public Park and Recreation Zone, rather than GRZ.

Council should review the zoning of this lot and, if it is wrong, correct it as part of a future amendment.

4.3.5 Residential land supply

Oasis Homes Australia Pty Ltd lodged a comprehensive written submission relating to a lack of serviced residential land in Cobram. The submission expressed dissatisfaction with the adequacy of the Planning Scheme Review Report and Amendment C77, and submitted that the Cobram Structure Plan 2007 should be reviewed as a matter of urgency.

Council submitted that these issues should be addressed as part of a review of the Cobram Structure Plan and advised that a funding bid has been put to Council for the Cobram, Nathalia, Numurkah and Yarrawonga Structure Plans to be reviewed.

The Panel agrees that the issues raised in this submission are best addressed in a review of the Structure Plan and notes that this project has been carried over from the existing MSS to the exhibited Clause 21.03.

4.4 Strathmerton

4.4.1 The issues

The issues include:

- the provision of a 'buffer' between the proposed Township Zone (TZ) on Findlay Street and industrial land to the east
- the implications of the Strathmerton Wastewater Management Facility 'buffer' on the rezoning of land south of Arthur Street, the identification of the 'Settlement Boundary' and the area identified for 'Long term residential expansion' on the Strathmerton Framework Plan.

The exhibited Amendment proposes to apply the TZ to two areas in Strathmerton (refer to Figure 7). The Amendment also proposes to apply the Development Plan Overlay Schedule 13 (DPO13) to vacant land zoned (and proposed to be zoned) TZ north of Findlay Street (refer to Figure 8).

4.4.2 Findlay Street area

The Amendment proposes to rezone land at the eastern end of Findlay Street, Strathmerton from Farming Zone (FZ) to TZ and apply the DPO13 to this land and to land currently zoned TZ north of Findlay Street (refer to Figures 7 and 8).

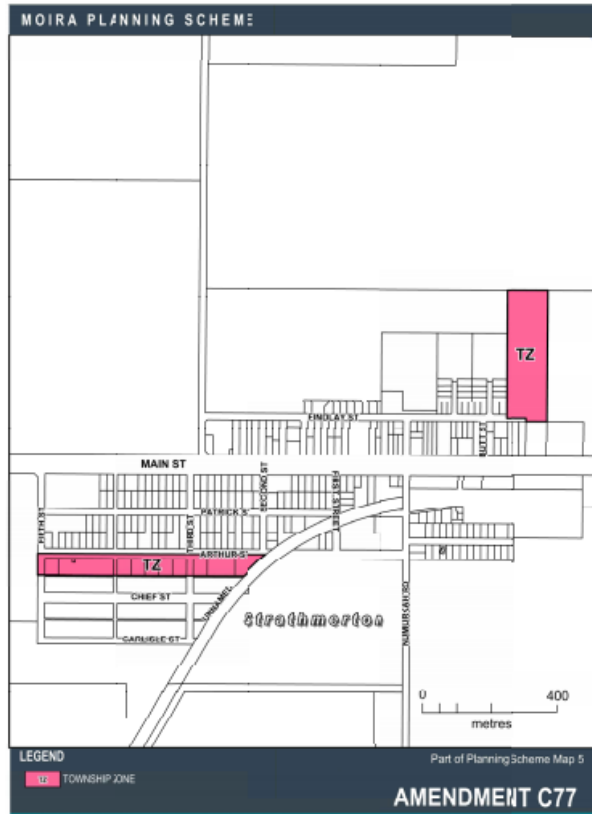


Figure 7 Strathmerton – exhibited Township Zone

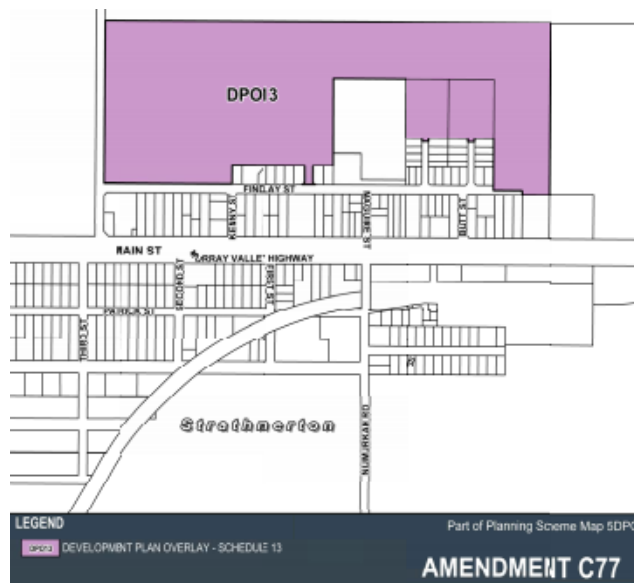


Figure 8 Strathmerton – exhibited DPO13

(i) Submissions

McColl's Transport owns the land proposed to be zoned TZ at the eastern end of Findlay Street. This site is approximately 4.6 hectares of cleared farming land that is part of its larger landholding that includes land to the immediate east that is zoned Industrial 1 Zone (IN1Z) and used for transport/logistics purposes. McColl's opposed the rezoning of its land on the basis that the current FZ provides a better 'buffer' between its 'industrial' activity and future residential development to the west.

The Environment Protection Authority lodged a written submission (discussed in chapter 5.1) that raised general concerns about *'the potential for residential encroachment upon existing industry and important utilities'*.

Council provided a copy of a recent planning permit¹² issued for the McColl's site (including the land proposed to be zoned TZ) allowing the 'Use and Development of a Milk Storage (transfer) Station'. The permit contains several amenity related conditions, addressing traffic, noise, lighting, maintenance, access and landscaping.

Council supported the exhibited TZ rezoning on the basis that it was recommended in the MSTSSP:

Rezone land to the north of the Murray Valley Highway between land zoned Township and Industrial from Farming Zone to Township Zone and apply a Development Plan Overlay.

The MSTSSP noted that applying a DPO would provide a mechanism to address the provision of buffers between industrial and residential uses in the area. It also concluded that there is *'adequate land'* in Strathmerton to cater for expected residential demand over the next 15 years.

The DELWP letter of authorisation required Council to consult with the EPA regarding the proposed rezoning of this site given that it abuts land zoned IN1Z that is used for 'industrial' purposes. During the Hearing, Council advised that it had not had direct contact with the EPA over this issue and that it had not considered the possible implications of Clause 52.10 (Uses with Adverse Amenity Potential). Instead, it relied on the proposed DPO13 to address these issues, although it is not clear to the Panel how it would do so. The DPO13 includes a confusing reference to impacts emanating from the site being rezoned rather than from the industrial area to the east.

(ii) Discussion

It would be sensible planning to provide a buffer between the IN1Z area and developing residential areas to the west. While this could be addressed through a development plan, the Panel agrees with McColl's that the existing FZ over its land already provides a suitable buffer.

In terms of residential land supply, there is a significant area of vacant TZ land to the north of Findlay Street and the MSTSSP did not provide any clear land supply need for rezoning the McColl's land. The Panel is also mindful that considering McColl's opposition to the rezoning

¹² Permit No 5/2015/343 issued on 18 March 2016.

and the recently issued planning permit, it would seem unlikely that the land will be developed for residential purposes if the rezoning proceeds. In this context, it is not clear what Council is seeking to achieve by rezoning the land. If the land is to be used for industrial purposes, there might be merit in considering whether it might be more suitable for an industrial zone (such as the Industrial 3 Zone) rather than a residential zone.

On balance, the Panel does not support the rezoning of McColl’s land at this time, although this does not preclude it being rezoned in the future if circumstances change. It follows that the exhibited DPO13 need not be applied to this site.

(iii) Recommendation

The Panel recommends:

Delete the Township Zone and Development Plan Overlay Schedule 13 from the land owned by McColl’s Transport at the eastern end of Findlay Street, Strathmerton.

4.4.3 Goulburn Valley Water Wastewater Management Facility (WMF)

The Amendment proposes to rezone land south of Arthur Street, Strathmerton from Farming Zone (FZ) to Township Zone (TZ) (refer to Figure 7). It also includes the Strathmerton Framework Plan at Clause 21.07-10 that identifies the area south of Arthur Street for ‘Long term residential expansion’ (refer to Figure 9).

This area seems to have been the subject of recent residential subdivision and development even though it subject to the FZ.

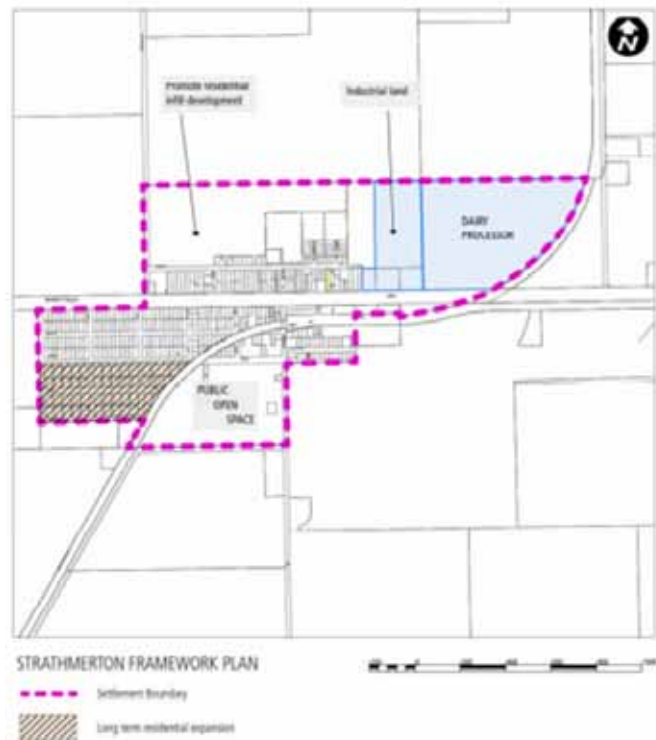


Figure 9 Exhibited Strathmerton Framework Plan

(i) Submissions

Goulburn Valley Water (GVW) lodged a written submission noting that part of the area proposed to be zoned TZ is within the Strathmerton WMF buffer to the south-west of the town. The submission advised that *'GVW's expectation is that no development will occur within the WMF buffer'*. At the Hearing, the Panel directed Council to seek advice from GVW about how the buffer area had been defined.

Following the Hearing, GVW provided Council and the Panel with various documents, including a letter to Council dated 30 November 2015 that outlined an initiative to apply the Environmental Significance Overlay (ESO) to buffer areas around WMFs, including the Strathmerton WMF. The letter included a draft ESO area for the Strathmerton WMF (refer to Figure 10) based on EPA Guideline 1518 – Recommended Separation Distances for Industrial Residual Air Emissions.

The Environment Protection Authority lodged a written submission (discussed in chapter 5.1) that raised general concerns about *'the potential for residential encroachment upon existing industry and important utilities'*.

Council did not support the GVW submission and submitted that the rezoning should proceed because:

- *It is consistent with a recommendation of the small towns strategy*
- *Arthur Street is a sealed residential street with drainage that already supports dwellings on most of the lots impacted by buffer. The retention of the Farming Zone is inconsistent with the type of development in the street.*
- *The buffer is not reflected in the planning scheme by the appropriate overlay control. GVW has not demonstrated what information was used to draft the map attached to the submission.*

Council advised that GVW is currently modelling the buffer around the WMF (and other WMFs) to refine the extent of the area that might be included in a future ESO. Council indicated that it wants GVW to prepare the amendment to implement the ESOs. This is foreshadowed in the current planning scheme which includes the 'Further strategic work' reference at Clause 21.03-6:

- *Investigate the need for "buffer" mechanisms surrounding wastewater treatment plants in the Shire (Prime Responsibility – Goulburn Valley Water);*

(ii) Discussion

The need for mutual protection of sensitive uses (including residential) and WMFs arising from odour impacts is a key planning consideration in State and local policy, including:

- Clause 11.12-4 (Infrastructure) that includes the strategy *'Provide for appropriate settlement buffers around sewerage treatment areas, solid waste management and resource recovery facilities and industrial areas to minimise potential impacts on the environment such as noise and odour.'*
- Clause 13.04-2 (Air quality) that requires planning to have regard to *'Recommended Buffer Distances for Industrial Residual Air Emissions (Environmental Protection*

Authority, 1990) in assessing the separation between land uses that reduce amenity and sensitive land uses'.

- Clause 21.0-3-4 (Environmental Strategies) that includes the strategy 'Maintain appropriate buffer distances between sewerage/wastewater treatment and disposal facilities and other land uses in accordance with EPA guidelines'.



Figure 10 Strathmerton WMF draft ESO area

Although the Strathmerton WMF 'buffer' referred to by GVW is yet to be finalised or implemented in the Planning Scheme, the Panel accepts GVW's advice that the indicative buffer is consistent with the EPA Guideline 1518 and that it is a relevant planning consideration. The Panel also notes that although GVW did not object to the rezoning, it was clear that it opposed residential development within it.

The existence and implications of the buffer are not discussed in the MSTSSP, so it is not clear whether it was a factor in recommending the TZ rezoning or in preparing the Strathmerton Framework Plan.

Considering the State and local policies related to WMF buffers, the Panel believes that it would be premature to rezone land for residential purposes or to identify future residential growth areas where these areas are potentially within the Strathmerton WMF buffer. The future development potential of this area should be reviewed once the buffer is finalised by GVW and implemented as an ESO via a future amendment.

Council indicated that the proposed rezoning reflected existing development, but the area to the south of Arthur Street has not been fully developed and there appear to be vacant lots. Allowing the rezoning to proceed would potentially facilitate additional residential development (sensitive uses) within the buffer, contrary to State and local policies.

Similarly, it would be premature to identify the broader area to the south of Arthur Street for 'Long term residential expansion' on the Strathmerton Framework Plan (refer to Figure 9) until the final extent of the buffer is determined.

This area is partly within the current buffer and is also likely to be partly within the revised buffer given its proximity to the WMF. It follows that it would also be premature to apply the Settlement Boundary in this area that is shown on the Framework Plan. If the WMF buffer precludes or limits further development to the south, Council may need to consider different growth options.

In forming these views, the Panel has been mindful that the MSTSSP did not identify a shortage of residential land¹³ and notes that there is a large area of vacant TZ land to the north of Findlay Street. For these reasons, delaying or not proceeding with the possible rezoning of the land south of Arthur Street until the buffer issue is resolved is not likely to have immediate land supply implications.

The Panel considered whether part of the proposed TZ rezoning should proceed (the area south of Arthur Street but outside the current buffer) but has concluded that until the final buffer area is determined, it would be premature to rezone any of this land. The Panel has also considered whether parts of the Strathmerton Framework Plan could proceed but has concluded that the buffer issue has potential implications for other elements of the Settlement Boundary and the designation of long term growth options. For these reasons, it would be premature to adopt the Framework Plan.

In light of these issues, the Panel encourages Council and GVW to finalise the WMF buffer and implement an ESO as a matter of priority.

(iii) Recommendations

The Panel recommends:

Delete the Township Zone from the area south of Arthur Street, Strathmerton.

Delete the Strathmerton Framework Plan at Clause 21.07-10.

4.5 Koonoomoo

4.5.1 The issue

The issue is whether the proposed Rural Living Zone (RLZ) in Koonoomoo will affect the rural character of the area.

The Amendment proposes to apply the RLZ to various areas around Koonoomoo, including areas of defacto rural living subdivision and development (refer to Figure 11).

4.5.2 Submissions

Council advised that the exhibited zoning map did not include two areas to the north-west of the town (north and south of the Mywee-Koonoomoo Road) proposed to be zoned RLZ (refer to Figure 12). However, the explanatory report that accompanied the Amendment

¹³ The MSTSSP noted that there had been a high number of recent dwelling approvals but calculated that there were approximately 40 vacant lots and approximately 44 hectares of undeveloped land.

listed these additional properties in a table that described the proposed rezonings. Council advised that all the landowners were given notice of the Amendment, but weren't subsequently advised of the mapping error.

Louise Greenwood raised concerns about what the Amendment proposed and the accuracy of the Amendment documentation. Ms Greenwood's property in the area north of the Mywee-Koonoomoo Road that was not included in the exhibited RLZ map, but listed in the Explanatory Report and intended to be rezoned by Council.

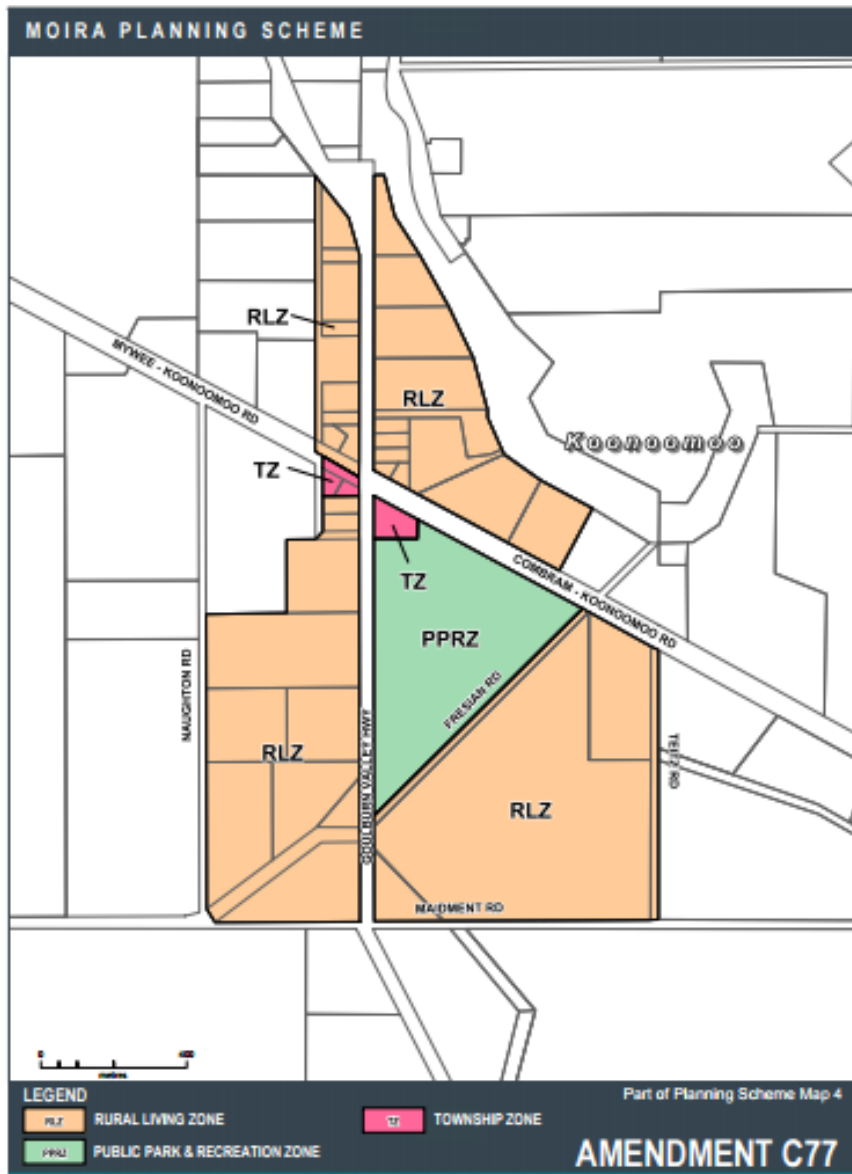


Figure 11 Koonoomoo – exhibited rezonings



Figure 12 Koonoomoo – RLZ areas not included in the exhibited zoning map

Ms Greenwood objected to the application of the RLZ to her property and to the immediate area, citing concerns about further subdivision and additional houses, and the impacts they would have on the rural character of the area.

The MSTSSP recommended that the area to the north of the Mywee-Koonoomoo Road be rezoned RLZ, but did not recommend the rezoning of the area to the south (refer to Figure 13). The MSTSSP Addendum Report reviewed the rezoning proposals for Koonoomoo and supported the Amendment, but the review seems to have been based on the exhibited zoning plan and it is not clear whether it included the two areas not included on the exhibited zoning plan.

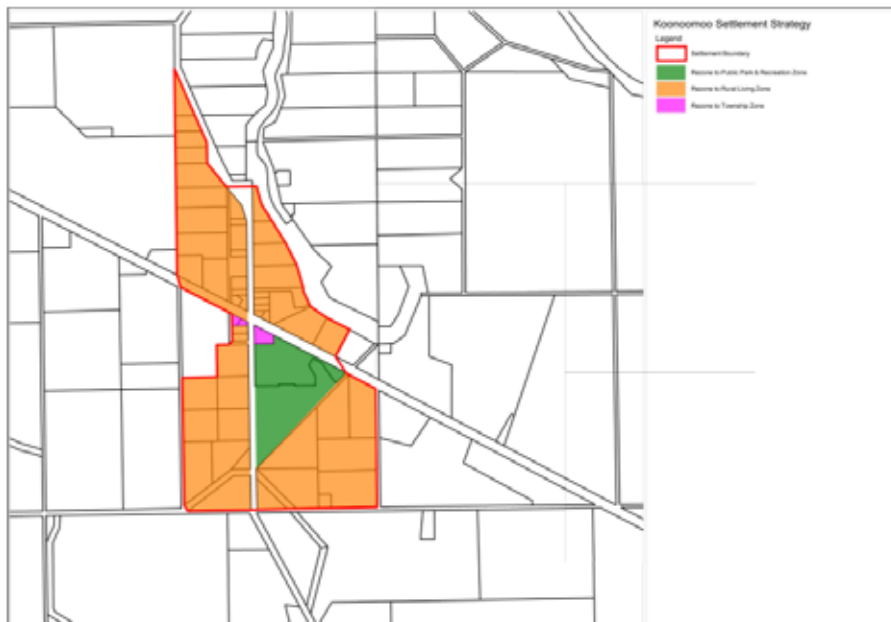


Figure 13 Koonoomoo – MSTSSP Settlement Strategy

In relation to Ms Greenwood’s concerns about the rural character of the area, Council submitted that the RLZ was being applied to areas that have an existing rural residential

character and that the 8 hectare subdivision minimum would limit the scope for further subdivision and housing in the area.

4.5.3 Discussion

Ms Greenwood's submission expressed understandable confusion about the extent of the proposed RLZ in Koonoomoo given the mapping error. In response, Council indicated that it was confident that all the affected landowners are aware of the additional two areas intended to be rezoned, but not included on the zoning map.

Although this mapping error does not invalidate this element of the Amendment, the Panel is reluctant to support these additional RLZ rezonings considering its uncertainty about whether all of the landowners were aware of the proposed change. As evidenced by Ms Greenwood's submission, it is possible that other landowners might have concerns about the rezoning of these areas. The Panel also notes that the MSTSSP did not recommend the rezoning of the lot on the south side of the Mywee-Koonoomoo Road, so the strategic justification for rezoning this lot is unclear.

The rezoning of these two areas also raises potential issues related to Ministerial Direction No 1 Potentially Contaminated Land (MD1). The area to the south of Mywee-Koonoomoo Road is used as an orchard, while the area to the north has been used for strawberry farming/market gardening. As discussed in response to the Environment Protection Authority submission (chapter 5.7 of this report), Council needs to satisfy itself that the rezoning of these areas (and other rezonings that will allow sensitive uses) are consistent with MD1.

In relation to Ms Greenwood's concerns about impacts on the rural character of the area, the Panel notes that her property is within an area that has been subdivided and developed, and has an existing rural residential rather than rural character. In light of the 8 hectare minimum lot size in the RLZ schedule, it is unlikely that any further subdivision or housing development (if possible) will have a noticeable impact on the existing character of this area. In this context, the Panel is satisfied that the RLZ is a suitable zone for this area.

However, Council should confirm that all other landowners are aware of and support the rezoning before adopting this element of the Amendment. In doing so, Council should note that the Panel has considered the amenity concerns expressed by Ms Greenwood and does not agree that they preclude the rezoning from being adopted. Council should also address the potential contamination issues discussed in chapter 5.7 of this report.

4.5.4 Recommendation

The Panel recommends:

Before adopting the Amendment, Council should consult with the owners of land in Koonoomoo that was intended to be zoned Rural Living Zone but not included in the exhibited map. Council should explain the extent of the proposed rezoning and confirm that the landowners support the rezoning.

4.6 Yarrawonga

4.6.1 The issue

The issue is whether references to encouraging the relocation of grain bunkers in Yarrawonga should be deleted from the Amendment.

The exhibited Yarrawonga Framework Plan at Clause 21.07-2 (Yarrawonga) includes the notation '*Encourage relocation of grain bunkers*' at 95 Benalla–Yarrawonga Road, Yarrawonga.

The current Clause 21.04-4 (Yarrawonga) includes the strategy:

- *Facilitate the relocation of the grain bunkers west of Benalla Road.*

The current Yarrawonga Town Structure Plan (21.04-5 Map 3.2) includes the notation:

Encourage relocation of grain bunkers

4.6.2 Submissions

GrainCorp Operations Limited (GrainCorp) opposed the reference to relocating the grain bunkers in the exhibited Yarrawonga Framework Plan. GrainCorp noted the similar reference in the current Planning Scheme and submitted that it was outdated and confusing, and that it had not been consulted '*regarding its initial inclusion*'. GrainCorp submitted that the reference was based on an incorrect perception that there was a shortage of industrial land in Yarrawonga.

GrainCorp also submitted that Council should consider rezoning the Yarrawonga West area for industry, citing its direct access to the Murray Valley Highway and railway.

Council supported the deletion of the 'relocation' reference, but did not support the rezoning of the Yarrawonga West area because it had not been exhibited.

Council also advised that a recent planning permit application for an expansion of the facility had attracted amenity related objections.

4.6.3 Discussion

The Panel does not support deleting the reference to relocating the grain bunkers as part of Amendment C77. It is an existing Planning Scheme strategy and the Panel was not presented with any Council analyses of why the strategy is in the Planning Scheme or why it should be removed. The Panel is also mindful that the GrainCorp facility is adjacent to an established residential area (to the west of Pearce Street) and it is conceivable that local residents would have an interest in the future of the facility. Those residents and other stakeholders should have the opportunity to comment on the proposed deletion of the strategy. If Council wishes to delete the strategy, it should do so through a future amendment, after considering the strategic merits and implications of doing so.

For these reasons, the Panel concludes that the reference to removing the grain bunkers should be retained in the exhibited Yarrawonga Framework Plan. This change was not included in the final Amendment documentation appended to Council's Part A submission and does not require a separate recommendation to retain it.

In relation to applying an industrial zoning in Yarrawonga West, this would also need to be pursued through a future Amendment, subject to the rezoning being strategically justified. The Panel would expect that such a potentially significant rezoning would need to be considered as part of a broader review of the Yarrawonga Structure Plan.

4.7 Numurkah

4.7.1 The issue

The issue is whether the Numurkah Structure Plan should be modified to change the references to future residential development.

The Amendment includes the Numurkah Framework Plan and supporting material at Clause 21.07-3.

The current Planning Scheme contains the Numurkah Town Structure Plan (Clause 21.04-5 Map 3.4) and various strategies at Clause 21.04-3.

The Panel understands that the exhibited Numurkah provisions are intended to be a ‘policy neutral’ translation and repositioning of the existing provisions.

4.7.2 Submissions

Peter Mapletoft provided comments about Amendment C20 Part 2 and the associated Panel report relating to Numurkah. Council submitted that the issues raised by Mr Mapletoft could not be addressed as part of Amendment C77, but that his comments were noted.

Peter McDougall submitted that there was a need for additional residential land in Numurkah. He advocated the residential rezoning of land in the north of the town along the Numurkah Road, north of the High School.

Council supported this submission, in part, and proposed that the exhibited Numurkah Framework Plan be modified to replace the designation ‘Long Term Residential’ with ‘Future Residential Growth Opportunities’. Council submitted that this would *‘remove the timing issue however it would still be the responsibility of the landowner to initiate an amendment to rezone the land’*. Council also advised that a review of the Numurkah Structure Plan will be completed *‘in the next 2-3 years’*.

4.7.3 Discussion

The Panel agrees with Council that Mr Mapletoft’s submission raises issues that cannot be addressed as part of Amendment C77.

In relation to Mr McDougall’s submission, the Panel agrees with Council that the rezoning of land for residential purposes cannot proceed as part of Amendment C77. It would need to be exhibited as part of a future amendment and be strategically justified, potentially as part of a review of the Numurkah Structure Plan.

The Panel also does not support changing to the exhibited Yarrawonga Framework Plan because:

- the Framework Plan was intended to be a ‘policy neutral’ carry-over of the current Structure Plan

- the proposed change was not exhibited and other parties have not had the opportunity to review or comment on it.

The Panel does not believe that retaining the existing 'Long Term Residential' designation would preclude the rezoning of this area. The change to 'Future Residential Growth Opportunities', as sought by Council, could form part of a 'rezoning' amendment initiated by the landowner or could be implemented following the review of the Numurkah Structure Plan. Both approaches will provide an opportunity for other parties to comment.

Council's proposed change was not included in its final version of the Amendment and does not require a recommendation that it be removed.

5 Agency submissions

5.1 Environment Protection Authority

5.1.1 The issues

The issues are whether the Amendment adequately responds to:

- the potential contamination of land being rezoned
- the desirability of providing buffers between sensitive uses and industrial activity and wastewater management facilities.

5.1.2 Submissions

The Environment Protection Authority (EPA) lodged a written submission that raised issues about potentially contaminated land and buffer areas to industry and public utilities.

In relation to potentially contaminated land, the EPA submitted:

Given the amendment aims to rezone parcels of land to a sensitive use at various locations across the shire, it is recommended that Council consider the requirements of Ministerial Direction No. 1 Potentially Contaminated Land prior to any rezoning. ... It is possible that some parcels of land may have levels of contamination due to prior activity; such as intensive agriculture, fuel storage for agricultural purposes, waste management and possibly asbestos from buildings. An environmental assessment to determine risks is recommended.

In relation to buffer areas, the EPA noted the ‘potential for residential encroachment upon existing industry and important utilities’ and that ‘amenity conflicts result in existing industry and utilities experiencing community pressure to reduce operations or move to another location’. The EPA encouraged Council to apply a ‘precautionary approach’ to these issues.

Council noted the submission, but did not provide specific responses to the contamination and buffer issues raised by the EPA.

5.1.3 Discussion

(i) Potential contamination

Council advised that it had not given any specific consideration to the potential contamination of land proposed to be rezoned by the Amendment or to Ministers Direction No 1 Potentially Contaminated Land (MD1). The Panel was also unable to find any reference to contamination issues or MD1 in the MSTSSP, the MSTs Context Report or the Addendum Report.

MD1 requires that:

In preparing an amendment which would have the effect of allowing (whether or not subject to the grant of a permit) potentially contaminated land to be used for a sensitive use, agriculture or public open space, a planning authority must satisfy itself that the environmental conditions of that land are or will be suitable for that use.

General Practice Note 30 Potentially Contaminated Land (GPN30) provides guidance on how to apply MD1, how to identify potentially contaminated land and identifies land uses that have potential for contamination. For example, GPN30 identifies land uses such as 'market gardens' that have 'medium potential for contamination' resulting from incidental activities.

The Panel has not reviewed the various sites and areas being rezoned in the context of MD1, although it notes from its inspections of some areas that the types of agricultural activities referred to by the EPA and in GPN30 may have occurred. For example, land to the west of Koonoomoo that is proposed be rezoned from Farming Zone to Rural Living Zone¹⁴ has been and is being used as an orchard and for strawberry farming (and possibly market gardening). The rezoning of this land might warrant consideration of MD1.

The Panel raised this issue during the Hearing and outlined the requirements of MD1 and the need for Council to give this issue further consideration before adopting the Amendment. The Panel also suggested that Council approach the EPA to discuss this issue and how it might be addressed.

(ii) Buffers

The Panel notes the EPA's comments in relation to industrial and utility buffers, and has had regard to them in relation to the proposed Township Zone in Strathmerton discussed in chapter 4.4 of this report.

5.1.4 Recommendation

The Panel recommends:

Before adopting the Amendment, Council should satisfy itself that the Amendment is consistent with Ministers Direction No 1 Potentially Contaminated Land and General Practice Note 30 Potentially Contaminated Land. In doing so, Council should consult with the Environment Protection Authority.

5.2 Department of Education and Training

5.2.1 The issue

The issue is whether the Wunghu, Tungamah, Waaia, Invergordon, Katamatite and Katunga primary schools should be rezoned Public Use Zone Schedule 2 (PUZ2).

The Amendment proposes to rezone these sites to PUZ2 from a range of existing zones.

5.2.2 Submissions

Geffrey Mills (on behalf of the Department of Education and Training) objected to the rezoning of the Wunghu, Tungamah, Waaia, Invergordon, Katamatite and Katunga primary schools to PUZ2.

Mr Mills submitted that *'if these schools were to close in the future, and be declared surplus to education requirements, they would need to be rezoned if they were not in the appropriate zone'*. Mr Mills advised that this was consistent with the Victorian Government

¹⁴ Refer to chapter 4.5.

Landholding Policy and Guidelines, August 2015. He also outlined the time and costs associated with rezoning former school sites.

Council did not support this submission, noting that the rezonings were recommended in the MSTSSP and submitting that the PUZ2 was the appropriate zone for primary schools.

5.2.3 Discussion

At the Directions Hearing, the Panel directed that Council respond to Planning Practice Note 2 Public Land Zones (PPN02) in relation to various submissions from public land managers.

PPN02 guides the application of the PUZ to public land, including the circumstances under which it should be applied. It also encourages planning authorities to consult with the public land manager to determine the most appropriate zone.

In relation to 'Using other zones', PPN02 includes:

Although the public land zone makes provision for its potential application to public land used for the purpose of 'education', most schools could be included in surrounding zones, particularly residential zones.

Considering Mr Mills' submission and his advice about the Victorian Government Landholding Policy and Guidelines, the Panel supports the retention of the existing zones over these sites. The Panel is satisfied that this approach is consistent with PPN02.

5.2.4 Recommendation

The Panel recommends:

Retain the existing zoning of the Wunghu, Tungamah, Waaia, Invergordon, Katamatite and Katunga primary schools.

5.3 North East Water

5.3.1 The issues

The issues are:

- whether Clause 21 should be changed
- whether North East Water infrastructure should be rezoned.

5.3.2 Submissions

North East Water (NEW) proposed several changes to the Amendment, including:

- various additions, updates and corrections to Clause 21
- the rezoning of various NEW assets to Public Use Zone 1 (PUZ1).

Council generally supported the proposed changes to Clause 21 sought by NEW and included them in its revised version of the Amendment submitted with its Part A submission. Council did not support the inclusion of the NEW Urban Water Strategy as a reference document because it is in 'draft form' and 'does not have a nexus to the planning scheme'.

Council also did not support the rezoning of NEW infrastructure because they 'have not been exhibited and can be addressed as part of the NEW sponsored amendment to address buffers around these facilities'.

Following the Hearing, the Panel sought a copy of the maps referred to in the NEW submission that showed the locations of NEW assets and infrastructure that it proposed for rezoning. The Panel was also advised by NEW that it had lodged a draft amendment (C86) with Council that sought to apply the Environmental Significance Overlay to NEW assets. NEW did not want to delay that amendment by including the rezoning of its sites. Council indicated at the Hearing that these rezonings should be advanced through Amendment C86 rather than C77, given that they had not been exhibited.

5.3.3 Discussion

The Panel has reviewed the changes to Clause 21 sought by NEW and those supported by Council, and supports Council's agreed changes. They will update and refine various policy references in the Municipal Strategic Statement without changing its strategic intent. The Panel also agrees with Council that the draft NEW Urban Water Strategy should not be a reference document – it does not appear to have been used to inform the preparation of the Amendment and it is not known what the document contains, how it might be used, or what 'planning' impacts it might have. The potential 'planning' relevance of the document is a matter that Council might consider as part of the next Planning Scheme review.

In terms of the zoning of NEW infrastructure, the Panel agrees with Council that the additional rezonings sought by NEW should go through a formal exhibition process and it seems logical to do that as part of draft Amendment C86. It is not clear to the Panel that adopting this approach will significantly delay Amendment C86, although this is a matter for NEW and Council.

5.4 Department of Environment, Land, Water and Planning

5.4.1 The issues

The issues are:

- whether Clause 21 should be changed
- whether exhibited Crown land rezonings should be modified.

5.4.2 Submissions

The Department of Environment, Land, Water and Planning (DELWP) sought various corrections to the rezoning of Crown land included in the exhibited Amendment.

DELWP also provided comments on the Planning Scheme Review Report relating to extending the Environmental Significance Overlay Schedule 1 (ESO1) to other waterways, reinforcing that risk of bushfire risk extends beyond the Murray River corridor and the potential implications of irrigation technology, including travelling irrigators.

Council agreed to correct the rezoning errors, noting that these rezonings were already included in the Amendment. Council also noted DELWP's comments on the Planning Scheme Review report and agreed to revise the references to bushfire risk in Clause 21.05-5 (Fire).

5.4.3 Discussion

The Panel supports the zoning corrections sought by DELWP and agreed to by Council. This situation is different to the rezoning of NEW infrastructure discussed earlier, given that the

changes sought by DELWP are relatively minor corrections and additions to what was exhibited. These changes are appended to Council's Part A submission and do not require a separate recommendation.

DELWP's other comments are related to the Planning Scheme Review Report rather than the Amendment, although the Panel notes that Council has proposed various changes to Clause 21.05-5 in response to the DELWP and Country Fire Authority submissions.

5.5 Goulburn Broken Catchment Management Authority

5.5.1 The issue

The issue is whether Clause 21 should be changed.

5.5.2 Submissions

The Goulburn Broken Catchment Management Authority (GBCMA) proposed various additions and corrections to Clause 21.

Council supported the submission, in part, and proposed various changes in its final version of Clause 21.

5.5.3 Discussion

The Panel has reviewed the changes to Clause 21 sought by GBCMA and those supported by Council, and supports Council's agreed changes. They will update and refine various policy references in the Municipal Strategic Statement without changing its strategic intent. The Panel does not support the inclusion of additional reference documents as sought by GBCMA that are in draft form, are being developed or have not informed the content of the Planning Scheme.

5.6 Country Fire Authority

5.6.1 The issue

The issue is whether the Amendment adequately addresses bushfire risk.

5.6.2 Submissions

The Country Fire Authority (CFA) lodged a written submission during the exhibition of the Amendment in which it sought various changes to the exhibited Clause 21.05-5 (Fire). Following its consideration of this submission and the DELWP and GBCMA submissions discussed earlier, Council proposed various changes to this clause.

Darren Viney represented the CFA at the Hearing and provided an overview of bushfire hazard in the Municipality. Mr Viney also highlighted two recent grassfires that occurred in 2014.

The CFA supported Council's proposed revisions to Clause 21.05-5, although it sought additional text acknowledging '*the hazard of extensive grassland areas, particularly at the urban/grassland interface of existing settlements*'. It also sought the inclusion of the following additional objectives/strategies:

- *Strengthen community resilience to bushfire by ensuring that bushfire and grassland protection measures are considered and given effect to in large subdivisions outside of the Bushfire Management Overlay*
- *Ensure that in areas outside of the Bushfire Management Overlay bushfire protection measures are considered for development which may be occupied by potentially vulnerable people*
- *Consider the cumulative impact of decisions that may intensify the permanent, seasonal or temporary population in areas of significant fire risk*
- *Consider avoiding new development in areas where planned bushfire protection measures may be incompatible with the natural environment, landscape and biodiversity values.*

Council did not offer a view on the merits of the additional changes sought by the CFA at the Hearing and sought the views of the Panel.

Council advised that none of the areas proposed to be rezoned in the Amendment are within the proposed Bushfire Management Overlay (BMO) areas.

5.6.3 Discussion

The Panel agrees with the CFA and DELWP that Clause 21.05-1 should more fully describe the extent of bushfire hazard in the Municipality. Although Council has partly addressed this in its revisions, the Panel believes that the Overview should include reference to the 'urban/grassland interface'.

The Panel has reviewed the additional objectives/strategies sought by the CFA and does not believe that they add any significant value to the existing provisions in the SPPF (Clause 13.05 Bushfire) and the proposed MSS provisions. However, the Panel believes that an additional strategy should be included that addresses the 'grassfire' issue raised by the CFA.

5.6.4 Recommendation

The Panel recommends:

Replace the Overview in Clause 21.05-5 (Fire) with:

Fire risk is a significant issue in vegetated riverine areas and isolated bushland areas. Fire risk is also an issue in agricultural areas and grasslands, particularly at the urban/grassland interface of settlements.

Include the following additional strategy in Clause 21.05-5 (Fire):

Strategy 1.2 Consider the need for and implementation of bushfire and grassfire protection measures outside the Bushfire Management Overlay.

5.7 Goulburn-Murray Water

5.7.1 The issue

The issue is whether the Amendment should rezone land on the Lake Mulwala foreshore at Yarrawonga from Public Conservation and Resource Zone (PCRZ) to Public Park and Recreation Zone (PPRZ).

The exhibited Amendment does not affect this land.

5.7.2 Submissions

Goulburn–Murray Water (GMW) requested that public land on the Lake Mulwala foreshore, between Belmore Street and Woods Road, Yarrawonga, be rezoned from PCRZ to PPRZ. GMW submitted that the PPRZ would better reflect the use and character of the land.

Council did not support this submission because the rezoning had not been exhibited and GMW had not identified the precise area to be rezoned. Council advised that officers had met on-site and that GMW had been advised to *'commence its own amendment'*. Council also submitted that the proposal was not a *'zone anomaly'*, and might have a *'more strategic impact that should be considered further'*.

5.7.3 Discussion

The Panel agrees with Council's assessment of this submission and encourages it to continue working with GMW to determine the most appropriate zoning for this area. If a rezoning is warranted it should be progressed through a future amendment.

5.8 Department of Economic Development, Jobs, Transport and Resources

5.8.1 The issue

The issue is whether the Amendment should give greater recognition to public transport.

5.8.2 Submissions

The Department of Economic Development, Jobs, Transport and Resources (DEDJTR) sought various changes to the Amendment, including:

- a minor change to Development Plan Overlay Schedule 13 (DPO13) relating to the design of roads
- a minor change to Clause 21.07 relating to access.

Council supported the submission and agreed to change DPO13 and Clause 21.07. These changes are included in Council's final version of the Amendment.

5.8.3 Discussion

The proposed changes to the DPO13 and Clause 21.07 will provide greater clarity around the design of roads and the location of medium density housing, and are supported. The Panel does not believe that the proposed changes are of a nature or significance that require further notification.

6 Other issues

6.1 Rutherglen-Koonoomoo high pressure gas transmission line

6.1.1 The issue

The issue is whether the Amendment should include additional provisions relating to the protection of the Rutherglen-Koonoomoo high pressure gas transmission line.

6.1.2 Submissions

APA VTS Australia (Operations) Pty Ltd (APA) submitted that the Municipal Strategic Statement should include additional material relating to 'development around pipelines'. APA outlined planning and safety issues associated with high pressure gas transmission pipelines (HPGTP) and specifically the Rutherglen-Koonoomoo HPGTP.

APA noted that there is no direct link between Clause 19.03-6 (Pipeline infrastructure) in the State Planning Policy Framework (SPPF) and the exhibited Municipal Strategic Statement (MSS). APA proposed some additional MSS text (Overview, Objective and Strategies) to implement this State policy at the local level.

Council supported the submission and included the proposed text in its final version of the Amendment.

6.1.3 Discussion

Clause 19.03-6 of the SPPF includes the strategy:

Recognise existing transmission-pressure gas pipelines in planning schemes and protect from further encroachment by residential development or other sensitive land uses, unless suitable additional protection of pipelines is provided.

The Panel is satisfied that new MSS material proposed by APA and supported by Council provides appropriate local expression of Clause 19.03-6 in relation to the Rutherglen-Koonoomoo HPGTP and should be adopted. However, the title of the proposed clause should be changed from 'Development around pipelines' to 'Development around High Pressure Gas Transmission Pipelines' to provide greater clarity about the application of the clause. Ideally, the text would be included under an infrastructure theme, consistent with the SPPF, but in the absence of this theme in the MSS, the Panel believes that it would be better to position it in Clause 21.05 (Environmental Risks) than Clause 21.03 (Settlement).

6.1.4 Recommendation

The Panel recommends:

Rename Clause 21.03-6 to 'Development around High Pressure Gas Transmission Pipelines' and reposition it as a new Clause 21.05-7.

6.2 Environmental Significance Overlay Schedule 2 (Murray River Corridor)

6.2.1 The issue

The issue is whether the Environmental Significance Overlay Schedule 2 (Murray River Corridor) (ESO2) should be modified.

The exhibited Amendment did not propose any changes to the existing ESO2.

6.2.2 Submissions

Patrick Dubuc lodged a written submission in relation to the ESO2, in which he raised issues about its drafting and application.

Council supported the submission, in part, and proposed that the ESO2 be modified in relation to fencing and vegetation. Council included a revised version of the ESO2 as part of its final Amendment documentation appended to its Part A submission.

Following the Directions Hearing, the Panel directed that Council's Part B submission address whether Council's proposed changes to the ESO2 *'should proceed in the absence of consultation with environmental agencies and other stakeholders'*.

Council submitted that the changes are *'minor and non-controversial'* and that it did not believe that *'further consultation with the relevant authorities is required'*.

6.2.3 Discussion

The Panel does not support Council's proposed changes to the ESO2 proceeding as part of Amendment C77 because:

- the ESO2 is an existing provision and the proposed changes were not exhibited as part of the Amendment
- stakeholders, including environmental agencies and landowners have not had the opportunity to consider the proposed changes.

The Panel also notes that the Planning Scheme Review Report reviewed the ESO2 and, although it recommended a permit exemption for sheds, it did not discuss or recommend the changes now sought by Council.

If Council intends to change the ESO2, it should follow a review of the provision and be implemented through a future Amendment that provides an opportunity for stakeholder review and comment.

6.2.4 Recommendation

The Panel recommends:

Delete the proposed changes to the Environmental Significance Overlay Schedule 2 (Murray River Corridor).

6.3 Consequential changes to Clause 22

The proposed changes to the Local Planning Policy Framework have resulted in various Clause 22 policies being deleted or repositioned into Clause 21, requiring the renumbering of

Clause 22. Although this was not exhibited as part of the Amendment, Council provided an updated Clause 22 at Appendix B of its Part A submission. This should be included in the adopted Amendment.

Appendix A Submitters to the Amendment

| No. | Submitter |
|-----|---|
| 1 | Goulburn-Murray Water |
| 2 | Department of Education and Training |
| 3 | Patrick Dubuc |
| 4 | Peter and Paula Elliott |
| 5 | Peter Mapletoft |
| 6 | Peter McDougall |
| 7 | Ronald Nettleton |
| 8 | Fiona and Craig Stevens |
| 9 | Linsey Weppner |
| 10 | North East Water |
| 11 | Council's Economic Development Unit |
| 12 | Brett Butler and Janine Wilce |
| 13 | Spiire on behalf of Lemon Tree Rise Pty Ltd |
| 14 | APA Group |
| 15 | Department of Environment, Land, Water and Planning |
| 16 | Goulburn Valley Water |
| 17 | Spiire on behalf of Katunga Fresh |
| 18 | McColl's Transport Pty Ltd |
| 19 | Debra Butcher Consulting |
| 20 | Leon van Ieperen |
| 21 | Oasis Homes Australia Pty Ltd |
| 22 | Country Fire Authority |
| 23 | Goulburn Broken Catchment Management Authority |
| 24 | Tomkinson Group on behalf of Papalia Glanvil Cattlin |
| 25 | Catherine Cole |
| 26 | Louise Greenwood |
| 27 | Environment Protection Authority |
| 28 | Department of Economic Development, Jobs, Transport and Resources |
| 29 | GrainCorp Operations Ltd (late submission) |
| 30 | Maureen Winter (late submission) |

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| 31 | Tony and Kim Walker (submission received after further notification) |
| 32 | Linsey Weppner (submission received after further notification) |

Appendix B Document list

| No. | Date | Description | Tabled by |
|-----|-----------|---|------------------|
| 1 | 4/05/2017 | Part B submission | Council |
| 2 | 4/05/2017 | Planning Permit McColl's Transport Strathmerton | Council |
| 3 | 4/05/2017 | Rural Living Zone Schedule | Council |
| 4 | 4/05/2017 | Extract of the Bundalong Strategy 2007 | Council |
| 5 | 4/05/2017 | Victorian School Building Authority submission | Geoffrey Mills |
| 6 | 4/05/2017 | Country Fire Authority submission | Darren Viney |
| 7 | 4/05/2017 | School site aerial photos | Council |
| 8 | 4/05/2017 | Submission on behalf of Lemon Tree Rise | Briana Barnes |
| 9 | 4/05/2017 | Submission on behalf of Bundalong Tavern | Nick Vlahandreas |
| 10 | 4/05/2017 | Moirā Rural Living Strategy 2004 | Council |
| 11 | 4/05/2017 | Submission | Fiona Stevens |
| 12 | 4/05/2017 | Strathmerton subdivision plan | Council |