

MOIRA

**NEW FORMAT
PLANNING SCHEME**

**Report of the Panel and
Advisory Committee**

APRIL 1999

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New Format Planning
Scheme

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Advisory Committee


.....
Richard Walter, (Chair)


.....
John Glossop

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1. INTRODUCTION

1.1 Appointment of Panel

On 30 July 1998, the Minister for Planning and Local Government appointed an Advisory Committee pursuant to Section 151 of the Planning and Environment Act 1987 to evaluate the new format Moira Planning Scheme. The Advisory Committee was also appointed as a Panel pursuant to Sections 153 and 155 of the Act to hear and consider submissions to the Planning Scheme.

The Panel members were Mr Richard Walter (Chair) and Mr John Glossop.

The Committee's Terms of Reference are attached as Appendix A.

1.2 Hearings

The Panel held a Directions Hearing in Numurkah at the Moira Shire Offices on 21 September 1998. Mr Walter represented the Panel at this hearing.

Public hearings were held at the same venue over a period of four and a half days from 12 October to 16 October 1998.

The Moira Shire, the Department of Infrastructure and 50 other parties appeared before the Panel.

1.3 Site Visits

Where possible, the Panel made inspections of a number of sites identified in submissions. In keeping with its role of providing a broad overview of the Planning Scheme, the Panel took the opportunity to familiarise itself with other areas of the Shire.

1.4 Submissions

A total of 150 written submissions were made in response to the exhibited Planning Scheme. The Panel considered all written submissions and all material placed before it by the Council and those who appeared during the Public Hearings.

The following people or organizations made further submissions to the Panel at the hearings:

Name of Person or Organization	Submission No.	Represented by
Department of Infrastructure		Lisa Gervasoni
Moira Shire Council		Alison Glynn of Tract Consultants Kerry-Ann Jones Executive Officer, Moira

table (continued)

Goulburn Broken CMA		Bill O'Kane Guy Tierney Michael Edwards
Goulburn Murray Water	G 11	Anthony Natalizio Ross Plunkett
North East CMA	G1 3	Roel von't Steen
Channel Land Co Pty Ltd	Zy 16	James Collins
Beverley Wain	ZNU 10	
K.J & P.J Storer	FO 9	Chris Banon
P. Gattuso	ZC 7	Chris Banon
R.E & M.E Jamieson and Vialo, Bonderenka, De Maio	ZC 6 ZC 6A	Chris Banon " "
W.D. Jane	Zy 19	Chris Banon
J. Judd & Sons	Zy 14	Chris Banon
C. Judd & Anon.	Zy 2	Chris Banon
M. Flanigan	Zy 18	Chris Banon
B. Gorman	Zy 17	Chris Banon
Morris Brown	Fk 3	
Wakiti Irrigators Coop. Society Ltd	Fk 8	Morris Brown
Morice and Isobel Holland Keith and Jeanette Holland	Fu 22 Fu 17	Joint submission
R.C and H.C Golding	Fu 13 and 18	
Kelvin & Elaine Trickey	Fu 9	Kelvin Trickey
John Mulquiney	Fy 3	
P.W., J.W and B.R Mapletoft	FNU 2, ZNU 8	Peter Mapletoft
Dudley Bryant	F0 7	
Kevin Crow	FL 12	

table (continued)

Cobram Development Comm.	ZC 2	Kevin Crow
Timothy Mannion	FL 1	
Geoff Lucas	FL 11	
Graeme Mallows	FL 7	
Bruce Schier	FN 16	
Richard Rogalsky	Zy 23	
Graeme Thorn	ZNU 11	
John & Valerie Hogarth		
Monica Morgan & James Atkinson	G 6 and G 7	
F & J Thorpe	FN 23 and FN 24	
Janet & Peter White	Fy 4	
Barry & Sue Flanner	FN 6	
L. & I. Mustica	Zc 3	
Tim Price	FNU 1 and FNU 8	
Keith Schier	Fl 9	
Brian & Sandra Wallace	ZNU 2	
J.A & J.M Bennie	Fs 3	
Vince Corso	Fo 8	
A. & A. Cadel and F. & P. Cadel	ZNU 3	David Fordyce
VicRoads		Rob Steel Doug Smith
John & Jeannette Steel	ZNU 4	
Peter Smyth	ZNU	
National Trust	G 2	David Maloney

table (continued)

Mark Bigger	Zy 6	
E.D Wright	Fo 5	Laurie Wright
W.J & T.J Gread	ZNU 6	Alan Hunt of Deacons Graham & James, Phillip Borelli of S.J.B Planning Pty Ltd
A.B & L.E Franklin	FN 5	

2. STRATEGIC OVERVIEW OF THE MOIRA SHIRE

2.1 Overview of the Shire

Moira Shire Council was formed in November 1994 following the amalgamation of the former Shires of Cobram, Nathalia, Numurkah and significant portions of the Shires of Yarrawonga and Tungamah. The Shire has an area of 4078 square kilometres and a population of 26,000 people.

The main urban centres are the towns of Cobram (1996 pop. 3865), Numurkah (3128), Yarrawonga (3435) and Nathalia (1455), together with 18 smaller townships. No one community dominates the Shire with each town meeting quite distinct needs dictated by its location, land use and local demands. Although the Shire is an area of intensive agriculture, 50% of the population reside in the four main towns.

Due to its location on the border with New South Wales, the Shire has strong links with both States. This is particularly evident in the twin towns such as Cobram-Barooga and Yarrawonga-Mulwala, and in the interactions between towns such as Strathmerton and Tocumwal.

Physical Setting

Moira is bounded on the north and west by the Murray River, by the Goulburn River on portion of the southern boundary and by the Ovens on the east. The Broken and Nine Mile Creeks bisect the central portion of the Shire. Due to its limited relief, virtually the whole of the Shire forms part of the alluvial flood plains of the Murray and Goulburn Rivers. The fertile soils that have resulted from the regular flooding of the land over centuries provide the base for the opportunities presented for high value agricultural production, but also the problems and challenges presented by flooding and drainage. The Shire's situation at the lower end of the Goulburn Broken Catchment means that it is a major recipient of saline water flows from the dryland sources upstream and the impacts of salinity.

Prior to European settlement the majority of the Shire was covered by the Plains Grassy Woodland, with significant areas of Riverina Grassy Woodland upstream of the confluence of the Murray and Goulburn Rivers respectively. Small areas of Box Ironbark Forest were found on the eastern margin of the Shire. The riverine association provides the largest area of remnant vegetation along the principal rivers and in particular the Barmah Forest. This significant Ramsar recognized wetland retains its importance to the strong Koori community in the area. Apart from roadside and streamside resources, other remnant vegetation is only found in small isolated pockets.

Climate in the area can be characterized by data from the Numurkah Irrigation Research Station. February is the hottest month with a mean daily maximum temperature of 30.8°C., while in July it drops to 12.9°C. The annual mean rainfall of 449.8 mm is evenly spread throughout the year with the wettest months on average being August and May and the driest February. As with any

low rainfall area, there is great variability. Consequently intensive use of the high quality alluvial soils is only made possible by irrigation from the extensive river frontages and the water storages beyond the boundaries of the Shire that drive the Shepparton Irrigation District.

The cultural history associated with the rivers and wetlands from the earliest times through to European settlement and the riverine landscapes provide valuable resources for tourism and recreation activities.

Strategic Influences

Moira Shire's strength lies in the fortunate combination of soils, available water and a long growing season that has enabled the area to become an important producer and processor of a broad range of agricultural products. The Shire is strategically located in the heart of the Goulburn and Murray Valleys, which are often characterized as Australia and Asia's food bowl. While it is fundamentally a very rural shire where rural land issues dominate Council planning and governance, it is also a shire with the added advantage of significant processing industries.

The necessity to transport the products of the region rapidly to market is a critical factor for the prosperity and development of the region. The Shire is bisected by the Goulburn Valley Highway in a north-south direction providing the most direct link for transport between Melbourne and Brisbane, and in an east-west direction by the Murray Valley Highway, which joins the Hume Freeway at Wodonga. The Council is supporting the possible realignment of the Goulburn Valley Highway between Strathmerton and Tocumwal and cooperating with others in regional strategies concerning these highways.

The fact that the Shire is bordered by the Murray River, its associated wetlands and Lake Mulwala in the north and by the Shepparton Irrigation District and Goulburn River in the south, requires the Shire to cooperate with a wide range of other organizations on both sides of the border. Regional cooperation (whether formal or informal) is required on matters as diverse as water quality, flooding, salinity, recreation, tourism, transport, community facilities, waste disposal and land use.

One of the major challenges facing the Shire in the future will be to resolve the complex and often competitive demands for use of the abundant resources of the area. However, of equal importance will be the need to arrest, and if possible reverse, the degradation of the land and water resources and diminished bio-diversity that is a legacy of the past.

Population

Moira's population at the 1996 Census was 25,856 people, representing about 10% of the people in the North East and Goulburn Valley region. The population of the Shire as a whole is projected to grow over the next 20 years, but that growth is likely to be unevenly distributed. Cobram, Numurkah and Yarrawonga are expected to grow, while the more rural based townships of

Nathalia and Tungamah may be in decline. Council is aware of the need to clearly define the present and future roles of its urban communities so that appropriate strategies can be prepared to facilitate development and the provision of services.

The dominance of agricultural production and food processing is illustrated by the fact that 28.5% of persons are classified as working in agriculture, forestry and fishing, compared to 12.4% for regional Victoria as a whole, while 15.6% are employed in manufacturing, compared to 13.5% elsewhere. Despite the high levels of agricultural employment, the percentage has fallen consistently in the 15 years from 1981 to 1996. In contrast there has been a steady growth in the proportion of the workforce engaged in manufacturing, wholesale and retailing, and in finance, property and business services, although in the latter two categories the numbers are still small.

Examination of Moira's age structure reveals a relatively old community which has been ageing progressively over the last three census periods. These figures may reflect the popularity of the area as a retirement destination, but also the increasing average age of Victoria's farmers and the regional population generally.

Economic Activity

Moira hosts a diversified group of agricultural industries including horticulture, cereal, oilseed, livestock and dairy production. Multinational and national companies such as Kraft Foods Ltd, Murray Goulburn Cooperative, Meiji Dairy Co Pty Ltd, ICM Feedlots, Uodusek Meats and Riverland Oil Seeds are all located in the Shire.

Intensive agricultural production and the cluster of food processing industries, stimulate economic activity, providing employment opportunities and wealth for local communities. As a direct result of investment in food production and processing, the engineering, transport and specialist servicing catering to the manufacturing industries, are experiencing rapid growth both in Australia and by overseas markets.

Seventy one percent of the land area of the Shire is devoted to agricultural land use, divided equally between irrigated and dryland production. Approximately 1350 farms produce agricultural products to the value of \$300 million. This represents 23% of the \$1.3 billion annual value of primary production of the Goulburn and Murray Valleys. In addition, it is estimated that the value of food processing in the region adds another \$1.4 billion per annum.

The horticultural industries of the Shire produce high quality fresh and processed food including peaches and pears, viticulture crops, tomatoes and vegetables. Approximately 60% of the Australian canning peach crop is grown in the Cobram area.

The importance of dairying in Moira and the broader region is evident from the fact that 490,000 ha of irrigation country generates \$1225 million and provides

16,300 jobs and \$390 million in income for local households. The area produces about 25% of Australia's milk.

Tourism is a significant and growing area of economic activity in the Shire, which like the agricultural and good processing industries, depends for its existence upon a favourable environment and attractive landscapes. The growing appreciation of Koori culture can be expected to add to the diverse attractions of the region.

2.2 Preparation of the Planning Scheme

Following amalgamation the Council embarked on the development of a planning strategy in December 1995. Considerable community consultation took place during 1996 including focus group discussions with relevant interest groups and individuals, community meetings and the circulation of a draft strategy in October 1996.

With the return on Councillors in March 1997 the strategy was reviewed and adopted in July 1997 as an interim strategy. Two documents described the interim position:

- "Moirā Shire Integrated Strategy Plan, Report 1, The Existing Situation and Issues", Tract Consultants, May 1996.
- "Moirā Shire Council Integrated Strategy Plan (Interim), Report 2", Tract Consultants and Others, July 1997.

A number of supplementary strategic studies directed towards implementation of the Municipal Strategy Statement (MSS) were subsequently produced.

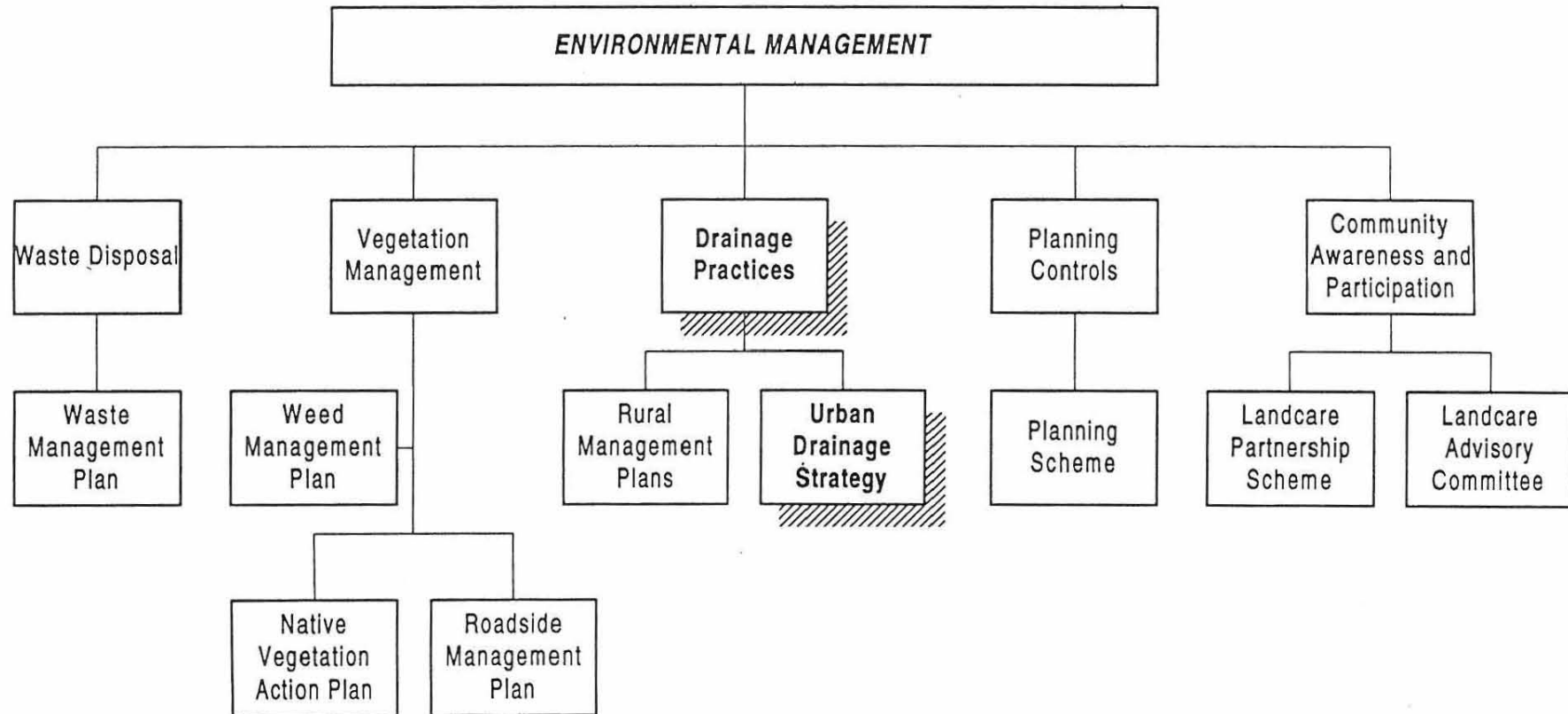
The Moira Integrated Planning Strategy now forms part of an interlinked environmental strategy for budget and planning purposes as illustrated in Figure 1 – Moira Shire Environmental Management Plan.

The Municipal Strategic Statement (MSS) was completed in early 1997. In essence it is based upon a summary of the strategic directions formulated in the Planning Strategy and the Corporate Plan. A draft MSS was reviewed by senior staff and Councilors to ensure consistency with Council policy.

The Planning Scheme was prepared in parallel with the MSS but was delayed until the return of elected Councilors and the finalisation of the flooding overlays. Subsequently Interim Floodplain Management Plans and local schedules for the flood overlays were developed.

The selection of zones and overlays for the scheme was undertaken in partnership with the staff of the statutory planning unit, the Office of Planning and the Department of Natural Resources and Environment (DNRE) Floodplain Management unit. The zone selection was based upon the strategic directions outlined in the Moira Integrated Strategy and the Municipal Strategies Statement.

MOIRA SHIRE RESPONSE - INTEGRATED POLICY DEVELOPMENT



In some instances the selection of zones and overlays generally aligned with the existing provisions of the Nathalia, Cobram and Yarrawonga Planning Schemes and the draft Numurkah Planning Scheme. Council took this decision in response to community interest in protecting policy and development provisions previously in place. However, the Interim Strategy Plan directed development into some areas and away from others, necessitating a change of zone in some instances.

A series of floodplain management plans were exhibited as a result of detailed flood mapping by the DNRE. These overlays and plans form a significant part of the strategic and statutory basis of the planning controls in Moira.

In the time between the preparation and exhibition of the planning scheme and the establishment of the Panel, a number of strategic studies identified as part of the MSS action plans were finalised.

The scheme was exhibited from 31 July 1997 to 30 September 1997 in accordance with the provisions of the Act and the directions of the Department of Infrastructure. In addition to advertising, and a newsletter to all residents and non-resident ratepayers and letters to classes of land owners Council considered required particular attention, a series of community forums were undertaken.

The Panel is satisfied that the Shire and its planning consultants have conducted a thorough consultation process in preparing the scheme and that the community has had ample opportunity to inquire and express opinions about the intent and effect of the scheme.

2.3 Structure of the Planning Scheme

As has been the case with many of the new format planning schemes, considerable development has occurred in the period between when the Moira scheme was first prepared and placed on exhibition and the date of the Panel hearing. The increased understanding and refinement of the form that the Local Planning Policy Framework (LPPF) should take that has emerged has been beneficial to all parties engaged in the process.

The exhibited Moira LPPF is a document that conforms closely to the desired form in most respects. However, at the hearing, Council's submission included an Appendix (Part c) listing a series of changes it proposes to make to the MSS and included a revised version of the Local Planning Policies. In addition, the Panel will recommend that Council make further modifications to the structure of the LPPF as set out below.

Municipal Strategic Statement

The exhibited version of Moira's MSS contains the following sections:

- 1.0 Introduction
- 1.1 State and Regional Context
- 1.2 Local Context
 - Strengths, Weaknesses, Opportunities, Threats
- 2.0 Mission and Vision of Moira
- 2.1 Moira's Vision
 - 2.1.2 Values and Principles
- 3.0 The Strategy Principles
 - 3.1 Liveability
 - 3.1.1 Population and Housing
 - 3.1.2 Community Services
 - 3.1.3 Recreation/Open Space
 - 3.1.4 Design of Development
 - 3.1.5 Heritage and Conservation of Sites of Significance
 - 3.1.6 Transport and Access
 - 3.2 Environment
 - 3.2.1 Flooding
 - 3.2.2 Salinity
 - 3.2.3 Irrigation Farming
 - 3.2.4 Dryland Farming
 - 3.2.5 Stormwater/Effluent Management
 - 3.2.6 Natural Environment
 - 3.2.7 Vegetation (Public and Private Land incl. Roadsides)
 - 3.3 Business and Industry Development
 - 3.3.1 Agricultural Land Use
 - 3.3.2 Retail/Commerce and Tourism
 - 3.3.3 Industry Development
 - 3.3.4 Home and Small Business
- 4.0 Review

List of Figures

- Figure 1 Regional Context Plan
- Figure 2 Framework Plan

Council has undertaken to renumber the sections to correspond with the remainder of the planning scheme as Clause 21 with sub-headings 21.01, etc.

A table of contents has been provided for the MSS, but not for the Local Planning policies. It would make the document easier to use if the table of contents related to the LPPF as a whole, enabling the user to see at a glance the strategies and relevant policies that may apply.

The MSS sets out early in the document the close relationship that exists between Council's Corporate Plan and its planning strategy in the Local Context and the Mission and Vision of Moira sections.

In the Panel's opinion Council should reconsider summarizing the outcome of its Strengths, Weaknesses, Opportunities, Threats (SWOT) analysis in its current form. Many of the topics addressed are properly located in the Local Context section of the MSS, but preferably not under the SWOT headings. Other topics if listed in their current form, while useful to Council in developing strategies and a corporate plan, may have adverse effects if they:

- conflict with planning controls and strategies in other parts of the MSS or the scheme generally, e.g., flood mitigation; or
- create a perception of weakness, high costs of operations, failure to manage, being out of touch with the community or having inadequate facilities.

Such impressions may militate against many of the objectives the MSS, the planning scheme and Council are trying to achieve.

Some weaknesses or threats of major calamities might be better expressed in terms of the challenges they present and the strategies that have been developed to meet the need. The MSS is a document that will be used by others to make judgements about the Shrine's strategic direction, capabilities and the extent to which it is committed to achieving those goals. It is not a document for equivocal statement or indecision.

The Strategy Principles in the third section of the MSS are derived from the Moira Integrated Strategy and its Background and Issues Report. The strategies are well structured under three headings of Livability, Environment and Business and Industry Development.

Each strategy area is expressed under the sub-headings: Objectives, Policy and Implementation. The policies described here are really the strategies Council has developed to achieve the objectives. They should be described as such. The use of the word "policy" in this context will lead to confusion with Clause 22 containing the scheme's Local Planning Policies.

The implementation measures are clearly set out under the headings: Priority, Action and Timing. At times, linkages are made to relevant State Planning Policies, Moira strategic planning documents, framework and township structure plans and other elements of the scheme in accordance with S.12a(3) of the Planning and Environment Act 1987, but this aspect of the LPPF needs to be considerably improved.

Two black and white maps included at the beginning of the MSS show the Regional Context and the Framework Plan for the Shire.

The Panel notes with approval that Council intends to periodically incorporate changes in the MSS resulting from the completion or further development of Council strategies arising from the Corporate Plan, Economic Development, Tourism, Community Services and Environmental strategies. However, the comprehensive review of the MSS that Council intends to conduct 5 years after the adoption of the scheme, should be changed to a 3 year interval in conformity with the requirement for the new format schemes.

The Panel recommends that the Municipal Strategic Statement be revised to include the modifications outlined in this report.

Local Planning Policies

Five local policies were exhibited under Clause 22.

- 22.01 Numurkah Township
- 22.02 Nathalia Township
- 22.03 Cobram Township
- 22.04 Yarrawonga Township
- 22.05 Rural Residential Development

The policies were accompanied by structure plans described as Development Outline Plans showing the main land use zones, areas for potential residential, rural residential, industrial expansion, major open space and floodways.

Each policy was described under headings of Objective and Policy. A note at the top of each policy stated that the policy should be read in conjunction with the Moira Shire Integrated Strategy Plan 1997.

A revised and expanded set of 9 policies was submitted at the Panel hearing.

- 22.01 Numurkah Township
- 22.02 Nathalia Township
- 22.03 Cobram Township
- 22.04 Yarrawonga Township
- 22.05 Rural Residential and Small Town Development
- 22.06 Conservation of Parks and Conservation Reserves
- 22.07 Aboriginal Culture and Heritage
- 22.08 Agricultural Land Use
- 22.09 Open Space and Recreation

The structure of the original policies was improved by the removal of the reference to the Integrated Strategy Plan under the heading and the introduction of a third sub-heading at the end of the policy entitled, Reference Documents. That sub-heading and the titles of any relevant studies should be added to the remaining policies.

A further improvement has been made to the form of the four new policies in Clauses 22.06 – 22.09. The opening statement describes the land or site the policy applies to and then inserts an additional sub-heading and text called Policy Basis. In other words, why the policy is required.

Unlike the revised original policies, the sub-heading Reference Documents has been omitted from the policies.

Council should standardize the format so that all policies are expressed in the same way, that is:

- the land to which the policy applies
- policy basis
- objectives
- policy
- reference documents

The Panel believes that the addition of the new policies is essential to the proper functioning of the scheme and it will recommend that a broader range of policies be included. The role of the Local Planning Policies is to guide discretion. Council will be required to develop policies to provide that guidance. The need for advertising, signage, civic design and car parking policies should be considered.

A particular deficiency remains in relation to tourism. The Council acknowledges that after agriculture, tourism is the secondary economic role of the municipality. At present tourism is dealt with under the Retail/Commerce and Tourism section of the MSS and in Clause 22.08 Agricultural Land Use in the local policies.

The objectives and strategies for tourism in the MSS that relate to town centres, that is, integration with retail services and the retention of tourist expenditure within the Shire, sit comfortably with retailing and commercial concerns. However, those strategies that deal with town entry features, tourist routes, heritage and the conservation of the natural attractions of the Shire are less well located in this set of strategies.

Within the Local Planning Policies (LPP's) tourism has been included within agriculture for the reasons set out in the Policy Basis:

The secondary economic role of the municipality is in tourism. This is dependent upon the retention of the rural character of the landscape of the municipality.

The two key economic activities of the Shire, agriculture and tourism will be dependent upon sustaining the natural assets of the Shire. The most important of these assets is viable agricultural land.

Having made that observation, the policy, which is a good agriculture policy, has nothing further to say either in the objectives or policies that relates specifically to tourism.

The Panel acknowledges that agriculture and tourism rely upon a common natural resource base and that a well managed, sustainable rural landscape is an important part of those assets. However, while tourists move through the farming areas of the Shire, their most intensive activities tend to utilize other parts of that resource base. Tourism is to be found associated with rivers and large water bodies, wetlands, conservation reserves and recreation facilities, whereas agriculture utilizes land where there is a much higher level of intervention to manage the environment. Intervention which will be increasingly required to avoid the impacts of blue green algae, rising water tables, salinity and the loss of biodiversity.

A further limitation arises in the sense that the agriculture policy applies to land within the Rural Zone of the municipality.

In view of the foregoing and the fact that the Shire's Tourism Strategy is at or nearing completion, the Panel will recommend that the strategies derived from that study be amalgamated with those already in the MSS to form a specific tourism section and that a tourism policy be included in the LPP's.

The Panel recommends that the revised and enlarged set of Local Planning Policies submitted at the hearing be approved subject to the modifications set out in this report.

The Panel recommends that following adoption of the Shire's Tourism Strategy the relevant sections of the MSS and the LPP's be reviewed to form new sub-clauses devoted to tourism incorporating existing provisions and relevant strategies and policies arising from the study.

Zones and Overlays

The Moira Planning Scheme as exhibited contained 18 zones and 4 overlays as listed below:

Zones

Residential 1 Zone
Low Density Residential Zone
Township Zone
Industrial 1 Zone
Industrial 2 Zone (i)
Industrial 3 Zone
Business 1 Zone
Business 2 Zone
Business 3 Zone (i)

Overlays

Significant Landscape Overlay
Heritage Overlay
Rural Floodway Overlay
Land Subject to Inundation Overlay

Business 4 Zone (ii)
Rural Zone
Rural Living Zone
Public Use Zone
Public Park and Recreation Zone
Public Conservation and Resource Zone
Road Zone
Special Use Zone
Urban Floodway Zone (i)

Notes:

- (i) The zone was shown on the exhibited maps but not in the ordinance. Listed by Council as a technical correction to include the zone in the ordinance in the report to Panel.
- (ii) The zone was included in the ordinance in error but not on the exhibited maps. Listed as a technical correction to delete it from the ordinance in the report to the Panel.

Schedules

Schedules to the following zones and overlays are included in the Scheme:

Industrial 1 Zone
Industrial 3 Zone
Business 1 Zone
Business 3 Zone
Business 4 Zone
Rural Zone
Rural Living Zone
Public Use Zone
Public Park and Recreation Zone
Public Conservation and Resource Zone
Road Zone
Special Use Zone - Education and Religious Purposes
Camping Ground and Caravan Park
Sport and Recreation Clubs
Significant Landscape Overlay – Lake Mulwala and Surrounds
Heritage Overlay
Rural Floodway Overlay – Schedule to Clause 44.03-1
Land Subject to Inundation Overlay – Schedule to Clause 44.04-1

Maps

The maps provided to the panel are A3 in size in black and white format. An index to the maps is provided.

2.4 Council's Planning Strategy

The State and regional context for the MSS⁽¹⁾ is set out in Clause 1.1 by reference to:

- Victorian State policy influences of relevance to the municipality;
- The New South Wales State Environment Protection Policy, No. 2 (REP 2.); and
- Development Framework for Victoria, North East/Goulburn Region, 1995.

The reference to the Victorian policy influences would be better stated as the Victorian State Planning Policies of particular relevance to the municipality, since the whole of the SPPF forms part of the scheme.

Clause 2.1 of the MSS headed "Moiras Mission" refers to the Shire's Corporate Plan 1996-98 which sets itself the mission of being:

A leader in municipal management through coordinating and fostering the development of an improved quality of life and prosperity within the community

The Corporate Plan further states that:

A healthy community is critical for the Shire's prosperity and that it must take a lead role in the revitalisation and sustainability of the environment and community as these are the foundations of its economic and social well-being.

In order to provide a broad context for the MSS, Moira has adapted the guiding principles of the Rio Declaration on Environment and Development as declared at the United Nations Assembly at Rio de Janeiro in 1992. The principles are:

- *sustainable economic and urban growth;*
- *sustainable natural resources management – including the protection of prime quality agricultural land and the resources which support agricultural production and nature based tourism;*
- *the development of infrastructure and facilities that support the social needs of the community and economically sustainable development of the Shire; and*
- *the realisation that Moira Shire's economic growth potential is based on its natural assets, liveability, raw and value added food processing, tourism, recreation, retirement and small business development*

¹ References to the MSS in the following discussion are based on the numbering contained in the exhibited version of the scheme. Council has noted its intention to change the numbering to conform with the remainder of the scheme.

combined with access to new technology that puts Moira in the global market.

The vision for the Shire is articulated as:

A vibrant community with diverse opportunities for living and working, providing a mix of employment and community resources which integrate together to maximise the use of finite and renewable resources available to the community.

The vision is underpinned by the following facts and assumptions:

- *Employment opportunities in Moira will be dominated by the agricultural resources of the municipality. (In 1991, 28.7% of the workforce was employed directly in agriculture.)*
- *Economic sustainability of primary production will be dependent upon effective management of all agricultural resources which can respond quickly to changes in market demand.*
- *Economic growth of the Shire is based on: its natural assets, liveability, raw and value added agriculture, tourism, recreation, retirement and small business development combined with access to new technology that puts Moira on the global market.*
- *Sustainable management of productive rural land will be dependent upon effective environmental management and protection of land and water resources which may service that land.*
- *The population of Moira is ageing. (In 1976 approximately 12% of the population was aged over 60. By 1996 this had increased to approximately 21.8%. By 2011 it is estimated to be 28.3%). Services, facilities and access to these facilities will need to respond to changes in lifestyle and mobility.*
- *There is a desire of the local community to retain and return young people to the community to strengthen the mix of social and economic opportunities in the municipality.*
- *There is a desire of the local community to protect and enhance elements of historic, cultural and natural significance for their intrinsic value and continuity between our past and future generations.*
- *Effective provision of all social, economic and community services and functions to the community will require planned integration of services and functions, maximising effective use of new and existing social and physical infrastructure.*
- *There will be an increasing demand for a range of living and working opportunities. In particular, housing choices will need to be varied as the population ages and alternatives to traditional family housing will be sought, both in rural and urban areas.*

Section 3 of the MSS entitled "The Strategic Principles" sets out the planning objectives and strategies for the Shire in 17 subject areas. In order to facilitate Council's desire to establish an integrated planning strategy, the objectives and strategies have been grouped under three main headings:

- Liveability;
- Environment; and
- Business and Industry Development

There are some general observations regarding the MSS as a whole that should be mentioned before discussing particular elements of the strategy. In general, the objectives, strategies and implementation actions are all clearly stated in each subject area. However, the terminology used for headings in the document should be reviewed in the light of the VPP Practice Notes – Format of Municipal Strategic Statements. In particular, there is a need to change the second heading within each subject area from "Policy" to "Strategies" and to check that the form of expression and context is strategic rather than policy. It follows that policies should be transferred to the Local Planning Policies section of the LPPF.

The Panel recommends that the MSS be reviewed in the light of the VPP Practice Notes – Format of Municipal Strategic Statements.

The MSS needs to make explicit the way in which the zones, overlays and schedules of the scheme and Council's corporate initiatives will be employed to help implement strategies. These linkages are required not only to meet Council's desire to produce an integrated strategy but also to indicate clearly to a user of the scheme the range of issues to be addressed.

The Panel recommends that the MSS be amended to make explicit the relationship between Council's planning objectives and strategies and the controls on use and development of land in the Planning Scheme.

The Panel was provided with copies of the following studies, most of which have been completed since the LPPF was prepared:

Moira Towns 2010 Strategy	27 June 1998
Small Towns Strategy	June 1997
Moira Stormwater Management Strategy	July 198
Moira Shire Sport and Recreation Strategy (Draft)	Nov. 1998
Waste Management Strategy	August 1998
Roadside Management Plan	28 August 12998
Vegetation Management Strategies	April 1997
Interim Floodplain Management Plans	July 1997

Council has stated its intention to list these and other relevant reports as referred to documents in the LPPF as evidenced in the revised Local Planning Policies in Council's submission to the Panel. In many instances the studies provide the material required to:

- prepare additional strategies and local policies that are not included in the exhibited scheme; and
- clearly articulate the policies guiding Council's decision making processes.

It is a requirement of the new format schemes that the LPPF should be capable of being read as a stand alone document. Given the great amount of strategic planning work that has been undertaken by Council and its consultants in the last two years, it would be unfortunate if the substance of those strategies that have been adopted by Council, were not given full expression in the Planning Scheme.

In the remainder of this section, the Panel will use the three defining elements of Council's planning strategy: Liveability, environment and industry and business development, to examine the extent to which the Planning Scheme has the potential to achieve the vision and the strategies established.

2.4.1 Liveability

Settlement

Clause 3.1.1 Population and Housing is designed to address the housing needs of the population for a diverse range of housing types in appropriate locations free from the risk of flooding. Strategies 1-4 are directed to achieving these ends while 5 and 6 are specifically geared to limit housing in rural areas to minimise adverse consequences of residential use on agricultural land and production. The last two strategies have a broader agenda related to appropriate locations for rural residential living and State policies for energy efficient residential development.

In the Panel's opinion it is desirable for the Shire to separate these strategies and to create an additional subject area entitled Settlement Strategy which could embrace strategies 5 – 8 from Clause 3.1.1 as well as taking on the objectives and strategies arising from the Moira Towns 2010 and Small Towns strategies.

The need for a Settlement Strategy focus is increased when the Township Policies are considered. At present they appear in the LPPF at:

- Clauses
- 22.01 Numurkah Township
 - 22.02 Nathalia Township
 - 22.03 Cobram Township
 - 22.04 Yarrawonga Township
 - 22.05 Rural Residential and Small Town Development

The policies contain strategic statements applicable to the future development of the individual communities. There are also some

common elements that could form part of a more general policy with sub-clauses catering for the separate townships.

The Panel believes that the strategies outlined for each of the individual Townships are generally appropriate for their needs. However, it is evident from the Panel's consideration of submissions that Council needs to give further consideration to the development of a more rigorous strategic approach to applications for the extension of residential development in certain areas. In particular, the Yarrawonga – Bundalong district of the former Yarrawonga Shire and the south east quadrant of Cobram, are areas where more direction and control will be required. Measures that Council has already flagged, such as outline development plans and a development contribution overlay, should be considered.

Other issues that Council may consider in a statement of Settlement Strategies include:

- The servicing issues associated with land zoned Low Density Residential in environmentally sensitive areas;
- Whether there is a need to prepare a Development Contributions Policy and Plan and the areas in which it should be applied;
- Investigate the utilisation of a Restructure Overlay in small undeveloped Crown Townships.

The Township Structure Plans have been criticised by the Department of Infrastructure on the grounds that additional residential areas have been created from previous "future urban" zoned areas. The submission called for the plans to be expanded to indicate:

- sensitive environmental areas; and
- ability to provide sewer, water and community services;

The Panel recommends that the Council prepare a Settlement Strategy for the Shire to include the strategic elements of the Township policies at present contained in Clause 22.01 to 22.05 of the LPP's. Re-exhibition is not required.

The Panel recommends that the terminology and content of the Township Development Options (structure) plans be reviewed in the light of the Department of Infrastructure submission as part of a subsequent amendment to the scheme.

Housing

The strategic directions of the MSS promote a range of housing opportunities to accommodate the ageing population of the municipality. In particular, the MSS recommends the direction of urban development into the major townships of Numurkah, Yarrawonga and Cobram where there is greater access to both physical and social services. The Shire intends to develop township strategies for medium density housing in proximity to the major town centres, as an implementation priority under the MSS in accordance with the Moira 2010 Towns project.

Urban zonings have been applied to these major townships. Residential 1 is the predominant residential zone used with existing rural residential subdivision being zoned Low Density Residential (LDRZ). In smaller townships the Township Zone has been used. This is described by the Shire as denoting the lack of services to these towns. In some instances, LDRZ has also been used adjacent to these towns in areas of existing rural residential development.

Housing in rural areas is primarily intended for those engaged in agricultural pursuits. A right to build a house, where it will not prejudice the on-going farming activity, will not be viewed as a right to subdivide the land.

The Rural Zone has been applied throughout the rural areas of the Shire. Within the schedule to the zone subdivision for housing is restricted to the development of lots with minimum areas of 12ha, 20ha and 40ha, depending on the land use/locality of the application.

The Rural Living Zone has been applied in a limited number of areas such as Barmah where there is existing small lot development. Further subdivision is not appropriate in that situation due to the high risk of flooding. Generally the zone is focussed toward rural villages where limited social and physical infrastructure can be provided. The Shire sees this use as a way of promoting a sustainable base for these small towns and a suitable location for rural style living without impacting on the viability of productive agricultural land.

Recreation and Open Space

The reference in the MSS to Recreation and Open Space needs to be updated to recognise the Recreation Strategy Plan 1997.

The Panel recommends that the relevant section of the MSS dealing with the open space be amended to state:

Open space will be provided in accordance with Moira Shire Sport and Recreation Strategy Plan (1998) and any development contribution that may exist.

Within the exhibited planning scheme two public park zones have been utilised where considered appropriate. The DNRE submission noted that the Murray River environs was zoned Public Park and Recreation while the same situation in Campaspe Shire is contained in the Public Conservation and Resource Zone. The Panel will recommend that the zone be made consistent with the gazetted Campaspe scheme.

The Panel recommends that the Public Conservation and Resource Zone be used in the Murray River environs in place of the Public Park and Recreation Zone to be consistent with the approach taken in Campaspe Shire.

Heritage

Clause 3.1.5, Heritage and Conservation of Sites of Significance, should make specific reference to the need to liaise with local Aboriginal communities and to document where possible the Aboriginal cultural heritage of the Shire. Such a study should form part of the overall Heritage Conservation Study. Upon completion of the study the findings should be incorporated in a revised Schedule to the Heritage Overlay and a Heritage Policy should be prepared.

The Panel recommends that Clause 3.1.5 be changed to provide specifically for consultation with local Aboriginal communities in the preparation of a comprehensive Heritage Conservation Study of the Shire.

Transport

Like the Community Services strategies in Clause 3.1.2, the Transport and Access strategies at 3.1.6 recognise the evenly distributed, yet dispersed, settlement pattern of the Moira Shire. It is clearly not possible to have the best of all possible services and facilities in every community. Some aggregation and rationalisation will be required to meet the required standards. Consequently, there is a need to provide an effective transport network between the townships of the Shire to enable people, particularly the young and the elderly, to access those services and facilities. For some specialised facilities, good linkages will be required to larger centres such as Shepparton, Wangaratta and Albury/Wodonga.

The Panel received a briefing on the Goulburn Valley Highway Strategy from representatives of Vic Roads. The Planning Study for realignment of the highway between Strathmerton and Tocumwal

and the proposals to eventually widen the highway have particular significance for the Shire.

The Road Zones 1 and 2 were used in the exhibited scheme in accordance with VicRoads directions at the time the scheme was prepared. Some corrections are contained in the VicRoads submission to the Panel.

2.4.2 Environment

Environmental issues are addressed in the MSS under the subject areas of flooding, salinity and nutrients, irrigation and dryland farming, stormwater and effluent management, natural environment and vegetation. It could be argued that irrigation farming and dryland farming, the two dominant land uses in the Shire, are really a part of the agricultural industry and should be considered in that context. However, the Panel is satisfied that the drainage and salinity issues associated with irrigation and dryland farming in the Shire are so significant that the impacts of these industries should be considered in environmental terms.

The objectives, strategies and implementation actions outlined under each of the subject areas are comprehensive and consistent with one another. When the appropriate strategic planning studies and reports are listed as reference documents a more integrated response will be evident than was exhibited.

Floodplain Management

Consideration of environmental matters in Moira starts with recognition that a large proportion of the Shire is situated on the floodplain of the Murray and Goulburn Rivers and their local tributaries. Moira is subject to regular flooding due to the numbers of rivers flowing through the area, the subdued topography and the use of irrigation channels for drainage. It is the natural recurring process that has made the region the highly productive area it is today. Yet it is apparent that the region is having serious problems in coping with the high base load of water associated with irrigation, drainage control, rising water tables, waterlogging and the effects of salinity, land degradation and increased nutrient levels. The impact of flooding is magnified when it comes on top of an already saturated catchment with little available spare capacity in streams and storages.

It is therefore not surprising that many of those faced with managing the land, while accepting the fact that the region floods, may well contest the extent and form of the proposed overlay as it affects their land. The owners and managers of land in an irrigation district have a very intimate knowledge of the way water moves through and

around their properties and how it has changed over time as a result of a multitude of factors.

A large amount of the Panel hearing was devoted to the consideration of submissions dealing with flooding issues. It was made clear to the Panel that there is considerable concern in relation to the identification of land within the flooding overlays used in the scheme.

In accordance with the Victorian Flood Plain Management Reform objectives and the Victorian Flood Management Strategy, July 1998, floodplain mapping of Moira Shire was undertaken by DNRE to identify those areas that should be described as floodway and land subject to inundation.

The Urban Floodway Zone (UFZ) has been used within some townships where there is considerable risk of deep flooding, while in rural areas the Rural Floodway Overlay (RFO) also identifies waterways and major floodpaths, flood storage areas, drainage depressions, high hazard areas and greater risk and frequency of flooding.

The Land Subject to Inundation Overlay (LSIO) identifies overland flow areas, sheet flooding areas, flood fringe areas, areas protected by levees of reasonable standard and where there is a lower consequence of flooding and flood hazard than floodway areas. Generally speaking areas of inundation have been excluded from urban development with Rural and Rural Living zones applied surrounding townships that in other circumstances may have been appropriate for future urban or low density residential use.

At the hearing the Council tabled revised Schedules for the Rural, Environmental Rural and Rural Living Zones that included a requirement for a permit for all earthworks:

except land for which an approval or exemption has been made or granted under the "Planning Controls for Earthworks in the Goulburn Broken Catchment January 1997".

This document replaces an earlier reference to Uniform Local Government Planning Controls for Drainage Works in the Shepparton Irrigation Region – August 1996.

The Council proposes to add this document to the Incorporated Documents included in the Scheme. Given the low relief in the Shire, earthworks have the potential to cause major changes to the behaviour of floodwaters if undertaken without proper consideration and in accordance with an approved plan. The Panel will therefore support Council's proposal.

The Panel recommends that the revised Schedules to the Rural, Environmental Rural and Rural Living Zones be included in the Planning Scheme prior to adoption.

The RFO and LSIO include local schedules that enable non-habitable buildings to be constructed and an extension made to an existing habitable building (without a permit). In addition, earthworks, other than important flow transfer areas, that do not raise ground level topography by more than 300 mm do not require a permit. In each case the building or works must be in accordance with the Interim Floodplain Management Plans. The responsible authority must consider these plans in making a decision on the application.

The Interim Floodplain Management Plans were prepared in conjunction with DNRE and provide performance based guidelines that seek to respond to the flooding and land use characteristics of the Cobram, Loch Gary, Broken Creek Catchment, Koonoomoo and Murray precincts.

The interim plans are valid for a period of 12 months from the date of the adoption of the scheme and are to be replaced by an approved floodplain management plan within the 12 month period. The plans respond to the need for control over buildings and works in floodways and land subject to inundation that are consistent with the catchment wide controls on earthworks in the Goulburn Broken Catchment while allowing the Council to make a prompt response to applications appropriate to the locality.

The performance outcomes sought are to minimise personal risk, limit property damage, preserve existing flood storage and minimise obstruction and diversion of flood flows, minimise pollutants and contaminants, preserve natural habitats and emergency resource capabilities. These outcomes are consistent with the goals of floodplain management set out in Clause 15.02 of the State Planning Policy Framework and with the objectives and strategies of the MSS in Clause 3.2.1.

The Panel's responses to individual submissions are set out in Section 4 of this report along with more detailed comments by the Goulburn Broken CMA which has now taken responsibility for floodplain management from DNRE. However, the Panel makes the following general observations:

- The majority of the flooding submissions were devoted to challenging the extent and coverage of the RFO and LSIO in relation to particular properties owned by the submitters;

- Isolated hills, patches of high ground, ridges and depressions with the capacity to form floodways had not always been identified on the exhibited maps;
- The impact of flooding on particular properties was often attributed to the effects of legal or illegal structures, incomplete execution of approved flood control works and the consequences, whether intended or not, of other irrigation, drainage and road-making works;
- The identification of land as flood-prone and its designation on a map coloured dark or light blue was seen by many submitters as being a stain that would adversely affect the value of their property and their ability to sell the land at some point in the future. The notion of a permanent effect of this nature as a result of an irregular, episodic event of unpredictable magnitude was difficult for many people to accept;
- In only a limited number of instances did submitters extend their comments to provide a criticism of the Interim Floodplain Management Plans.
- The process of reviewing the floodplain and land subject to inundation mapping, to rectify obvious errors and to liaise with landholders to ensure that there is some reasonable correspondence between the overlays and what happens on the ground should be expedited.
- The standards for topographic mapping that are adequate for most purposes in the rest of the State are clearly inadequate for the purpose of accurately describing the behaviour of flood waters and therefore the construction of suitable overlays in the subdued topography found in Moira Shire and other comparable areas. Resources should be devoted to addressing this deficiency.
- In the Panel's opinion, given Moira is the pilot example, there is a serious lack of knowledge in the community surrounding the objectives and strategies of the Victoria's Floodplain Management Program. There is a need to better educate the community in regard the need for planning controls and the purposes they serve.

It is to be hoped, that once those matters are better understood and the provisions of the Planning Scheme have been put into effect, the community will begin to understand the benefits that can accrue. Having a common set of guidelines that all must observe, and which are enforced, will not only help to improve the performance of the floodplain, but also remove much of the suspicion that presently exists. There was a consistent theme among submitters that a lack of

effective enforcement action against illegal structures and other practices in the past had adversely affected the credibility of flood management strategies and community relationships.

The Panel therefore makes the following recommendations in relation to flooding:

- **The Department of Natural Resources and Environment and the Goulburn Broken Catchment Management Authority should cooperate to devote additional resources to expediting the process of reviewing the floodplain mapping for Moira Shire to ensure that the overlay maps present an accurate representation of the flooding conditions defined.**
- **The Department of Infrastructure should liaise with Land Data Victoria and the Goulburn Broken Catchment Management Authority to secure the provision of more precise topographic base maps of Moira Shire and comparable areas of low relief.**
- **The Interim Floodway Management Plans should be included in the adopted Planning Scheme;**
- **Council in cooperation with the Goulburn Broken Catchment Management Authority should monitor the use and assess the usefulness of the Interim Floodway Management Plans in addressing development activity in each of the precincts during the first 12 months of the Scheme;**
- **Council in consultation with the Goulburn Broken Catchment Management Authority should develop a local policy in relation to flooding and the way in which applications will be considered and performance monitored;**
- **That the Department of Natural Resources and Environment, Department of Infrastructure and the Goulburn Broken Catchment Management Authority consider the development of an education/information program to better explain the Victorian Floodplain Management Program and the planning tools used.**

Council acknowledges that salinity and the infiltration of concentrated nutrients, into groundwater is a significant land management issue for the Shire. Both the strategies and implementation priorities in Clause 3.2.2 place considerable emphasis on the Shire taking a pro-active stance in relation to Landcare, the retention and propagation of native tree species, Whole Farm Planning and regional cooperation in regard to salinity and floodplain management.

The Goulburn Broken CMA is the regional organisation that best integrates all these initiatives, either as the principal agency, as a funding and facilitating body or in partnership with other agencies such as DNRE. Council should therefore endeavour to ensure that its strategies and mapped data are consistent with the vegetation, salinity and nutrient management plans of the Goulburn Broken CMA.

In this context the Panel notes that the Muckatah Drain was the subject of Amendment LZ to the scheme dated 18 April 1997 but was not shown on the exhibited maps. The drain is now constructed and should be shown as PUZ1 on the maps.

The Panel recommends that the Muckatah Drain be shown on the Planning Scheme maps as Public Use Zone 1.

Moira Shire has placed a much higher priority on the retention of irrigated and dryland farming areas in agricultural production with strict controls on subdivision of rural land and the construction of non-farm related dwellings. At the hearing the Council tabled a new local planning policy in Clause 22-08 entitled Agricultural Land Use. The policy is intended to provide greater direction to the matters that need to be considered when examining an application for use and development within the rural zones. The policy is consistent with a similar policy in the gazetted Planning Scheme for the neighbouring municipality of Campaspe.

The Panel recommends that the Agricultural Land Use policy be included in the Local Planning Policies of the scheme.

The Panel was informed that DNRE are engaged in providing a land capability assessment of the Shire, which has yet to be completed. Subject to the findings of that work the Council has adopted a minimum lot size of 20 ha for the majority of the irrigated areas. In discussion with DNRE, this area was thought to be capable of being farmed in an environmentally and economically viable manner as a single unit. It also reflects much of the existing pattern in the irrigation areas of the Shire. However, given the intensive orcharding nature of the Cobram area a 12 ha. minimum was adopted corresponding with the Interim Floodplain Management Plan. The smaller lot size was also justified on the basis of the value of the land for orcharding being much greater than for rural living purposes and evidence of economic viability down to areas of 10 ha. The Panel has noted Council's advice that this matter has not been addressed in the MSS.

The Panel recommends that the MSS be amended to include an explanation of the Council's strategy for subdivision in the Rural zones and the rationale for the lot sizes adopted.

In the dryland farming districts of the Rural Zone a minimum lot size of 40 ha. for a dwelling was adopted based upon discussions with farmers and DNRE during preparation of the Moira Integrated Planning Strategy. This also reflects similar land use patterns under the existing scheme.

Council has advised that the Stormwater and Effluent Management strategy in the MSS needs to be updated to take account of the recently completed Stormwater Management Strategy and for that report to be listed as a reference document in the MSS. The Panel adds that the decision-making elements of this strategy may well provide the basis for a local stormwater and effluent policy, given the importance of the topic to the urban and township areas of the Shire.

Natural Environment

The Natural Environment, Clause 3.2.6 of the MSS, seeks to ensure that the impact of any development on the natural environment is addressed in any planning application. Developments will be considered in relation to any management plan or public policy. Such plans and policies may include reference to the New South Wales Regional Environmental Plan 2 (REP 2) and the Lake Mulwala Management Plan.

In the exhibited scheme the REP 2 document was included under Clause 81 of the scheme as an incorporated document. Council now intend to remove it from that clause and retain it as a reference document. The Panel supports the change and includes the reference in a subsequent recommendation.

The Department of Infrastructure (DOI) submission on Moira, as with other municipalities having a frontage to the Murray River, placed considerable emphasis on the need for municipal planning schemes to recognise the Murray River environs as a major multi-use environmental resource for the region. The significance of the REP 2 plan is quoted with approval and municipalities have been asked to explore the possibility of using equivalent principles for land along the river by adopting an Environmental Rural zone or Environmental Significance Overlay.

The Panel does not disagree with these sentiments but suggests that such activity should be coordinated by DOI amongst all the Victorian municipalities with frontages to the Murray if the potential benefits of the proposal are to be achieved.

Rivers by their very nature are integrating elements in the natural system. The consequences of actions or interventions in one section of the river or catchment flow on to others. There are a range of common factors and environmental determinants that require and are susceptible to common solutions.

As few individual Councils will have the human or financial resources to address this issue in isolation, let alone coordinate the activities of others, the Panel will recommend that DOI take on this task in cooperation with the relevant municipalities, DNRE and CMA's.

The Panel recommends that the Department of Infrastructure and the Department of Natural Resources and Environment work with municipalities and catchment management authorities adjoining the Murray River to develop a regional environmental plan comparable to the New South Wales model.

At the hearing Council also proposed an additional policy, Open Space and Recreation, for land where the Shire contributes to or manages recreation resources which are often located on public land or controlled by committees of management. The policy requires Council to have regard to the principles, objectives and strategies of the Moira Shire Sport and Recreation Strategy 1998. This document is also referenced in the Recreation and Open Space strategies discussed in the Liveability section of this report.

Although this specific local policy did not form part of the exhibited scheme, the MSS did include the Recreation/Open Space objectives and strategies and a reference to the draft sport and recreation strategy document. In these circumstances it is reasonable that the policy should form part of the adopted scheme.

The Panel recommends that the Open Space and Recreation local policy be included in the LPPF prior to adoption. Re-exhibition is not required.

The most significant examples of natural environments remaining in Moira are located on public land and zoned PPRZ and PCRZ. The bulk of the land is associated with the Murray and its tributary rivers. Within these areas there are isolated pockets of rural land which are zoned Rural under the exhibited scheme. Council and DOI have both recommended that these areas be zoned Environmental Rural Zone to reflect the proximity of these private parcels of land to broad areas of conservation significance. The Panel supports such a change, which is included in a later recommendation to adopt a series of changes suggested by Council as a result of its consideration of submissions.

A Significant Landscape Overlay has been applied around Lake Mulwala to a depth of 100m from the lake frontage in accordance with the Lake Mulwala Management Plan. The DOI has suggested this could extend to cover other areas towards the Ovens River in the east. Council is prepared to consider such an extension after further investigation and consultation.

The Panel recommends that Council consult with the local community and investigate the possible extension of the Significant Landscape Overlay in the area from Lake Mulwala to the Ovens River as part of a subsequent amendment to the Planning Scheme.

Moria Shire has gone further than many municipalities in developing a series of environmental management strategies. They include:

- Natural Resource Management Strategy 1997
- Weed Management Strategy 1997
- Native Vegetation Management Strategy 1997
- Roadside Management Plan, Mapping of Significant Roadside, August 1998

While aspects of some of these documents have been overtaken by subsequent events, there is a need for the strategies contained in them to be incorporated in the MSS and for the documents to be listed as reference documents where necessary.

Due to the time they were prepared the strategies need to be amended to recognise the central role now played by Catchment Management Authorities in relation to natural resources management.

The Panel recommends that the objectives, strategies, implementation actions and relevant local policies arising from Moira's environmental strategy reports be incorporated in the revision of the LPPF.

The Panel recommends that the revised MSS make explicit the need for close cooperation between the Shire and the relevant Catchment Management Authorities on all natural resource and environmental issues.

In relation to the Vegetation strategies within the MSS, Council should seek to align its work with the State Biodiversity program.

Biodiversity

The protection of native vegetation on private and public land is an issue raised in most rural municipalities. Panels are aware in broad

terms of the significant vegetation mapping program being undertaken by DNRE, and have consistently expressed the view that appropriate policies and overlays can only be applied when the relevant areas are mapped.

The Panel has received advice on the availability and management of biodiversity information, through the Flora and Fauna Program of the DNRE. The publication of *Victoria's Biodiversity Strategy* and the availability of versatile computer based mapping tools and databases such as BioMap, Flora Information System and the Significant Sites Register, will provide the mapped data enabling councils to use biodiversity considerations as part of their decision making processes. In particular, the section of the Strategy titled '*Directions in Management*' includes management measures that may have impacts on land use planning and need to be carefully considered.

Although the Significant Sites Register is not yet available for many areas, systematic coverage of the State is being undertaken on an LGA basis through the Biodiversity Mapping Project. In the Panel's view, it is desirable for arrangements to be made at a state level to ensure that municipalities are advised when coverage of their area is available. Provision can then be made to incorporate the data into their planning schemes by way of an amendment introducing a local biodiversity policy and utilising appropriate overlays and schedules. The Biodiversity Strategy should also be supported by direct reference in the SPPF, and could be included in a future amendment of those provisions.

The Panel recommends that DOI consider amending the SPPF to incorporate specific reference to Victoria's Biodiversity Strategy - Directions in Management and use of the Significant Sites Register and maps.

As coverage of the Significant Sites Register in each local government area becomes available under the Biodiversity Mapping Program, councils should be invited to introduce an amendment incorporating the information into their planning schemes. In anticipation of the completion of the mapping, DOI in consultation with DNRE should develop appropriate model schedules, Statements of Significance and local planning policies to be given to Councils as a 'package' with the Register and maps for the municipality. This will help Councils to introduce the new controls, and will ensure that a consistent approach is taken across the State.

The Panel recommends that DOI, in consultation with DNRE, develop model schedules, Statements of Significance and local planning policies to assist

Councils incorporate the Biodiversity Strategy into their planning schemes when the mapping becomes available.

In the Panel's opinion, the introduction of these measures will provide the essential underpinning for the environmental values of the Shire and the ability to address questions of ecological sustainability over the whole of the municipality.

The Panel supports the inclusion of the proposed local policy, Conservation of Parks and Conservation Reserves in the LPPF. The objectives of the policy are to:

- Minimise the off-site impacts of development and land use on parks and conservation reserves;
- Protect remnant native vegetation and habitat and, in particular, rare or threatened flora and fauna species;
- Promote the maintenance of ecological processes and genetic diversity; and
- Conserve the Shire's vegetation based landscape assets.

The Panel suggests Council consider adding a further purpose to this policy. Minimising the off-site impacts of development and land use is a two way street. In the Panel's experience these arrangements work best when there is a reciprocal relationship. In return for adjoining owners of freehold or leasehold land working to minimise creating adverse impacts on parks and reserves, there is a responsibility on the managers of those parks to see that the reserves do not become a haven for pest plants and animals. It is acknowledged that those requirements now form part of most public land management plans. However, when financial and human resources are under pressure maintenance can sometimes fall behind. Consequently, the Panel suggests Council consider the addition of a further purpose as set out in the recommendation.

The Panel recommends that Council consider the addition of a further purpose to the Conservation of Parks and Conservation Reserves local policy to the following effect:

- **To liaise with the managers of parks and conservation reserves to minimise the off-site effects of those reserves on adjoining land uses.**

As the policy has not been exhibited it would need to form part of a subsequent amendment to the Planning Scheme.

2.4.3 Business and Industry Development

The planning strategies for Business and Industry Development in Moira are grouped under the following headings:

- 3.3.1 Agricultural Land Use
- 3.3.2 Retail Commerce and Tourism
- 3.3.3 Industry Development
- 3.3.4 Home and Small Business

Agriculture

The objectives and strategies for agricultural land are designed to support and enhance the main economic driver of the Shire, its capacity to produce high value agricultural products on a sustainable basis. The strategies seek to retain high quality soils in agricultural production and to prevent the encroachment of unrelated residential development and fragmentation of land by subdivision into non-viable farming units.

The implementation priorities are for the completion of a land capability assessment of the whole municipality by DNRE and the use of that assessment to define areas of high quality agricultural land. That information would then be used to review the basis for the existing minimum lot sizes for construction of a dwelling within the rural areas of the Shire.

These strategies are supported by the proposed new Agricultural Land Use policy in Clause 22.08 which has been referred to favourably in the earlier section of this report.

This policy applies to all land within the Rural Zone, which covers the majority of all rural land in the Shire.

In the revised Schedule to the Rural Zone the minimum lot size is shown as 0.4ha. In the Council's submission to the Panel the basis for this decision is described as follows:

This was a deliberate policy directive to enable consideration of small lot development for intensive farm uses such as vineyards and orchards that are emerging in the Shire. A minimum lot size for housing will be retained to ensure that a smaller lot for intensive farming purposes does not provide a right to a house. Council considers that there should be flexibility in the ability of farm lots in unison or separately depending upon individual needs. From the environmental sustainable point of view, the critical issue is to actively discourage the use of housing on small lots and therefore the conversion of agricultural land to rural residential living.

The submission refers to the Moira Integrated Strategy Plan – Report 2, p.34. Under the heading Policy Influences, it states:

Minimum lot sizes for subdivision can inhibit agricultural development which is responsive to production needs and lifecycle dynamics of agriculture. For this purpose minimum lot sizes for subdivision alone should not be incorporated into the local schedule of the planning scheme.

In areas of intensive agricultural development where small lots may be considered viable for farming purposes, particular attention will be paid to only permitting housing on lots which meet the minimum lot size to prevent lots being transferred into rural residential or rural living lots by virtue of the value (and therefore municipal rating) of the land as a lot which can support a house. It will be critical that land retains its value for rural purposes to ensure its long term market viability as a rural lot.

Environmental sustainability of land will be critical to the long term maintenance of land as the key asset to agricultural productivity. Protection and enhancement of this asset needs to occur through all avenues of development control and proactive policies of Council.

The Panel has considerable disquiet at this proposal, which marks a dramatic change to the Rural Zone, which in the absence of a specified minimum would call for a minimum lot size of at least 40 ha. The concern is magnified by the fact that the Rural Zone covers such a large proportion of the Shire and a significant proportion of the high value agricultural soils at the heart of the Murray Goulburn food production region.

In the Panel's opinion, the following matters need to be considered:

- The arguments advanced in the Council's submission, while convincing in terms of the arguments for minimum lot sizes for dwelling construction, are similar to those advanced in some other municipalities wishing to open up rural land for greater subdivision opportunities. However., no strategic justification is provided other than the desire for greater flexibility, nor is there any evidence provided for the 0.4 ha minimum selected.
- The proposal has the potential to be contrary to several of the provisions of Clause 17.05 of the SPPF.
- Given the additional structures likely to be associated with smaller lots devoted to intensive agriculture, horticulture or viticulture, the proposal also has the potential to offend the principles and minimum lot sizes specified in the Interim

Floodplain Management Plans for the various precincts of the Shire.

- It seems likely that the structures and equipment likely to be associated with intensive horticulture or viticulture would soon generate calls for the construction of a house for the owner or a caretaker to make the property more secure.
- The Shire is likely to be under considerable pressure to consider a large number of subdivision applications if the proposal proceeds. Many of those proposals are likely to be of doubtful agricultural merit.
- Although clearly not intended, this proposal can be interpreted as being contrary to the whole thrust of an otherwise consistent strategic approach to an agricultural resource of State significance.

In the Panel's opinion the proposal should not proceed. Following completion of the land capability assessment by DNRE, Council should reconsider this matter in consultation with DNRE and develop an alternative proposal for inclusion in a subsequent amendment to the Planning Scheme.

The Panel recommends that the proposal to introduce a minimum lot size of 0.4 ha for the Rural Zone not be adopted. Following completion of the land capability assessment by DNRE, Council should reconsider this matter in consultation with DNRE, and develop an alternative proposal for inclusion in a subsequent amendment to the Planning Scheme.

In considering the documentation surrounding the scheme, the Panel was persuaded that the Shire can provide adequate justification to support adoption of the minimum lot sizes for the: Cobram (12 ha), irrigation country (20 ha), and dryland farming (40 ha) areas of the Shire. In this instance, the Panel is not concerned that these minimum lot sizes may differ from those proposed in an adjoining municipality purely for the sake of consistency. The justification in this case is closely related to the Interim Floodplain Management Plans where the characteristics of particular land uses have more relevance than might otherwise be the case.

Tourism

The Council has indicated that a specific tourism strategy has not been prepared because tourism is now being directed through a regional tourism body incorporating towns within New South Wales. That body is developing a regional strategy, which Council as a member of the organization will endorse.

It is essential that Council be an active participant in the regional tourism organization. However, the Shire's role as a tourist destination and host community also demands a separate and coordinated set of strategies. At present, aspects of tourism strategy and policy appear under the following sections of the LPPF:

- 3.1.3 Recreation and Open Space (natural assets)
- 3.1.4 Heritage and Conservation Sites of Significance
- 3.3.2 Retail Commerce and Tourism
- 22.08 Agricultural Land Use (retention of rural character)
- 22.09 Open Space and Recreation

Clearly related policy areas where the activity is not mentioned specifically include:

- 22.06 Conservation of Parks and Conservation Reserves
- 22.07 Aboriginal Culture and Heritage

In the Panel's opinion the LPPF should include the Shire's tourism strategy and a local tourism policy. Two objectives of such a strategy might be to take a leading role in the regional tourism body and in the development of its strategy, and to integrate the Shire's own efforts to develop its role as an attractive tourism and recreation destination. As most of the material that would be included in such a strategy and policy has formed part of the exhibited scheme and earlier strategic planning studies, the Panel is of the view that it could be incorporated in a revised version of the LPPF prior to adoption.

The Panel recommends that a Tourism strategy and local planning policy be included in a revision of the LPPF prior to adoption.

Retail Commerce

The Panel supports Council's intention to revise the MSS to recognize the work done in the Moira 2010 strategy and the Small Towns Study. As a result of the completion of those studies, strategic direction No. 2 under Clause 3.3.2 needs to be changed to focus on what strategies will now be adopted rather than the matters the studies proposed to address.

In accordance with the comments made earlier in this report in relation to the need for a settlement strategy, the local township policies 22.01 to 22.05 need to be reviewed given the transfer of the strategic elements to the MSS.

The Panel supports the use of the Township Zone for the smaller communities and agrees with Council that sufficient strategy direction can be given within the MSS and by reference to the Small Towns Study to influence the shape of development in the way Council intends.

Industry

The desire to have adequate and responsible arrangements for the siting of industrial development, is an important part of Moira's value adding strategy for economic growth.

The MSS states that new industry will be encouraged in areas that can demonstrate access to all physical services, major freight routes, necessary social infrastructure and compatibility in land use and protection of buffers to sensitive land uses in accordance with EPA guidelines. It is not clear if any one, or all of these factors, will be required to gain such encouragement. However, the Panel observes that it is a fortunate municipality that can deliver dot points 1 and 4 of that strategy, which call for sites with all services for industry, compatible land use and the protection of buffer distances.

Three industrial zones have been used:

- Industrial 1 zone to existing industrial areas and where considered suitable for industrial expansion in Numurkah, Cobram, Yarrawonga and to recognize the likely future development of Kraft and related groups at Strathmerton.
- Industrial 2 zone for the ICM meatworks at Peechelba and the Cobram Abattoirs northwest of Cobram. In each case the zone was used to ensure that buffer issues are identified early and openly in the planning scheme process.
- Industrial 3 zone for a small area of land in the Cobram area. It is an existing light industry area buffering the major industrial areas to the north west from the residential and town centre function.

The Panel believes the zones are appropriate to the strategy and the uses assigned to them.

The Council intends to introduce the Airport Environs Overlay to the Yarrawonga Aerodrome and surrounds as part of a subsequent amendment to the scheme. The amendment will be based upon the Yarrawonga Aerodrome Management Plan.

2.5 Overall Evaluation of the Scheme

The Moira Planning Scheme is the product of a considerable amount of planning study, strategy development and community consultation by Council and its consultants. The strategies contained in the MSS accurately reflect the needs and aspirations of the Shire and the dominance of the agricultural sector and the value adding industries based upon the products of the region.

One of the principal concerns of the scheme is the response to the Victorian Floodplain Management Reform Program and implementation of the strategy

arising from that initiative. There will be a continuing need for close cooperation between Council, Catchment Management Authorities and the Floodplain Management Unit of DNRE. In particular, the production of floodplain maps that accurately portray flooding hazards, and that are credible to the owners and managers of land in the Shire, will be a major challenge.

As anticipated in Council's report to the Panel, a considerable amount of revision is required to bring the MSS and Local Planning Policies into the form required under the VPP's. The range of Local Policies will also need to be extended. Where Council strategies have been challenged, it has been done in an effort to ensure that the scheme achieves the goals Council has itself set, and to see that it is internally consistent and able to be substantiated in other forums. Revision of the scheme should also provide clearer links between Council's objectives, strategies and the statutory and non-statutory mechanisms that will be employed to implement the scheme.

Moira Shire's natural environment, land use characteristics and the inherited history of past land and water utilisation practices mean that here, more than in most parts of the State, it is essential that the Shire act in close cooperation with other agencies. Those of most importance to the future well being of the Shire include the Goulburn Broken and North East Catchment Management Authorities, Goulburn Murray Water, Department of Natural Resources and Environment, VicRoads and adjoining municipalities.

3. RESPONSE TO TERMS OF REFERENCE

3.1 Consistency

Is the planning scheme consistent with the Ministerial Direction on the Form and Content of Planning Schemes under Section 7(5) of the Planning and Environment Act?

A list of the technical corrections and updates that Council seeks to make as a result of V3 of the VPP's are set out in the following table:

Change
Insert User Guide in accordance with V 3
Label MSS pages with "Local Provisions" in Header
Delete existing Rural, Rural Living, Public Use, Public Park and Recreation, and Public Conservation and Resource Zones and replace them with the V3 version of VPP. Update local schedules accordingly (Refer appendix 3)
Replace Cl. 51 and 52 to accord with Pages as in V3
Insert the Schedule to Clause 52 as detailed in Appendix 3 above
Insert the Schedule to Clause 52.17 as detailed in Appendix 3 above
Update the Schedule to Clause 61.01 – 61.04 to denote the full requirement of zone and overlay maps as exhibited
Update Clause 71 – 74 to accord with changes to V3
Update Clause 81 to refer to the V3 version as detailed in Appendix 3
Change the Table of Contents to list Urban Floodway Zone, Business 3, Environmental Rural Zone and Industrial 2 zones
Change Table of Contents to delete Business 4 zone and Special Use Zone
Add the ordinance provisions as relevant for Business 3, Urban Floodway and Environmental Rural Zone
Amend Maps 1,2,3,4,6,8,9,19,21,22, 26 and 28 to zone the Murray River, Goulburn River and Ovens River banks to PCRZ (not PPRZ).

Is the Planning Scheme consistent with Ministerial Directions under Section 12 of the Planning and Environment Act?

Ministerial Direction No.1

The scheme complies with Ministerial Direction No.1 (potentially contaminated sites). No sites have been identified which meet the criteria for the overlay.

Ministerial Direction No.6

The Council has not rezoned any new areas as Low Density Residential. The Strategy Plan Development Options for each township have indicated locations for potential rural residential sites but there have been no actual rezonings. The Shire needs to undertake a more detailed assessment of the areas within the LDRZ at Yarrawonga and Bundalong, where the amount of land involved is large and in close proximity to Lake Mulwala. In other communities, some of these areas reflect previous rural residential subdivisions, which would allow

small lot subdivisions without services. The Shire should ascertain if it has the ability to provide physical and social infrastructure to these locations.

VPP Manual

Is the planning scheme consistent with the Manual for the Victorian Planning Provisions?

The Council acknowledges that sections of the scheme are inconsistent with the VPP Manual. For the most part, this is because the scheme was prepared before the release of Amendment V3 to the Victoria Planning Provisions.

The Scheme will need to be adopted in a format that reflects the changes to the Victoria Planning Provisions made under V3 and subsequent amendments. In particular, the headings in the sub-clauses of the MSS need to be review in accordance with the comments made earlier in this report. The local planning policies that were exhibited included strategies that need to be transferred to the MSS. The revised policies submitted at the hearing conform to the format required in the new VPP manual. In its submission to the Panel, the Council also included new schedules for the Rural, Environmental Rural, and Rural Living Zones, and the Public Use, Public Park and Recreation and Public Conservation and Resource Zones, all of which should replace the exhibited schedules.

The Panel recommends that the planning scheme be redrafted to ensure it is consistent with the changes made under Amendment V3 and subsequent amendments to the Victoria Planning Provisions. These changes should be made prior to the scheme being adopted by Council.

3.2 Municipal Strategic Statement

Does the MSS further the objectives of planning in Victoria to the extent that they are applicable to the municipal district?

The objectives of planning in Victoria as set out in Section 4(1) of the Planning and Environment Act are:

- (a) to provide for the fair, orderly, economic and sustainable use and development of land;
- (b) to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;
- (c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;
- (d) to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical or otherwise of special cultural value;
- (e) to protect public utilities and other assets and enable the orderly provision and coordination of public utilities and other facilities for the benefit of the community;

- (f) to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e);
- (g) to balance the present and future interests of all Victorians.

All the objectives are relevant to the Moira Shire Council and are responded to in the MSS. Considerable work remains to be done before the Shire will be in a position to say that it has adequately developed a strategy to address the planning objectives for the conservation of buildings, areas or other places set out in paragraph (d).

Are the strategic planning, land use and development objectives of the planning authority a reasonable response to the characteristics, regional context, development constraints and opportunities of the municipal district?

Considering the objectives of planning in Victoria and the planning authority's objectives, are there any important omissions or inconsistencies?

Does the MSS contain realistic and reasonable strategies for achieving the objectives?

The Panel considers that the MSS should be revised to more properly express Council's planning objectives and strategies and how these will be implemented through both the planning scheme and other Council's actions and initiatives.

A number of detailed comments and recommendations have been made throughout this report about how this should be achieved.

What were the processes used in arriving at the MSS?

The process of preparing the scheme is set out in detail in Section 2.2 of this report. In brief, the development of the strategy commenced in December 1995 with community consultation through 1996 leading to the circulation of a draft strategy in October 1996. The strategy was reviewed and adopted by the new Council in July 1997 as an Interim Strategy. That document became the basis of the MSS in the exhibited scheme.

Are there satisfactory links with the Corporate Plan?

After introducing the Shire, the MSS takes as its starting point the mission and vision for the Moira Shire as stated in the Corporate Plan. The Panel is satisfied that the links provided by the values and principles described in Section 2.3 of this report are relevant to the Shire and have influenced the direction of the strategies expressed in the MSS.

3.3 Local Planning Policies

Is the LPPF and other local provisions consistent with the SPPF?

The Moira Planning Scheme is generally consistent with the SPPF. Although the headings adopted for the three main areas of the LPPF are slightly different from those used in the SPPF, the scope and intent is essentially the same. The headings used in the SPPF could be used with equal effect.

Are local policies soundly based and reasonably justified?

Will local policies be of practical assistance in day to day decision making about permit applications?

To what extent have local policies been created as part of the new planning scheme and to what extent are they a replication of previous local policies?

The Panel has made detailed comments about the form and content of the Council's local planning policies in Section 2.3 of this report. In general terms, the local policies exhibited were the least satisfactory part of the scheme. With the removal of the strategic elements from the individual township policies, little remained.

Council was aware that both the content and the format of the policies was deficient and sought to remedy this situation by preparing a new set of policies. The new policies are in an appropriate format and should prove to be of practical assistance in decision making. The Panel has identified additional policies that should be added to this suite as a minimum. Throughout the scheme there is a need to link the Shire's strategies and policies much more closely to the strategies and policies of other agencies by making reference to appropriate documents.

To the extent that a large proportion of the scheme is based upon studies and strategies completed in the last two years and many of the policies have been drafted recently, they can be seen as having been created as part of the new scheme.

At the Hearing, the council indicated its willingness to alter the structure and format of the local planning policy section in light of comments made by the Panel.

3.4 Zones and Overlays

Are there clearly defined linkages between the MSS and the applications of zones, overlays and schedules?

Is the application of zones, overlays and schedules the most appropriate of the VPP techniques to achieve the stated outcome?

In its written submission to the Panel, the Council outlined the links between its strategic directions and the selection of various zones and overlays. Unfortunately, these linkages were not expressed throughout the MSS. The Panel is concerned about the absence of specific linkages between the MSS and application of zones, overlays and schedules and considers that the MSS should be re-written to ensure that these linkages are made more explicit.

The practice note on the Format of Municipal Strategic Statements provides an example of how to draft a MSS to describe the relationship between Council's planning objectives and strategies and the controls on the use and development of land in the scheme.

The Panel recommends that the MSS be redrafted generally in accordance with the Practice Note on the Format of Municipal Strategic Statements to show the relationship between Council's planning objectives and strategies and the controls on the use and development of land in the Planning Scheme.

The linkages between the various elements of the scheme are set out in the following table contained in the Council's submission to the Panel:

SPPF	MSS - Strategic Directions	Local Policy	Particular Zone Choice	Overlay
Cl. 14.01 Planning for urban settlement Cl. 16.02 Medium density housing	3.1.1 Population and Housing 3.1.2 Community Services 3.1.3 Recreation and Open Space 3.1.4 Design and Development	22.01 – 22.05 Township Policies	R 1, LDRZ and Township Zone	
Cl. 14.01 Planning for urban settlement	3.1 Livability and subsequent sub headings	22.01 – 22.05	Residential 1, LDRZ and Township Zones	
Cl. 16.03 Rural Living	3.1. Livability and subsequent headings	22.05 Rural Residential Policy	LDRZ and RLZ zones	
Cl. 15.11 Heritage	3.1.5 Heritage and Conservation of Sites of Significance	22.07 Aboriginal Culture and Heritage	PPRZ and PCRZ	H O - Heritage Overlay

SPPF	MSS - Strategic Directions	Local Policy	Particular Zone Choice	Overlay
<p>Cl. 18.01 Declared highways, railways and tramways</p>	<p>3.1.6 Transport and Access</p>	<p>22.10 Road Network</p>	<p>RDZ! And RDZ2</p>	<p>PAO - Public Acquisition Overlay not used in exhibited planning scheme. At the time of exhibition VicRoads was unable to identify the need for any acquisitions in the planning scheme.</p>
<p>Cl. 15.01 Protection of waterways, groundwater and catchments</p> <p>Cl. 15.02 Floodplain Management</p> <p>Cl.15.03 Salinity</p> <p>Cl. 15.07 Protection from wildfire.</p>	<p>3.2.1 Flooding 3.2.2 Salinity 3.2.3 Irrigation Farming 3.2.4 Dryland Farming 3.2.5 Stormwater and Effluent Management</p>	<p>22.08 Agricultural Land Use</p>	<p>RUZ ERZ LDRZ UFZ Provisions of Rural Zone Schedule</p>	<p>Rural Floodway Overlay Land Subject to Inundation Overlay</p>

SPPF	MSS - Strategic Directions	Local Policy	Particular Zone Choice	Overlay
<p>Cl. 15.09 – Conservation of native flora and fauna</p> <p>Cl. 15.10 - Open Space</p> <p>Cl. 18.12 - Developer Contributions to Infrastructure</p>	<p>3.2.6 Natural Environment</p> <p>3.2.7 Vegetation (including Public and Private Lands)</p>	<p>22.06 Conservation of Parks and Conservation Reserves</p> <p>22.09 Open Space and Recreation</p>	<p>LDRZ</p> <p>ERZ</p> <p>Rural zones</p> <p>PPRZ</p> <p>PCRZ</p>	<p>SLO 1 – Lake Mulwala Surrounds</p>
<p>Cl. 15.06 Soil contamination</p>	<p>3.2.5 Stormwater and effluent Management</p> <p>3.3.3 Industry Development</p>	<p>22.01 – 22.05 Township policies</p>	<p>Industrial zonings</p>	<p>EAO not needed as no currently listed sites of potential contamination</p>

SPPF	MSS - Strategic Directions	Local Policy	Particular Zone Choice	Overlay
Cl. 15.04 - Air Quality Cl. 15.05 Noise abatement Cl. 17.03 - Economic Development Industry	3.2.5 Stormwater and Effluent Management 3.3 Business and Industry Development and subsections	22.01 – 22.05 Township Policies	IN 1 IN 2 IN 3 B 3	Airport Environs Overlay to be utilised in a separate amendment to the scheme.
Cl. 17.02 Business	3.3 Business and Industry Development and sub headings	22.01 – 22.05 Township policies 22.10 Road Network Policy	Business Zones 1,2 and 3	
Cl. 17.02 Business	3.3.2 Retail, Commerce and Tourism 3.3.3 Industry Development 3.3.4 Home and Small Business	22.01 – 22.05 Township Policies	B1, B2 and B3 as well as Township Zone	

The Council's use of the zones, overlays and schedules has been discussed in Section 2.4 in relation to the Shire's planning strategy. However, there are also some situations where the zones included in the planning scheme no longer bear a direct relationship with Council's MSS.

Council has provided a Special Use 1 – Religious and Education facilities zone to reflect the large tracts of land within some townships (e.g. Nathalia and Yarrawonga). This reflected existing zonings of these facilities under the current planning scheme.

The majority of facilities similar to these in other parts of the Shire have been zoned Residential 1. The Special Use zone should be deleted and the relevant properties zoned Residential 1. This is consistent with the surrounding zoning.

A Special Use Zone 2 - Camping and Caravan Parks was developed to acknowledge camping areas within areas of potential flooding. Whilst this was prepared for the ordinance, final mapping identified that all camping areas within the floodplain were in public ownership and therefore zoned either PPRZ or PCRZ. Consequently this Special Use Zone has not been utilised and can be deleted from the Ordinance.

A Special Use 3 Zone has been utilised in Cobram to recognise the existing sporting clubs in this town, which are located on the Highway. Both sites are within areas, which are to be zoned Industrial 1. The facilities would remain Section 2 uses if placed in an Industrial 1 Zone. The Panel will recommend that the Special Use Zone be deleted and that the two sites be zoned Industrial 1.

The replacement of the Special Use Zone in these circumstances is consistent with the requirements of the VPP's.

The Panel recommends that the Special Use Zones 1, 2 and 3 exhibited, be deleted from the Planning Scheme and that the land revert to the Residential 1, the Public Park and Recreation Zone, the Public Conservation and Resource Zone and Industrial 1 Zone respectively.

Adjoining Schemes

Moira Shire adjoins five Victorian Municipalities and three municipalities in New South Wales. These are Murray, Berrigan and Corowa Shires.

Common issues between the municipalities are the management of the principal river systems of the Murray, Ovens and Goulburn Rivers and Broken Creek, agricultural land use practices and interconnecting road and rail links.

Moira Shire recognises the need to address the common strategic issues with its neighbours in New South Wales through the adoption of the New South Wales State Environment Protection Plan – 2 which relates to the Murray River

environs. Strategic links are also maintained in a corporate management sense by Moira participating in regional economic and tourism boards which include representatives from New South Wales.

Within Victoria, Moira abuts the municipalities of Indigo, Wangaratta, Delatite, Greater Shepparton and Campaspe. The following table provides a summary of the main elements of the planning schemes along the common border with Moira:

Victoria

Indigo

Rural Zone (40ha min with exceptions)
Environmental Significance Overlay

Wangaratta

Rural Zone
Rural Living Zone (Peechelba)
Township zone (Peechelba)
Low Density Residential Zone (Peechelba)
Public Park and Recreation Land (Peechelba)
Public Conservation and Resource Zone
Rural Floodway Overlay

Delatite

Rural Zone (40 ha)
Public Conservation and Resource Zone
(Boosey Creek, Broken Creek)

Greater Shepparton

Rural Zone (40 ha min, small areas 80 ha)
Rural Floodway Overlay
Land Subject to inundation Overlay
Special Building Overlay
Salinity Management Overlay

Campaspe

Rural Zone (40 ha min)
Public Conservation and Resource Zone
Rural Floodway Overlay
Land Subject to Inundation Overlay
Salinity Management Overlay

Moira

Township Zone
Public Conservation and Resource Zone
Low Density Residential Zone
Rural Zone
Rural Floodway Overlay

Moira

Rural Zone
Public Conservation and Resource Zone
Rural Floodway Overlay

Moira

Rural Zone (40 ha)
Public Park and Recreation Zone (Broken Creek)
Public Conservation and Resource Zone (Boosey Creek)
Rural Flood Overlay
Land Subject to (Inundation Overlay)

Moira

Rural Zone (20 ha min + 40 ha outside irrigation district)
Rural Floodway Overlay
Land Subject to Inundation Overlay

Moira

Rural Zone (40 ha min)
Public Conservation and Resource Zone
Rural Floodway Overlay
Land Subject to Inundation Overlay

New South Wales

Murray

1F Forest Zone
1a General Rural (40 ha min)

Berrigan

Rural 1a Zone (no min)
Residential 2b (Townships)

Corowa

General Rural Zone (250 ha min)
Riparian Lands & Wetlands (7a) Zone
(250 ha min with rural adjustment
opportunity)
(Corowa is strongly opposed to rural
residential development and fragmentation
of rural land)

Moira

Rural Zone (40 ha min)
Public Conservation and Resource Zone
Rural Floodway Overlay
Land Subject to Inundation Overlay

Moira

Rural Zone (40 ha min)
Residential Zone
Urban Floodway Zone
Public Use Zone
Public Park and Recreation Zone
Public Conservation and Resource Zone
Rural Floodway Overlay
Land Subject to Inundation Overlay

Moira

Rural Zone (40 ha min)
Township Zone
Residential 1 Zone
Low Density Residential Zone
Public Use Zone
Public Conservation and Resource Zone
Public Park and Recreation Zone
Significant Landscape Overlay
Rural Floodway Overlay

The measures are generally compatible with the exception of the use of the Salinity Management Overlay (SMO) by Greater Shepparton and Campaspe. The Moira Shire believes that the drainage controls for the Shepparton Irrigation Region effectively deal with salinity, and that the SMO is more tailored to dryland, rather than irrigation salinity.

3.5 Schedules

As previously discussed, schedules have been included for the following zones and overlays:

Industrial 1 Zone
Industrial 3 Zone
Business 1 Zone
Business 3 Zone
Business 4 Zone
Rural Zone
Rural Living Zone
Public Use Zone
Public Park and Recreation Zone
Public Conservation and Resource Zone

Road Zone
Special Use Zone- Education and Religious Purposes
Special Use Zone- Camping Ground and Caravan Park
Sport and Recreation Clubs
Significant Landscape Overlay – Lake Mulwala and Surrounds
Heritage Overlay
Rural Floodway Overlay – Schedule to Clause 44.03-1
Land Subject to Inundation Overlay – Schedule to Clause 44.04-1

The Panel has noted elsewhere that the Special Use Zones will be deleted from the scheme. In its submission to the Panel, Council tabled revised schedules for the Rural, Rural Living, Public Use, Public Park and Recreation and Public Conservation and Resource Zones. In addition, in response to comments from DNRE and DOI a schedule for the Environmental Rural Zone was also included.

The Panel is generally satisfied with the form and content of the schedules to the zones and overlays included in the planning scheme. However, in Schedule 1 to the Significant Landscape Overlay – Lake Mulwala Surrounds, the Panel considers that the content and expression of the document should be reviewed. The decision guidelines are few and the exemptions seem excessive in view of the contents of other sections of the VPP's. Under 4.0(e), the reference to the relevant soil conservation authority should be changed to the relevant catchment management authority.

The Panel recommends that Schedule 1 to the Significant Landscape Overlay – Lake Mulwala Surrounds, should be revised to take account of the comments made in this report.

3.6 Incorporated Documents and Referrals

Council exhibited a list of 19 Incorporated Documents in the schedule to Clause 81. Eleven of the documents listed are included in the State section of the scheme. A revised list of 18 documents was contained in Council's submission, nine of which appear in the State section. As noted earlier in the report the Council seeks to incorporate the "Planning Controls for Earthworks in the Goulburn Broken Catchment", January 1997 and the "Interim Floodway Management Plans, Moira Shire Council", July 1997. The Panel supports the inclusion of these two documents in place of the "Regional Environmental Plan No 2 - New South Wales" and the "Moira Shire Integrated Strategy Plan" 1996-97, both of which will become referred to documents.

No additional referrals are required other than those contained in the VPP's.

3.7 Monitoring and Review

Clause 4.0 of the MSS states that the Municipal Strategic Statement should be comprehensively reviewed in 5 years from the date of adoption. This was

based on direction at the time of writing the MSS. Council acknowledged that the current direction from the Department of Infrastructure is that a 3-year time review should be utilized. The MSS does not provide any information on the mechanisms Council would use to monitor the effectiveness of the new planning scheme. In other reports Panels have suggested a monitoring program embracing the following elements:

- The number and type of applications;
- Processing time;
- Relevant provisions applying;
- Basis of decisions (use of local provisions to assist decisions);
- Compliance with the LPPF, and the adequacy or otherwise of the zones, overlays and local schedules to address issues raised by permits;
- The level of Council support for planning officer's recommendations; and
- The level of VCAT support for Council decisions.

Council will need to allocate the appropriate resources to undertake the monitoring program thoroughly and consistently to ensure that the required information is available for the three-year review. The Panel supports the approach taken by other schemes where the monitoring and review process is set out clearly in the MSS.

The Panel recommends that the proposed program for monitoring and review be finalised and included in the MSS prior to approval of the scheme. Re-exhibition is not necessary.

3.8 Technical corrections to the Planning Scheme sought by the Responsible Authority

Since exhibiting the planning scheme, the Council has identified a number of mapping and other errors. A detailed list of the changes sought by the Council is included in Appendix B to this report. The changes do not have an impact on Council's strategic directions, nor do they appear to have a detrimental impact on landowners. The Panel considers that the changes should be made before the scheme is adopted by Council. Further exhibition is not required.

The Panel recommends that the changes to the exhibited planning scheme sought by the Council and outlined in Appendix B to this report be made prior to the planning scheme being adopted by the Council. Re-exhibition is not necessary.

4. CONSIDERATION OF SUBMISSIONS

The Council has grouped the submissions under the following headings:

		Page No.
<u>FLOODING ISSUES</u>		
Kouputna	Fk 1-11	56
Nathalia	Fn 1-24	72
Numurkah	Fnu 1-8	97
Strathmerton	Fs 1-3	107
Yarrowonga	Fy 1-6	110
Other Areas	Fo 1-9	117
Flood Levees	Fl 1-14	126
<u>GENERAL ISSUES</u>	G 1-15	139
<u>ZONING ISSUES</u>		
General	Zg 1	166
Cobram	Zc 1-8	167
Yarrowonga	Zy 1-23	180
Numurkah	Znu 1-11	210

Submission No: F 1 & 2 **Date Received:** 25 September 1997

Submitter: Mr Neil Watson, Planning Officer, Floodplain
Management Unit, DNRE

Location: General

Submission Summary:

Notes that the Department of Natural Resources and Environment - Floodplain Management Unit has obtained further information regarding flooding overlays and zones since exhibition of the scheme maps and wishes to amend the maps accordingly. The changes are not identified in the submission.

Notes anomalies within the exhibited planning scheme.

Requests that Urban Floodway Zones for township areas replace Rural Floodway Overlay.

Notes inconsistency of sheet numbers and hatched areas of the Cobram Precinct Floodplain Management Plan.

Council Comment and Recommendation:

The flood overlays were prepared in conjunction with the Department of Natural Resources, Floodplain Management Unit as a pilot for similar flood mapping across the state. The overlays were prepared using extensive aerial photography of previous flooding events, records of previous floods and modelling of the potential flood flow of new events based on current land flows.

As part of the preparation of plans for exhibition, consultation was held with a number of relevant groups and persons to identify accurate records. Prior and during exhibition of the planning scheme public meetings were then held with officers of the Department in attendance to explain the overlays. The results of the work also formed much of the basis to land use planning decisions identified in the Moira Shire Integrated Strategy Plan and MSS. Both these documents involved considerable community input and opportunity for comment.

All Submissions relating to flooding were referred to the Floodplain Management unit. Council resolved to accept changes as recommended by the Unit, subject to any necessary negotiation. Over the past three months discussions have been held with the unit in relation to the submissions.

Some submissions raise the issue that the establishment of flood overlays will devalue properties. The overlays seek to identify land that is already flood prone. Generally speaking they do not create new areas of potential flooding.

The establishment of overlays will affect a large number of properties in both the Moira Shire and the surrounding river flat municipalities. The impact on property values is difficult to evaluate given the existing flood problems associated with the land and the broad extent to which the overlays will apply.

The intent of the overlays is to properly and clearly identify areas of potential flooding in a consistent and public manner. Building restrictions already exist on many of

these properties through the provisions of the Building Control Act in relation to areas of known flooding. The more restrictive urban floodway zone applies to areas where building is already restricted due to existing building regulations. Similarly the Rural Floodway overlay will require a Planning permit to be obtained through the normal processes to build in areas of potential flooding. The issues addressed will be similar to those considered currently under the Building Control Act, however, it will be undertaken in a more open and consistent manner. The critical change will be in the need to obtain a planning permit for buildings and works, including land forming. This is considered appropriate given the severe impact minor changes in land form can make to the broader floodplain. This is considered an acceptable encumbrance on individual land holdings for the safety and economic well being of the broader region.

Panel Comment and Recommendation:

The Panel notes that the Floodplain Management Unit of the Goulburn Broken Catchment Management Authority assessed all of the submissions relating to flooding. The Panel acknowledges their expertise in respect of flooding issues and has generally adopted their recommendations. Subsequent to the Panel, the Floodplain Management Authority made a further written submission to the Panel. This response is included below:

Floodplain Management Authority Comments

Flood mapping for Moira Shire district was undertaken as a pilot by the Department of Conservation and Natural Resources and Environment and subsequently the Department of Natural Resources and Environment (NRE).

The intent of the maps is to show areas that are at risk of flooding for a 100-year ARI flood.

The areas determined as land liable to flooding is further assessed in terms of defining floodways and flood-fringe areas (Refer to NRE Notes presented at Panel Hearing by Mr Mike Edwards). From this work maps were produced showing floodway and land subject to inundation and which have been translated as RFO (UFZ in urban areas), and LSIO under the VPPs.

Much of these maps have been developed from information that has been known and collected over the years. The new VPPs gives the mechanism to display this information, which identify existing risks.

In areas where a "blanket blue" has been used there will always be anomalies where parcels of high land exists that have been shown as flooded. The best available information has been used and not all these high parcels can be readily identified. From this review however, many areas have been identified as not liable to flooding, which in turn map will be amended accordingly.

The maps presented are based on historical floods that are generally record floods. These have generally been used as representative of the 100-year ARI. In instances, where stream gauge data exist, margins have been used above a known flood to extrapolate to the 100-year ARI. Furthermore, flood photography interpolation against contour information against known peak flood heights have been used to determine margins and adjusted for stream gauge knowledge.

The maps generally represent known available information at the time of mapping. As better information becomes available the maps should be adjusted where warranted.

For criteria used for mapping reference should be made to Mike Edwards' handouts to the Panel Hearing on 12 October 1998. In summary, the criterion used for flood mapping is generally a function of depth. However, shallow depression flows are treated differently than deep flowing areas where flood fringe area can be set aside. Furthermore, deep storage areas are usually set aside as RFO. Areas identified as flooded from local sources from heavy rainfalls are also included.

Broken Creek mapping was essentially based on both 1974 and 1993 flood events. These floods have been determined around 30 to 50-year flood events. This is the best information to date.

In the Kotupna area where contour information is not detailed, many large high parcels of land have been shown as LSIO. In this instance, ground truthing and on-site consultation with the landowners was undertaken on 18 November to identify such parcels of land proved worthwhile and successful. Furthermore, the approach of mapping between the Goulburn River and Wakiti Creek needs to be reviewed and is subject to Stage 2 of this report, which will be available in December to January. Similarly, areas north of Dowdle Swamp will need to be reviewed with landowners.

Storages – The Murray

The primary function of the water supply reservoirs is for water supply purposes. The storages can however, be operated for flood mitigation but with the constraint of maximising the water resources (*G-MW, MDBC*). Water is yielded to a set of targeted operating rules, which could have the storage relatively full prior to a flood occurring.

For minor flood events, floods may be absorbed but for the significant flood events the storage will be less effective. The effectiveness of these storages for mitigation is highly dependent on how empty they are prior to a flood occurring. Major floods are unpredictable and can occur at time of the year.

Submission No: Fk 1 **Date Received:** 25 September 1997

Submitter: Lance P Colman

Location: Kotupna Map 28

Submission Summary:

Objects to the Rural Floodway Overlay as it affects Kotupna.

Council Comment and recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

The floodplain Management unit undertook discussions with a number of landowners in the Wakiti Creek area. The following submissions are included as part of this discussion:

F8 –Lance P Colman - Objects to flooding Classification cites 1987 C McNamara Report

F21 – Brian & Brenda De Bernardi – not affected in 1993 flood (lived in area 10 years)

F23 – RM & J Brown – cites 1987 C McNamara Report – land values impacts

F24 – B A & E C Smith - Wakiti not Flooded unless levees breach in Goulburn River

F29 – Colin Spencer – disagrees with some of the representation

F41 – A J Dark – disagrees with information

F42 – Sudholz – only 15% of land flooded in 1993.

F43 – Wakiti Irrigator Co-Op Soc. Ltd – Wakiti Creek highest land in district, objects to RFO.

F46a – R Golding – floodway wrong in part of Wakiti– Sandhill around house (family has been in the area more than 100 years)

F47 – Betty Bruce – Objects to the zoning (lived in area for 5-years).

The above submissions will be reviewed following on-site discussion with landowners.

Below is some initial discussion.

Mr Colman has pointed out that the flood maps produced in the Cameron McNamara Report (see attached) for the Rural Water Commission, *Lower Goulburn Flood Plain Management Study Shepparton to Kanyapella* (1987) does not represent the overlays shown on Moira's Planning Scheme.

Furthermore, he claims that the floodway for the Wakiti Creek was dropped when it was proposed for the Shire of Nathalia, in early 1993.

Comparison with available 1974 flood photography with the Consultant's maps show discrepancies in that the 1974 flood photography show greater extent of inundation (see attached). This is partly explained due to heavy rainfalls during or shortly after flood photography was taken.

The current maps were derived by plotting the 1974 flood photography on to available ground contour plans. An allowance has been made of some 0.6 metres above the extent of flooding shown in the photography. This allowance takes into account that the photography is not taken at the peak

The 1993 flood was only representative of a 30-year flood at Shepparton but is considered substantial (highest on record at McCoy Bridge) due to artificially high stage caused by large breakaway flows from Coomboona and the sand bagging along the southern banks of the Goulburn River and the Rodney Main Drain (video footage).

The use of a margin of 600 mm above known historic flood is considered at this stage as *unreasonable* and will be reviewed in Stage 2. This explains why most of the land as shown as LSIO.

Under natural conditions, much of the land would not be at risk to inundation. The Wakiti Creek system in an old prior course of the Goulburn River, which had become perched before a change of river course. The perched system is relatively high with scattered sandhills.

Today the system is not a natural one. With levees in place to standards to less than 5-year ARI there is a real risk of levee overtopping and levee failures. The levee failure in the past has been random with no two floods acting the same.

The mapping has to recognise that flooding from overtopping or failure is real and therefore floodwater can flood adjacent land during major floods.

Wakiti Creek is a high ephemeral stream that flows during high flows in the Goulburn River. This Creek has had a measured flow rate of 3,260 ML/d. It is understood in 1993 it was agreed to remove the floodway overlay from the former Nathalia Planning Scheme for reasons not clearly known.

Attached are maps showing general locations together with the abovementioned Submission Nos printed. These maps show ground contours and estimated 100-year flood levels. They also show area of inundation from the 1974 flood photography.

The Authority considers that the Wakiti Creek should function freely during major floods, and therefore considers that the RFO along the Creek ONLY is reasonable. Maps should be amended, which is generally agreed during landowner meetings.

Any detailed survey should be forwarded for review. (refer submissions 8 and 41).

Guy Tierney has amended many areas following landowner consultation on 18 November 1998, particularly to the north of Wakiti Creek, which will be detailed in Stage 2.

Panel Comments and Recommendations:

The Panel notes the comments of the Floodplain Management Authority and supports their recommendation on these matters.

Submission No: Fk 2 **Date Received:** 29 September 1997

Submitter: Brian and Brenda De Bernardi

Location: Kotupna/Nathalia District Map 11 & 28

Submission Summary:

Objects to flood and water overlays. Expresses concern over the possible restriction of farming activities in areas affected by the overlays.

Notes that public consultation regarding water and flood management issues in the Moira Shire has not been sufficient.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit.

Consultation in relation to the planning scheme was undertaken in both formal and informal avenues. This included identification of flooding information in the Moira Integrated Planning Strategy, public meetings and discussions both before and during the exhibition of the planning scheme.

It is considered that the consultation undertaken has been sufficient to address the issues raised by the submitters.

Panel Comment and Recommendation:

See submission Fk 1.

Submission No: Fk 3

Date Received: 29 September 1997

Submitter: RM and J Brown

Location: Kotupna, Nathalia District Map 11 & 28

Submission Summary:

States that final plans should be reconsidered to include detail of flood pattern in actual flood events and also take into account the effect of flood overlays on property values and development.

Consultant Comment and Recommendation:

Flood overlays are based on a consistent measurement of an estimated 1 in 100 flood event. This has been based on extensive mapping of previous flood events in the Shire and modelling of potential flooding as a result of changed land form conditions in recent years.

The overlays are presented in a form, which relates to the planning scheme format. Additional notes and detailed map information has also been prepared by the Floodplain unit, to assist Council in considering applications in areas affected by the overlays. This will be used as a reference document to the planning scheme.

Panel Comment and Recommendation:

See submission No. Fk 21.

Submission No: Fk 4 **Date Received:** 29 September 1997

Submitter: BA and EG Smith

Location: Wakiti Lagoon vicinity, Kotupna Map 9

Submission Summary:

Objects to the inclusion of the Rural Floodway Overlay over their land. States that overlays may be based on incorrect information and that such an overlay would devalue land and hinder future development.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Panel Comment and Recommendation:

See submission no. Fk 1.

Submission No: Fk 5 **Date Received:** 30 September 1997

Submitter: Colin Spencer

Location: Kotupna/Nathalia District Map 9, 28

Submission Summary:

Expresses concern over the accuracy of the flood provision overlays. Notes discrepancies in the Rural Floodway Overlay. Object to the implementation of the current flood provisions.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Panel Comment and Recommendation:

See submission No. Fk 1.

Submission No: Fk 6 **Date Received:** 30 September 1997

Submitter: AJ Dark

Location: Allotment 49 Parish of Kotupna, Nathalia District
Map 28

Submission Summary:

Objects to the flooding overlays. Notes that Wakiti Creek is marked as floodway and that the vicinity, which is considered to be on high land, is classified similarly. Raises concerns about compensation for creating floodway areas on land that was previously flood free.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Panel Comment and Recommendation:

See submission no Fk 1.

Submission No: Fk 7 **Date Received:** 30 September 1997

Submitter: Ian, Lynda, Graham, and Pauline Sudholz

Location: Barmah Road, Kotupna Map 28

Submission Summary:

Raises concerns over inaccuracies in the flooding overlays particularly the Land Subject to Inundation Overlay as it applies to their property at Barmah Road, which is not known to flood.

Raises concerns over the limitations placed on agricultural land by the flood provisions including the effects on long term development.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

The overlays do require the construction of works to obtain a planning permit unless they are exempt by the local schedule. It does not prohibit uses or works, merely requiring a permit to be obtained.

Panel Comment and Recommendation:

See submission no Fk 1.

Submission No: Fk 8 **Date Received:** 30 September 1997

Submitter: Wakiti Irrigators Co-op Soc Ltd

Location: Kotupna district Map 28

Submission Summary:

Objects to the Rural Floodway Overlay.

Raises concerns over the inaccuracy of the overlay, lack of community consultation, possible devaluation of property, and inappropriate nature of intended floodway.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Panel Comment and Recommendation:

See submission no Fk 1.

Submission No: Fk 9 **Date Received:** 30 September 1997

Submitter: Betty Bruce

Location: Hancocks Bridge Road, Kotupna Map 28

Submission Summary:

Objects to the identification of land as Rural Floodway. States it is an unnecessary encumbrance for a 1 in 100 year event.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Panel Comment and Recommendation:

See submission no Fk 1.

Submission No: Fk 10 **Date Received:** 30 September 1997

Submitter: R Golding

Location: Kotupna-Barmah Road, Kotupna Map 9

Submission Summary:

States that Rural Floodway overlay is not applicable to the Wakiti Creek area but to the west of Wakiti Lagoon.

States that floodway and inundation overlays in the vicinity of Wakiti Creek are not accurate.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Panel Comment and Recommendation:

See submission no Fk 1.

Submission No: Fk 11 **Date Received:** 30 September 1997

Submitter: Trevor Senior

Location: Lot 1, Parish of Kotupna Map 28

Submission Summary:

Objects to the flood overlay on the above property stating that his property did not flood in 1973 or 1993. Raises concerns over the accuracy of the information that these overlays are based on.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

Mr Senior was present with other Kotupna landholders at a meeting held on Friday 9 October 1998 prior to the Panel Hearing, including Mr Morris Brown, who made a presentation to the panel on Tuesday 13 October.

It was explained that the levee system is highly susceptible to random levee failure from floods that exceed the 10-year ARI event. The 100-year event has not occurred with system in place.

Mr Senior's property is located adjacent to a levee (see attached plan), which is at risk of failure during major flood events

It was explained to Mr Senior that given the nature of flooding and the low level of protection provided by the levee, the property cannot be shown flood free.

Panel Comment and Recommendation:

The Panel supports the recommendations of the Floodplain Management Unit and the Council in this matter.

Submission No: FL 2 and 3

Date Received: 25 September 1997

Note: This submission has been numbered incorrectly. It should be addressed as a Kotupna submission.

Submitter: RM and ML Colman, GM and KL Colman

Location: Kotupna Map 9

Submission Summary:

Notes inconsistency in the flood overlay around Wakiti Lagoon and other areas. Objects to the flood overlay. Notes that flooding only occurs when the Goulburn River Levee breaks. The issue, which needs to be resolved, is this levee bank.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Panel Comment and Recommendation:

See submission no. Fk 1.

Submission No: Fn 1 **Date Received:** 24 September 1997

Submitter: CJ and AW Daniel

Location: Nathalia Map 11

Submission Summary:

Raises concerns over the accuracy of overlay flood maps for the Nathalia area.

It is considered by the submitters that their property in Centre Road, Nathalia is not subject to flooding and that, should the area be permanently categorised as flood prone, the value of their property would be substantially reduced.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

Flood levels, and contour information indicates that the abovementioned land currently has the potential to flood. Infrastructure such as an existing supply channel minimises this risk of flooding. However, the risk of flooding is real due other *ad hoc* construction of levees in the region and the potential channel failure.

The land beyond the LSIO lies a high ridge of land – which supports SUBMISSION Nos. 3, 4 & 5 (Schier, Schier and Holmes).

Panel Comment and Recommendation:

The Panel supports the recommendations of the Floodplain Management Unit and the Council in this matter.

Submission No: Fn 2 **Date Received:** 24 September 1997

Submitter: Mr Rex Ormond

Location: Various/Nathalia District Map 11

Submission Summary:

Raises concerns about the accuracy of overlay flood maps. Believes land owned by the Submitter is not floodprone.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comment

Claims that the areas have never been flooded and that there are sand hills.

CA 5, 5A 5C, Section F, Parish of Barwo

Inspection of photography does indicate high land of CA 5A and the northern portion of 5 (refer contour plan). It is considered that the southern portion of lot 5 is at risk to inundation.

As there is no contour information to accurately delineate the extent of flooding, ground truthing should be undertaken.

Mr Rex Ormond discussed with Guy Tierney contour information being available as a result of a WFP on CA 5. This information was obtained from the Shire (see attached) and the high land should be included on maps

CA 5C can be described as a narrow strip of high land, as indicated of the contours.

CA 18, Parish of Narioka

Appears that three sandhills were omitted, which should be included onto the plans (refer contour information prepared by the Floodplain Management Unit).

CA 6, Parish of Barwo

Agree with Mr Ormond that sandhills have been omitted. Contour information attached shows sandhills.

Plans should be amended accordingly to show sandhills.

Panel Comment and Recommendation:

The Panel notes that further information needs to be collected before a definitive assessment of this matter can be made. The Panel suggests that the accuracy of the flooding maps affecting this site be confirmed prior to the adoption of the Scheme by the Council.

Submission No: Fn 3 **Date Received:** 29 September 1997

Submitter: Mr Donald A Hawker

Location: Broken Creek catchment, Nathalia Map 11

Submission Summary:

Notes inconsistencies in flood mitigation treatments between upper and lower parts of Broken Creek catchment with flood waters

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comment

In relation the Mr Hawker's comment's, these maps are the best attempt to map risks of flooding under current conditions, as opposed to natural conditions.

Panel Comment and Recommendation:

The Panel supports the comments of the Floodplain Management Unit and the Council in this matter.

Submission No: Fn 4 **Date Received:** 29 September 1997

Submitter: NM and NM Hughes

Location: Channel 12 and vicinity, Nathalia Map 11

Submission Summary:

Objects to the classification of their land as Rural Floodway. Notes that boundaries indicated are incorrect and do not depict the true areas, which are subject to flooding. This is based on knowledge of the 1993 floods.

Also opposes any flood mitigation, which attempts to divert water under or through Channel 12.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comment

Enclosed in a map showing where Channel No.12 and Channel 38/12 are located. This is taken from Nathalia Flood Mitigation Report 1978. Some of the natural floodways through Nathalia have been blocked, partly by an Ministerial Approved Mitigation Scheme, the abovementioned channels and *ad hoc* works.

However, during a 100-year type flood on the Goulburn River, floodwater can flood up against the No. 12 Channel from the south.

As occurred in 1993, floodwater from the Broken Creek can flood against the No.12 channel from the North. The attached flood photography shows flooding between the channel and the Broken Creek.

Flooding west of Channel No 38/12 is considered unlikely and therefore no flooding shown. If this was ever opened, then the maps can be modified to reflect flooding risks.

1993 flood levels in this area were some 200 – 300 mm above the 1974 flood levels, which had the same flow magnitude.

The areas shown flooding by the flood overlays are considered to be at risk of flooding.

The RFO on Franklin's property follows a clear escarpment that should not be altered.

Th RFO on Hughes' property functions during major flood events and should remain, but could be better defined using the 100 millimetre contours attached.

The RFO on Caldwell's property is partly affected from overflows from the Broken Creek, but does include marginal land that would be inundated in the order of 100

millimetres. Available 1993 flood photography shows a large percentage of the property inundated from the Broken Creek up to No. 12 Channel. Goulburn River flooding would inundate portions of the southern area as shown.

Mr Caldwell has contacted me to say that the property ground levels have been altered. I have asked him to supply this information for review.

Panel Comment and Recommendation:

The Panel supports the recommendations of the Floodplain Management Unit in this matter.

Submission No: Fn 5 **Date Received:** 29 September 1997

Submitter: AB and LE Franklin

Location: Part C/A 6 Parish of Barwo, Nathalia Map 11

Submission Summary:

Objects to the identification of their property as Rural Floodway. Notes the potential effects of this on land value and Shire rate income. Notes they have photographic evidence to indicate that the land does not flood.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Panel Comment and Recommendation:

See submission no. Fn 4

Submission No: Fn 6 **Date Received:** 30 September 1997

Submitter: Mr Barry Flanner (for BJ and SE Flanner)

Location: Peter Clay Road, Nathalia Map 11

Submission Summary:

Objects to the Flood Overlay maps. Notes discrepancies in these overlay maps.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

There is clear flooding as indicated by the 1993 flood photography (attached) taken some four days after the peak.

The Floodplain Management unit agrees that the extent is excessive but does not agree with flood photography or with flood level and ground contour information. It is recommended that the delineation be adjusted, see attached.

This was discussed with Mr Barry Flanner at the Hearing.

Mr Flanner made a submission re: concerns of flooding at Nathalia and the failure to implement the Nathalia Mitigation Scheme.

Panel Comment and Recommendation:

The Panel supports the recommendations of the Floodplain Management unit and the Council.

Submission No: Fn 7 **Date Received:** 30 September 1997

Submitter: Mr RG Collins

Location: RMB 1138, Nathalia Map 2

Submission Summary:

Objects to the overlay maps showing 1:100 flood potential believes it should be based on a higher risk value. Notes that flood provisions may cause property devaluation.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

Generally, the submitter is concerned about property valuations. The maps should simply recognise that certain areas are at risk from flooding when levees fail.

In general, the mapping has recognised flood risks, where levees are not considered to design standard. This area is subject to marginal flooding with high portions of land.

Panel Comment and Recommendation:

The Panel notes the comments of the Floodplain Management Unit in this matter.

Submission No: Fn 8 **Date Received:** 30 September 1997

Submitter: MJ and HP Caldwell

Location: Nathalia Maps 8 & 11

Submission Summary:

Objects to the location of Rural Floodway overlays. Notes discrepancies in the classification of particular properties. States that the land identified as Rural Floodway did not flood in 1993.

Also objects to the use of Channel 12 for flood diversion.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Panel Comment and Recommendation:

See comments on Submission Fn 4.

Submission No: Fn 9 **Date Received:** 30 September 1997

Submitter: Kelvin J and Elaine M Trickey

Location: Dillions Lane, Nathalia Map 11

Submission Summary:

Objects to flood overlays. States inaccuracies in flood overlays noting that the land has never flooded.

Also notes a previous Panel (to the Nathalia Scheme) approved of 3 houses being developed in the land.

Objects to limited subdivision potential determined by zoning.

Objects to some flood mitigation procedures.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

Available 1993 flood photography shows extensive flooding downstream of site (attached).

From the attached diagram (from Nathalia Flood Mitigation Report, 1978) Channel 38/12 prevents flows from upstream flooding the above area.

The above area today is prevented from stream flooding from sources from the north and the west. The man made structures are however considered to be *ad hoc* and are at risk of over topping or failure, and therefore the areas as show are at risk of flooding. Furthermore, some of these depression can be filled from local storm water flooding as appeared from the photography.

The area hatched on the LSIO is remotely at risk of flooding due to 38/12. It is prudent to keep this overlay to ensure setting of floor levels of dwellings recognise flooding risk particularly due to potential flood mitigation changes to the town. Note there has been discussion of the possibility of a siphon in the above channel.

Panel Comment and Recommendation:

The Panel notes the comments of the Floodplain Management Unit in respect of this matter. The Panel has addressed flooding more generally in Section 2 of the report.

Submission No: Fn 10 **Date Received:** 30 September 1997

Submitter: EJ and MT Bourke

Location: Nathalia Map 11

Submission Summary:

Object to the location of the flood overlay maps as they relate to their land.

Notes inconsistencies in the classification of various land parcels although notes their property did flood in 1993.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

A peak flood level and available contour information were used to map flooding. Available 1974 and 1993 flood photography (attached 1993) shows extensive flooding in this area and shows high parcels of land confirmed by ground contour information.

The precise areas are not know but attached information is included.

Panel Comment and Recommendation:

The Panel notes the further information and supports the recommendations of the Floodplain Management Unit in this matter.

Submission No: Fn 11 **Date Received:** 30 September 1997

Submitter: AG and VC Newman

Location: Lot 96A Yielima, Nathalia Map 2

Submission Summary:

Objects to the restrictions placed on land subject to 1:100 flooding. Concerned that DNRE will prohibit any buildings in the Rural Floodway areas. States that none of the lots in Yielima flooded in 1974 or 1993.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

The submitter is concerned about planning restrictions in relation to the 100-year flood

The area was mapped using available one-foot ground contour and 100-year ARI flood levels. The overlays represent the risk when the levees are overtopped and should remain

The flow that occurred in 1975 is about a 30-year ARI flood, which generally represents the height of the crest of the levees. The 100-year will overtop and/or the levees will failure during a 1% flood event.

Panel Comment and Recommendation:

The Panel supports the comments of the Floodplain Management unit in this matter.

Submission No: Fn 12 Date Received: 30 September 1997

Submitter: Norm Walsh

Location: Nathalia

Submission Summary:

Objects to the flood overlay as it relates to his property.

Notes that property subject to the overlay is not subject to flooding even in major flood events.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit comments

Can't find location – not given.

Panel Comment and Recommendation:

The Panel notes this submission.

Submission No: Fn 13 Date Received: 30 September 1997

Submitter: RC and FIC Golding

Location: Allotment 6, Murray Valley Highway, Yalca Map 9

Submission Summary:

Objects to the identification of a dam on farming property as Land Subject to Inundation.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

As can be seen on the attached LSIO Overlay, there is a small tongue of overlay that crosses the MVH into a section of the above mentioned land.

It is understood that from the submission and recent discussions that a recycle dam occupies the area shown LSIO.

The map should be adjusted so that the LSIO is delineated along the MVH.

Panel Comment and Recommendation:

The Panel supports the recommendations of the Floodplain Management Unit.

Submission No: Fn 14 Date Received: 30 September 1997

Submitter: Robert A Bourke

Location: Lots 13, 14, 15, 16, 17, 18, and 20, Parish of Barwo.
Map 11

Submission Summary:

Objects to flood overlays in principle.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

Refer attached locality plan.

Submitter indicates that Council has given a permit to undertake a Whole Farm Plan that entailed extensive land forming and farm channels.

This land is predominantly on the south side of No.12 Channel that is at risk of flooding from the Goulburn River, based on available contour information.

The Authority has no details of the Whole Farm Plan. In this regard it is recommended that the Panel request council forward details to the Authority for examination.

Panel Comment and Recommendation:

The Panel notes the comments of the Floodplain Management Authority and recommends that the Council and the Authority undertake further investigation of this matter.

No amendments to the maps should be made at this stage.

Submission No: Fn 15 Date Received: 19 September 1997

Submitter: Lower Broken Creek Pumpers Association, Ken Schier

Location: Broken Creek Map 11

Submission Summary:

Raises concerns over inconsistency of the Land Subject to Inundation Overlay in the vicinity of Broken Creek, west of Nathalia.

Notes that land to the north is not subject to this overlay whereas land to the south is. Also raises concerns over possible economic implications of the overlay controls.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

Mr Schier indicates that there is land identified as LSIO to the south and not to the north of the Broken Creek.

Attached is a plan showing the flood overlays. High ridges of land protect some areas to the north, see attached contour plan as a sample, that are above flood level.

Areas to the south also have isolated areas of high land. However, flooding in these areas are at risk of flooding from the Goulburn River up to the G-MW Irrigation Channel No.12. This channel effectively divides the Broken Creek and the Goulburn River catchments – under natural conditions it is possible for floods to interchange.

Note: areas north of Nathalia were not known to flood at the time the maps were drafted. Areas LSIO need to be shown (refer Submission No. L10 & L11)

Panel Comment and Recommendation:

No further areas of the Shire should be included in a flooding control unless part of a subsequent planning scheme amendment.

Submission No: Fn 16 Date Received: 22 September 1997

Submitter: Mr Bruce Schier

Location: RMB Picola 3639 Map 9

Submission Summary:

Concerns are raised as to the accuracy of the Land Subject to Inundation Overlay, which affects two properties owned by the Submitter. The Submitter considers that this land is not subject to flooding.

Also notes the inconsistency between south side of Broken Creek - subject to Land Subject to Inundation Overlay - and the north side of Broken Creek - not subject to Land Subject to Inundation Overlay - and other general inconsistencies.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

The estimated 100-year ARI flood levels in the Deep Creek floodway would marginally inundate areas to Barmah-Nathalia Road as indicated on the attached flood overlays.

Flood levels used with a margin of 0.2 added. Margin added to estimate a large flood of the 100-year type. The 1974 and 1993 are somewhat less than 100-year flood.

The land in question is marginally at risk of flooding – see attached contour information.

Comments relating to north side not showing LSIO refer to SUBMISSION 3.

Panel Comment and Recommendation:

The Panel notes the comments of the Floodplain Management Authority in respect of this submission and recommends no change to the exhibited controls.

Submission No: Fn 17 Date Received: 25 September 1997

Submitter: Keith and Jeanette Holland

Location: Sec 3, Allots. 9, 9a, 9b, & 10. Sec 5, Allots. 3 & 12
(Parish of Narioka), Picola Map 9

Submission Summary:

Raises concerns over the inconsistency in classification of the above properties and other properties in the vicinity. The submitters consider that their property is not subject to flooding.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

In relation to first property, available 1974 flood photography indicates that the entire property is flooded.

In relation to second property, available 1974 flood photography indicates that the property is partly flooded.

100-year ARI flood levels estimated to be 0.2 above the peak 1974 flood levels. Photograph at this location is approx. 0.1 below peak. Most of the second property is considered to be at risk to flooding in a 100-year flood event.

Panel Comment and Recommendation:

The Panel notes the comments of the Floodplain Management Authority in respect of this submission.

Submission No: Fn 18 Date Received: 24 September 1997

Submitter: Keith Schier

Location: Allots Part 8 & 9, Parish of Moira, and vicinity. Map 9

Submission Summary:

Objects to the overlay for Land Subject to Inundation and the implications in terms of financial and personal expense to land holders.

Notes that there are other general inconsistencies including the discrepancy between flood provisions either side of the Broken Creek.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Panel Comment and Recommendation:

The Panel supports the recommendations of the Council in this matter.

Submission No: Fn 19 Date Received: 29 September 1997

Submitter: Kevin and Mary Warren (Also refer to Submission Fo 6
Pg. 69)

Location: Picola Map 11

Submission Summary:

Objects to the classification of land as Land Subject to Inundation as they have the understanding that their property did not flood in 1974 or 1993.

Expresses concern over the possible restriction of farming activities in areas affected by the overlays. Notes that this may cause substantial material detriment.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

100 millimeter ground contours are available. The land is at risk from flooding from over bank flows from the Broken Creek from upstream properties. The banks on the Broken Creek in this area are generally high and offer a relatively high degree of protection. However, there are low saddles of land that can convey floodwater during major flood events.

The overlays should remain as drafted.

Panel Comment and Recommendation:

The Panel supports the recommendations of the Floodplain Management Authority.

Submission No: Fn 20 Date Received: 29 September 1997

Submitter: Thomas J Tinkler

Location: Allots 7, 7a, and 8, Parish of Narioka, Picola Map 9

Submission Summary:

Expresses concerns about the accuracy of flood plain information and the potential effect on the value of farming land affected by flood overlays.

States that no farming organisations have been consulted.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Panel Comment and Recommendation:

See Panel's discussion on flooding controls and strategies at Part 2 of this report.

Submission No: Fn 21 Date Received: 30 September 1997

Submitter: Tammy Muir and Sue Logie

Location: Killmister's Road, Picola Map 2

Submission Summary:

Raises concerns regarding the identification of land as Land Subject to Inundation. Notes a ridge runs through the area including their property, which does not flood.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

Examination of a high ridge on the attached ground contour information indicates a small area that is relatively high, but still is at risk of flooding.

The overlay is considered to be representation of flood risk.

Panel Comment and Recommendation:

The Panel notes the comments of the Floodplain Management Authority and considers that the controls affecting this property should remain.

Submission No: Fn 22 Date Received: 25 September 1997

Submitter: Morice and Isobel Holland

Location: Allots 11, 11a, 18, 19, and 12, Parish of Narioka.
Map 11

Submission Summary:

Object to flood overlays. Raises concerns over inaccuracies in the flood overlays.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

Similar to other Broken Creek areas, using estimated flood levels, there are certain low points in the creek's bank where floodwater can escape, and these have been mapped.

The submitter has indicated that private levees now prevent flooding. The 100-year flood may overtop or cause private levees to fail, and therefore the risk of flooding as shown should remain. [The 1993 and 1974 are not considered representative of the 100-year flood, particularly in terms of flow]

Refer to attached one-foot ground contour information.

The CA 12 property is at risk to flooding from effluent breakaway flows from upstream. This effluent path follows the No. 11 drain catchment the drains to the Murray River. This system has a potential to carry substantial flows when private levees and G-MW channels fail on the north side of the Creek. This path was followed during the 1916 flood from the Goulburn River, which crossed the Broken Creek, downstream of Nathalia and travelled towards the Murray River.

Panel Comment and Recommendation:

The Panel notes that the properties are at risk of flooding and consider that the exhibited control should remain.

Submission No: Fn 23 Date Received: 10 November 1997

Submitter: L Thorp

Location: Lot 2 of Crown Allotment 4D, Parish of Barwo Map 9

Submission Summary:

Raises concerns as to the accuracy of flood overlay maps.

Council Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

The submitter discussed this land with Mike Edwards and myself on Monday 12 October, Inspection of one-foot contours and indicates that a sandhill was omitted, which should be included.

Panel Comment and Recommendation:

The Panel considers that the Planning Scheme maps affecting this property should be modified in accordance with the advice of the Floodplain Management Authority.

Submission No: Fn 24 Date Received: 10 November 1997

Submitter: J Thorp

Location: Crown Allotment 4, Parish of Moira Map 9

Submission Summary:

Objects to Rural Floodway Overlay.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comment

Detailed 100 millimetre contour information is available, which shows a low lying land. A low saddle exists between the Creek and the low lying land. A risk has been identified that flood water could fill the localised low lying land. Available 1981 flood photography (attached) shows this land was flooded, but from localised sources.

Although, not considered a hazard, it has been considered to have an important storage function.

Lot 3 to west of Creek is shown Blanket Blue as conservative due to no contour information for the relatively small portion of land. This was discussed with Mike Edwards and myself on Monday 20 October 1998 with Mr Wright and Mr Thorp. A map showing orchard area (high land) was submitted. When next in area this should be ground truthed and the maps amended accordingly. This to be included in Stage 2 Report.

Panel Comment and Recommendation:

The Panel supports the recommendations of the Floodplain Management Authority.

Furthermore, a consultancy for the development of a Regional Floodplain Management Strategy will be undertaken over the next 9 –12 months. This will set the framework where further studies and works are required. In my view the priority areas so far should include, Lower Goulburn Rural Areas, Nathalia, Numurkah, Seymour, Shepparton-Mooroopna, Tatura, and Yea. The Benalla and Euroa urban centres are currently under investigation.

It is important to note without community support no scheme can be implemented.

Mr Price made an additional submission at the Hearing stressing the need for integration, specifically expressing water quality concerns.

Panel Comment and Recommendation:

The Panel notes the comments of the Floodplain Management authority in this regard.

Submission No: Fnu 2 Date Received: 10 September 1997

Submitter: P, J, and B Mapletoft

Location: Numurkah and Wunghnu Map 29

Submission Summary:

Raises concerns over the accuracy of the flood overlay maps particularly within the vicinity of the Mapletoft family properties.

States that such inaccuracy may hinder the development of the Shire.

Representations have been made to Moira Shire Council, Mr Peter Dudley, and to the Floodplain Management Unit, Mr Mike Edwards.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

This submission mentioned that it is important that vital mistakes be corrected. However, no information was furnished with the submission. In fairness the submission did indicate that the Mapletofts' wish to hold discussions.

Peter, Jack and Bruce Mapletoft discussed issues with Mike Edwards and myself on Monday 12 October and express particular concerns of general activities over the years. A particular area shown as Site D below was discussed and agreed additional mapping of LSIO is required to reflect risk.

I have summarised the mapping information used at the five locations

Site A - CA 25 Parish of Mundoona

The site is at risk of flooding from the Box Creek anabranch. Available 1993 flood photography indicates extensive flooding. Deeper flooding exists on the northern portion of the property indicated by the attached contour plan and flood levels.

Site B – Lot 2 LP140511, Parish of Mundoona

The site is at risk of flooding from the Broken Creek and Box Creek. Only portions are affected from flooding – refer to attached contour, flood photography information.

Site C – LP 98865, Parish of Mundoona

Majority of land is at risk of flooding from the Box Creek and a branch - refer to attached contour, flood photography information.

It is noted that part of the RFO has been mapped across relatively high land and should be reviewed.

Site D – lot 5, 2 LP219867, Parish of Mundoona

Northern portion of the property is at risk of extensive flooding from the Broken Creek
- refer to attached contour, flood photography information.

From the available information the maps are considered to be representative of the risk of flooding.

Site E – Lot 2 LP 200515, Parish of Mundoona

Based on flood level information of 106.7 metres AHD, parts of this land is subject to marginal depths of flooding.

Panel Comment and Recommendation:

It is recommended that further discussions be held between the landowner, the Floodplain Manager and the Council concerning the extent of the flooding overlay controls affecting sites B, C and E. It may be that the controls affecting these sites should be reviewed prior to the adoption of the planning scheme.

Submission No: Fnu 3 Date Received: 22 September 1997

Submitter: Mr Douglas and Mrs Glenice Holmes

Location: Numurkah Map 18

Submission Summary:

Objects to the flood overlay maps in principle. Views flooding as a natural part of rural land which do not need a specific overlay.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

Mr Holmes met with Mike Edwards and myself on Monday 12 October 1998 and expressed concerns with situation within the Creek and restrictions holding up the flow of water.

The written submission expressed concerned that the maps need explanation.

These maps are to show flood risks that is representative of the 100-year flood.

Panel Comment and Recommendation:

The Panel notes the comments of the Floodplain Management Authority and supports the application of the exhibited planning controls in this instance.

Submission No: Fnu 4 Date Received: 30 September 1997

Submitter: IN Patrick and AG Patrick

Location: Allots 8 and 11, Sec F, and Allot 12, Sec E, Parish of
Naringaningalook, Numurkah Map 16

Submission Summary:

Objects to flood mitigation measures particularly the construction of levee banks.

Objects to flood overlays.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comment

Submission indicates that the overlays are a fair representation of the district.

There has been uncontrolled ad hoc leveeing that could not be controlled in the past due to lack of planning powers (did improve in 1994). This issue can only be addressed through education, sound planning powers, controls and enforcement, or ideally, by mutual agreement from the general community in partnership with relevant organisations.

Panel Comment and Recommendation:

The Panel notes the comments of the Floodplain Management authority and supports the continued application of overlay controls in this instance.

Submission No: Fnu 5 Date Received: 30 September 1997

Submitter: FX and MC McGrath

Location: Allots 11, 12, and 12A, Section D, Parish of Katunga,
Numurkah area Map 16

Submission Summary:

Expresses concerns over inaccuracies in the Rural Floodway Overlay. Requests that the overlay as it relates to their land be modified to an overlay of Land Subject to Inundation.

Also suggests there are a number of other mapping inconsistencies in this general area.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

It has been suggested that there should be an intermediate zone, rather than going from flood free to RFO.

Inspection of available 1974 flood photography indicates the two small parcels of land shown flood free are in fact flooded. Flood levels together with available ground contour information also shows these parcels of land at risk to flooding. Similarly the area to the west should be LSIO up to the Channel Bank.

In these flood effected areas, the depressions are often shallow, between two-three feet in depth. The view taken that where only relatively shallow flooded areas occur, via depression, as much of the depression should be kept, as floodway to ensure their function is not compromised. Marginal flooded areas have been regarded as LSIO.

The error of flood free land should be amended to LSIO. It is believed that this is a drafting error.

Panel Comment and Recommendation:

The Panel supports the recommendations of the Floodplain Management Authority in this matter.

Submission No: Fnu 6 Date Received: 30 September 1997

Submitter: Paul Kayess

Location: Station Street, Numurkah Map 18

Submission Summary:

Objects to the identification of land as Rural Floodway. Notes that subject land is now protected by new levee bank and filled to above the flood level. Suggests any potential flooding problems are the result of poor maintenance of the Station Street Bridge.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

Claims property is protected by a levee and site has been filled.

This area should remain as floodway, based on designated 1% flood level (note the 1% flood level today is some 100 millimetres higher than those designated) and contour information (attached.)

There is no Approved Levees Scheme for Numurkah and the Authority has no details of the above levee. If constructed by council or privately.

The Authority is only prepared to make modifications if the owner or council can supply ground levels of the site. Ideally this area should remain free from obstruction.

Panel Comment and Recommendation:

The Panel supports the recommendations of the Floodplain Management Authority.

Submission No: Fnu 7 Date Received: 30 September 1997

Submitter: Ian and Diane Welsh

Location: Lot 2 and Lot 4 Hendys Road, Numurkah Map 16 & 18

Submission Summary:

Objects to the identification of land as Rural Floodway. States that maps are based on incorrect information.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

Ian & Diane met with Mike Edwards (NRE) and Guy Tierney on Monday 12 October 1998 whilst the Panel was hearing submissions.

Mr Welsh disputed the extent of flooding, but photography evidence (Plan No 201717) clearly shows land at risk to flooding as per overlay in terms of extent.

The second query at the meeting was the area of land shown RFO. Inspection of contours indicated that there was some scope (based on depth) to re-define the RFO line towards Hendy's Road as shown attached.

The Welshs were satisfied with this amended line. It was pointed out however the LSIO would remain and include the area of RFO, which will be amended.

Recommend the above changes.

Panel Comment and Recommendation:

The Panel supports the recommendations of the Floodplain Management Authority.

Submission No: Fnu 8 Date Received: 16 October 1998

Submitter: Stuart Hipwell

Location: 45 Tocumwal Road, Numurkah

Submission Summary:

Objects to flood overlays.

Accepts that his property does flood, but that this is a result of poor engineering of local roads and Stoleys Bridge. The inadequate capacity of this bridge to accommodate water floods results in flooding of the Submitter's property.

Considers additional water could be directed into other flood paths to reduce flooding in the area of his property.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit.

The issues raised by the Submitter relate to broader issues of floodplain management, not whether the overlays reflect the current flooding situation.

It is recommended that the submission not be supported insofar as it concerns the imposition of flooding overlays on the property. It is recommended that the comments regarding floodplain management be noted and referred to the Catchment Management Authority for further comment.

Floodplain Management Unit Comments

It is noted that Mr Hipwell has a long time interest in observing floods and his knowledge would be welcomed at committee level.

Panel Comment and Recommendation:

See Panel's comments on flooding at Part 2 of this report.

Submission No: Fs 1 Date Received: 30 September 1997

Submitter: Ron Laidlaw

Location: North of Strathmerton Map 4

Submission Summary:

Objects to the identification of land north of Strathmerton as Rural Floodway. Notes that such a classification will cause a reduction of land values.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comment

The levees along the Murray River have their crest heights generally around the 1975 flood level (30-year ARI). Currently, there are six major defects in these levees in the Koonoomoo area that are at high risk of failure. Nevertheless, the standard of service afforded by these levees if no failure occurs, is about 7 to 10-year ARI.

The reservoirs are operated as discussed in the Preamble.

The flood overlays shown in the maps were derived from a project Murray River Mapping between Hume to the SA Border by the then RWC then DNRE floodplain Management Unit for the MDBC.

The October 1917 Murray River flood inundated a significantly larger area as shown on the current overlays (see attached). The risk for a repeat of this flood was investigated in regard to the infrastructure such as irrigation supply channel banks and road embankments.

These overlays reflect the risk of flooding for a repeat of the 1917 flood, which is representative of the 100-year ARI flood.

The above property is bounded by a G-MW Channel 3/7/12 along the southern boundary. Flood water would flow against this channel. Some relatively high land is shown LSIO.

Flood Overlay should remain.

Panel Comment and Recommendation:

The Panel supports the recommendations of the Floodplain Management Authority.

Submission No: Fs 2 Date Received: 30 September 1997

Submitter: Margaret and Stuart Brown

Location: Farralls Road, Strathmerton Map 4

Submission Summary:

Object to the restrictions placed on land subject to the Rural Floodway Overlay and also notes that base information seems to be incorrect.

Notes that more community consultation particularly regarding flooding issues may be necessary in order to justify flooding provisions made by the Scheme.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

Location not known, but is East of Submission No 39

Submitter has general concerns. Mentions that flooding is not an issue most years. There is adequate warning and Murray system is unlike a valley where a wall of floodwater could occur

The submitter has lived in the area for 17 years and understands his land was flooded in 1974 and 1917.

For the given flow magnitude of the 100-year event, these areas are at risk. These risks were mapped using ground contour information and flood level information.

Panel Comment and Recommendation:

The Panel supports the recommendations of the Floodplain Management Authority. See also the Panel's discussion of flooding issues in Part 2 of this report.

Submission No: Fs 3 **Date Received:** 1 October 1997

Submitter: JA and JM Bennie

Location: Mywee, Strathmerton District Map 4

Submission Summary:

Raises concerns about the accuracy of the flood plain controls as they relate to their property. Objects to the restrictions placed on use by the proposed flood plain controls.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

This general area is at risk to flooding from overflows from the levee system that feeds into the Sheep Wash and Ulupna Creek systems.

One-foot contour and flood levee information was used in this area for mapping. It is noted that the LSIO should be extended on the property shown high lighted.

Panel Comment and Recommendation:

The Panel supports the recommendations of the Floodplain Management Authority.

Submission No: Fy 1 **Date Received:** 25 September 1997

Submitter: Mr Malcolm Browning

Location: Davis Road, Yarrawonga Map 22

Submission Summary:

Raises concerns over proposed floodmaps.

Notes that area subject to flooding may be affected by the Browning's Road diversion drain and other planned flood mitigation works.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comment

Mr Browning says that due to diversion works the flooding should be reduced.

The Diversion works at Browning Road (see attached) are compensatory works required due to the by-passing of flows around Dowdles Swamp (see attached). By-pass flows around Dowdles Swamp will be directed into the Muckatah Depression and the first 20 ML/d (2.3 m³/s) will then be diverted via the Browning Road Diversion channel to the Murray River.

The Diversion of flows away from the Muckatah Depression occurs downstream of Mr Browning's property and therefore will not help to reduce flooding.

Following investigation of the abovementioned submissions in this area (see below), it is suspected that the area shown as LSIO could be high.

It is recommended that the map in this area should be ground truthed with the map adjusted where necessary.

Panel Comment and Recommendation:

The Panel supports the recommendations of the Floodplain Management authority in this instance. Amendments to overlay maps should be finalised before the Council adopts the scheme.

Submission No: Fy 2 **Date Received:** 25 September 1997

Submitter: Mrs Dorothy Inchbold, South Yarrawonga Landcare Group

Location: Various Map 22

Submission Summary:

Notes that submissions made by the following people are supported by the Landcare Group:

G Mallows
I and PJ White (on account Estate AH White)
M Browning (as leasee of RD Browning)
AS Hicks
LE Lavis

Council Comment and Recommendation:

That the submission be referred to the Panel for comment

Floodplain Management Authority Comments

The Floodplain Management Unit have examined each of these submissions. As they all relate to a similar geographic areas, they have been grouped together and are discussed below.

F11 – LP 149472 – Malcolm Browning – Flooding should be 50% less

F12 – General Petition signed by Members of South Yarrawonga Landcare Group to support applications in the Dowdle Swamp area

F13 – LP 91874, Benalla Road, P/Yarrawonga – Mr Alan Hick Maps require adjustment

F55 – CA 79, Parish of Bundalong – Ms E Lavis - high red soil not LSIO

F57 – CA 70A, Parish of Bundalong, - Mr Peter White Maps need Adjustment

FL7 – CA 97, Parish of Yarrawonga

Some of these area are to be reviewed in Stage 2 Report. Mr Peter White and Mr Graeme Mellows will be initially contacted in this regard.

In this area the best available information is the 1974 flood photography, taken 1-2 days after the peak (the peak was near Numurkah when flood photography was flown –see attached photo.)

There is no available ground contour information to confirm visual interpretation of flood photography.

F11 – Mr Malcolm Browning

Mr Browning says that due to diversion works the flooding should be reduces.

The Diversion works at Browning Road (see attached) are compensatory works required due to the by-passing of flows around Dowdles Swamp (see attached). By-pass flows around Dowdles Swamp will be directed into the Muckatah Depression and

the first 20 ML/d (2.3 m³/s) with then diverted via the Browning Road Diversion channel to the Murray River.

The Diversion of flows away from the Muckatah Depression occurs downstream of Mr Browning's property and therefore will not help to reduce flooding.

Following investigation of the abovementioned submissions in this area (see below), it is suspected that the area show as LSIO could be high.

It is recommended that the map in this area should be ground truthed with the map adjusted where necessary.

F12 Petition of support – no comment.

F13 – Mr Alan Hicks

Mr Hick's indicates that a strip of land adjacent to the northern boundary should be moved back.

Inspection of available 1974 flood photography (indicated above) shows that the delineation is too close to the boundary and should be adjusted in accordance with the photography.

According to Mr Hick's the isolate parcel of land shown as LSIO is high. Visual interpretation of the flood photograph indicates some dampness with the possibility of risk of LSIO during major flood events.

It is recommended that this site should be ground truthed.

F55 – Ms Lavis

High red soil is claimed not liable to flooding to the east of the allotment. The abovementioned flood photography clearly shows no signs of flooding as LSIO to the east of the RFO.

It is recommended that the map in this area should be ground truthed with the map adjusted.

F57 – Mr Peter White

Areas along the southern boundary are claimed by Mr White to be high land. The abovementioned flood photography however indicates water.

Areas along the eastern boundary southern boundary are claimed to be high land. Visual interpretation of the flood photograph indicates some dampness with the possibility of risk of LSIO during major flood events.

It is recommended that this site should be ground truthed.

Panel Comment and Recommendation:

The Panel supports the recommendations of the Floodplain Management Authority. If amendments to the flooding overlay maps are required, these should be made in consultation with the landowners.

Submission No: Fy 3 **Date Received:** 29 September 1997

Submitter: JK and PA Mulquiney

Location: Tungamah Road, north of Tungamah Map 21

Submission Summary:

Expresses concern over the accuracy of the Rural Floodway and Land Subject to Inundation Overlays. Notes that the value of land affected by these overlays may decrease as a result.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

In this area, the best available information is the 1974 flood photography, taken about 1 day after the peak (the peak was near Numurkah when flood photography was flown –see attached photo.)

Mr John Mulquiney made a presentation at the Hearing identifying three sites.

These three site have now been reviewed with flood and contour information (see attached)

- 1) CA 179A & 181 P/Burramine. Area as shown should be reduced from RFO to LSIO
- 2) CA 151A, B & C P/Burramine, Overlay should remain.
- 3) CA 189, 187 190B, P/Boosey, Areas shown should be changed to high land and LSIO from RFO.

Panel Comment and Recommendation:

The Panel supports the recommendations of the Floodplain Management Authority.

Submission No: Fy 4 **Date Received:** 9 October 1997

Submitter: Peter and Janet White

Location: "Sunnyside", Yarrawonga Map 22

Submission Summary:

Objects to the identification of land (Refer map 22) as Land Subject to Inundation and Rural Floodway.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Panel Comment and Recommendation:

See comments on Submission Fy 2.

Submission No: Fy 5 **Date Received:** 25 September 1997

Submitter: Mr Alan Hicks

Location: Benalla Road, Pitmans Crossing Map 22

Submission Summary:

Concerns are raised as to the accuracy of flood overlay maps.

It is considered by the Submitter that some areas not prone to flooding have been included in the flood plain area and should be reassessed.

Notes that inclusion in the flood plain overlay will limit submitters' ability to develop a family dwelling on the land.

Council Comment and Recommendation:

The floodway overlay does not prohibit the use of a dwelling on land, it merely requires a permit to be granted for building of the dwelling. This allows consideration of flooding on the dwelling and the dwelling on the surrounding floodplain.

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

Mr Hick's indicates that a strip of land adjacent to the northern boundary should be moved back.

Inspection of available 1974 flood photography (indicated above) shows that the delineation is too close to the boundary and should be adjusted in accordance with the photography.

According to Mr Hick's the isolate parcel of land shown as LSIO is high. Visual interpretation of the flood photograph indicates some dampness with the possibility of risk of LSIO during major flood events.

It is recommended that this site should be ground truthed.

Panel Comment and Recommendation:

See Panel's comments on Fy 2.

Submission No: Fy 6 **Date Received:** 15 October 1997

Submitter: EM Lavis

Location: Parish of Bundalong, Yarrowonga District Map 22

Submission Summary:

Objects to identification of land as subject to flooding on their property.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit

High red soil is claimed not liable to flooding to the east of the allotment. The above mentioned flood photography clearly shows no signs of flooding as LSIO to the east of the RFO.

It is recommended that the map in this area should be ground truthed with the map adjusted.

Panel Comment and Recommendation:

See Panel's comments on Fy 2.

Submission No: Fo 1 **Date Received:** 30 September 1997

Submitter: Peter Newman

Location: Yielima Map 2

Submission Summary:

States that proposed flooding controls bear no resemblance to historical flood events.

Objects to the overlays as they relate to his land.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

Refer to the attached one-foot contour information showing these two areas.

When the levees fail and/or overtop upstream of the site, the Piree Creek system will operate and flood adjoining land. The Piree Creek system is a well defined depression, which also drains localised runoff during storm events. The creek should remain open and be considered RFO.

The site south of Piree Creek is at risk of marginal flooding less with parcel of high land. Another parcel of high land has been omitted and should be included on the plan.

Panel Comment and Recommendation:

The Panel supports the recommendations of the Floodplain Management Authority.

Submission No: Fo 2 **Date Received:** 30 September 1997

Submitter: Coelho and Coghlan

Location: Yielima Map 2

Submission Summary:

Objects to the location of flood overlays.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Authority Comments

The submitter is concerned about planning restrictions in relation to the 100-year flood

The area was mapped using available one-foot ground contour and 100-year ARI flood levels. The overlays represent the risk when the levees are overtopped and should remain

The flow that occurred in 1975 is about a 30-year ARI flood, which generally represents the height of the crest of the levees. The 100-year will overtop and/or the levees will failure during a 1% flood event.

Panel Comment and Recommendation:

The Panel notes the comments of the Floodplain Management Authority and recommends that the no change be made to the exhibited controls.

Submission No: Fo 3 **Date Received:** 23 September 1997

Submitter: FV Carmichael

Location: Reilly's Pit Road, Tallygaroopna Map 29

Submission Summary:

Raises concerns over inaccuracies in the flood overlay maps, which need to be corrected.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

Mr Holmes met with Mike Edwards and myself on Monday 12 October 1998 and expressed concerns with situation within the Creek and restrictions holding up the flow of water.

The written submission expressed concerned that the maps need explanation.

These maps are to show flood risks that is representative of the 100-year flood.

Panel Comment and Recommendation:

The Panel notes the comments of the Floodplain Management Authority.

Submission No: Fo 4 **Date Received:** 29 September 1997

Submitter: E Kilmartin

Location: Holmes Road, Tallygaroopna Map 29

Submission Summary:

States that maps are not correct based on local knowledge of the area.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

CA 11, 12, 5, 15A & 17, Parish of Mundoona – North of Nine Mile Creek

Available 1993 flood photography (taken about a day before the peak) shows extensive flooding in the area. Those area shown lightly flooded has been shown as LSIO. The southern portion of property could have some high rises but can not be confirmed as there is no available ground contour information. The areas shown LSIO could be ground truthed.

Refer to ground contour information which exists to the north of the property and 1993 flood photography.

Pt CA 7 (Lot 2 LP212848), Parish of Mundoona – South of Nine Mile Creek

Available 1993 flood photography, and flood level data indicates that about 50% of the land is at risk to flooding. The flood maps show less flooding.

The LSIO should be extended to included areas at risk to flooding. The RFO in considered appropriate having regard to the depth of flooding (see attached ground contour and available 1993 flood photography information).

Panel Comment and Recommendation:

The Panel notes the comments of the Floodplain Management Authority.

Submission No: Fo 5 **Date Received:** 30 September 1997

Submitter: Scott Thompson and Co representing ED Wright

Location: Lots 1, 2, and 3, Parish of Moira, Picola/Barmah District
Map 9

Submission Summary:

Expresses concerns as to the accuracy of the Rural Floodway Overlay Plan. Demonstrates perceived inaccuracies in the Rural Floodway boundaries. Suggests that the Rural Floodway Overlay Plans require revision.

Council Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

This submission suggests that lot 1, 2 & part of 3 (on the northern side of the Creek) remain out of water yet states that 1993, 30% of subject land remained free of floodwaters.

Flooding shown as LSIO through lot 2 is based on floods of effluent breakaway flows from the Broken Creek to the Murray River. Detailed 100 millimetre contours were used to map extent of flooding.

Lot 3 clearly has a lower land adjacent to the Creek shown as RFO. There is however a thin strip of higher land above flood level which could be shown.

It was discovered that there is a drafting error along the Creek, which will need to be amended.

Other parts of the property would be at risk of flooding if water levels exceed the natural levees adjacent to the Creek. When these natural levees are overtopped (believed that has not yet occurred in recent history) greater area would be LSIO.

In relation to the third point in this submission, the RL at the road intersection is 106.8 metres AHD, and the RL at CA 3 at the northern boundary is 107.2 metres AHD, ie 400 millimetres difference. As discussed the flooding at the northern property is not from direct flooding from the adjoining creek areas.

Panel Comment and Recommendation:

The Panel supports the recommendations of the Floodplain Management Authority.

Submission No: Fo 6 **Date Received:** 13 October 1997

Submitter: Ken Jasper, Member for Murray Valley

Location: Picola (refer submission Fn 19 page 38) Map 11

Submission Summary:

Refers to representations made by local citizens, particularly Mr and Mrs Kevin Warren of Picola, regarding inconsistencies in the flood overlays.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Panel Comment and Recommendation:

See comments on submission No. Fn 19

Submission No: Fo 7 **Date Received:** 30 September 1997

Submitter: DP and GJ Bryant

Location: Wunghu Map 14

Submission Summary:

Objects to the Rural Floodway overlay. Notes that inaccuracies exist in these overlay maps as the land is in sandy soil, which they state does not flood.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

Checking the ground contour information with flood levels. High land has been omitted which should be included.

The submitter claims that given the soil type is an indication that the area will not flood. Available flood photography indicates otherwise.

Mr Bryant understands that under current conditions (ie, with leveeing) the property is at risk to flooding. In a submission handed to the Panel on the day, it suggested that overlay be amended to reflect future condition. The Authority would only support change following implementation of works.

The submitter also indicates other areas that are lower land some one mile away is 4 feet lower and is not shown as flooded. In this regard, this refers to land located south of the No.12 Channel. This G-MW Supply Channel is substantial and not likely to fail. The flooding can occur to some areas from the Goulburn River, which has been shown.

Panel Comment and Recommendation:

The Panel supports the recommendations of the Floodplain Management Authority.

Submission No: Fo 8 **Date Received:** 1 October 1997

Submitter: Mr C Corso

Location: Koonoomoo Road, Cobram Map 4

Submission Summary:

Objects to the restrictions on land subject to the Rural Zone, particularly the restrictions on subdivision. Recommends revision of controls to allow small lot exemptions to enable dwellings to be constructed on separate title to farming property.

Council Comment and Recommendation:

The 12 Hectare minimum lot size in the Cobram Precinct is an important planning tool both for protecting the high quality agricultural soils of the area and ensuring that adequate protection is given to the natural flood plain.

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Panel Comment and Recommendation:

See Panel's comments on rural flooding and subdivision size in Section 4 of this report.

Submission No: Fo 9 **Date Received:** 1 October 1997

Submitter: Kevin John and Pamela Joan Storer

Location: Cobram (Lot 2 LP135103) Map 4

Submission Summary:

Objects to the identification of a property as Land Subject to Inundation.

Raises concerns about the lack of opportunities for development of industrial and residential land in the Cobram vicinity. Suggests the rezoning of this land from Rural Zone to Low Density Residential.

Note that in their knowledge of the history of their land it has never flooded and that it is located on a Yellow Box Ridge. Also note advice from Rural Water commission in 1992 stating that the land was not flood prone.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

Due to the construction of current infrastructure on the floodplain since the 1917 flood, a repeat of such a flood would behave differently.

Floodwater would pen against embankments until they fail or overtop. The extent of flooding shown in the overlays has been greatly reduced.

Inspection of one-foot contour information indicates that the property is at risk of flooding. There is however a slight ridge but is considered at risk of marginal flooding.

Panel Comment and Recommendation:

The Panel supports the recommendations of the Floodplain Management Authority.

Submission No: FL 1 **Date Received:** 22 September 1997

Submitter: Tim Mannion, President, Strathmerton and District
Flood Protection Association

Location: Strathmerton and vicinity Map 4

Submission Summary:

Raises concerns regarding Council's flood management strategy and policies, particularly in relation to levee banks and drain diversions associated with the Murray River.

Council Comment and Recommendation:

The levee bank system is a matter separate to the overlay provisions of the scheme. They do, however, impact on the location of overlays then determined by the Department of Natural Resources and Environment.

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

This submission gives an insight of the nature of flooding under existing conditions and put forward measures that should be followed during floods.

This information is useful as input to the Municipal Emergency Management Plan (MEMP) – Flood Sub-Plan.

I am unable to make any other comments to those made in the proceeding submissions.

Panel Comment and Recommendation:

Noted.

NOTE:

SUBMISSION NO. FL 2 & 3

MOVED TO PAGE 18, ADJACENT TO OTHER KOTUPNA SUBMISSIONS.

Submission No: FL 4 **Date Received:** 24 September 1997

Submitter: Chris Holyman and Stuart Holyman, Holyman Farm Enterprises

Location: Nathalia Map 11

Submission Summary:

Objects to flood overlay maps. Raises concerns as to the accuracy of flood overlay information as it relates to their property. Suggest that the main issue to be addressed is that of the flood levee system.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

Mr Holyman discussed various locations at the Hearing, and agreed that areas require modification.

The submission also outlines what could be achieved if the Nathalia Mitigation Scheme was fully implemented etc.

CA 15, 5A & 26, Parish of Barwo

Amend as shown. Refer to contour plan. In addition to the high land there is also a supply channel on CA 26, this area is unlikely to flood.

CA 9, Parish of Barwo

Amend as shown. Refer to contour plan showing identified high land.

CA 1A, Parish of Barwo

Amend as shown. Refer to contour plan showing identified high land.

Panel Comment and Recommendation:

The Panel supports the recommendations of the Floodplain Management Authority.

Submission No: FL 5 **Date Received:** 26 September 1997

Submitter: PJ and GS Stamps

Location: Lot 84 Stokes Road, Mywee Map 4

Submission Summary:

Raises concerns over flood overlay areas.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

The submitter has marked an area, which is believed to be higher than land located to the north. Inspection available one-foot contours indicated otherwise – refer to the attachment.

This submission is essentially an application for a building permit that should be assessed via the Council. There is a need however, to determined the purpose of the dwelling, the size of the property, access issues *etc.*

Panel Comment and Recommendation:

The Panel notes the comments of the Floodplain Management Authority and supports its recommendations.

Submission No: FL 6 **Date Received:** 30 September 1997

Submitter: Dianne Maher, Strathmerton and District Flood
Protection Association

Location: Strathmerton Vicinity Map 4

Submission Summary

Raises concerns about flood management issues (levee maintenance). Makes reference to the comments of Tim Mannon (FL 1)

Council Comment and Recommendation:

Refer the comments of FL 1

Floodplain Management Unit Comments

This general submission is in regard to future management of the Murray River Levee system.

The levees in question are part of the Public Works Department (now DOI) Levee between Cobram and Piree Creek, near Picola.

The DOI agreed to undertake a Levee Audit, which was completed in 1996. With the formation of the CMA, it has been given floodplain management functions.

The Authority has agreed to coordinated works to bring the levee system up to a consistent secure standard (about a 7-year ARI Standard).

Panel Comment and Recommendation:

Noted.

Submission No: FL 7 **Date Received:** 30 September 1997

Submitter: Graeme Mallows

Location: Lots 97 and 99, Parish of Yarrawonga Map 22

Submission Summary:

Raises concerns about the restrictions placed on land subject to flood overlays. Raises concerns over the accuracy of base information. Also supports subdivision of rural land.

Council Comment and Recommendation:

The subdivision provisions of the Rural Floodway zones were established after careful consideration of all the issues associated with the rural floodway areas.

It is recommended that the submission not be supported for its comments regarding alterations to the subdivision provisions.

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit

Areas along the southern boundary are claimed by Mr White to be high land. The abovementioned flood photography however indicates water.

Areas along the eastern boundary southern boundary are claimed to be high land. Visual interpretation of the flood photograph indicates some dampness with the possibility of risk of LSIO during major flood events.

It is recommended that this site should be ground truthed.

Panel Comment and Recommendation:

The Panel supports the recommendations of the Floodplain Management Authority.

Submission No: FL 8 **Date Received:** 30 September 1997

Submitter: JA Macdonald and PM Macdonald

Location: Waaia

Submission Summary:

Objects to Land Subject to Inundation Overlay. Note that the only reason it floods is because of changes in the flood mitigation measures of recent years.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

The above area has not been shown LSIO.

It is believed that the submitter has made comments generally in relation to the Murray River System.

Panel Comment and Recommendation:

Noted.

Submission No: FL 9 **Date Received:** 30 September 1997

Submitter: Keith Schier

Location: Allotments 1, 2, and 3, Parish of Moira Map 9

Submission Summary:

Objects to flood overlays. Notes that the adjoining levee bank does overtop on occasions but that this is a normal course of events. Suggests there is no need to mark the land as liable to flooding.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

Mr Keith Schier made an addressed to the Panel on Wednesday 14 October. Mr Schier essentially sought to ensure that the RFO followed an existing private levee.

It was unclear the basis of the mapping at the Panel Hearing. Checking the information, no regard was given to the private levee when defining floodway area. The RLO was delineated on the basis of depth. Available 1974 shows extensive flooding.

Panel Comment and Recommendation:

The Floodplain Management Authority should confirm the extent of flooding on this land on the basis of current conditions.

Submission No: FL 10 **Date Received:** 30 September 1997

Submitter: Ken Lucas and HA Lucas

Location: Lots 20, 21, and part 5, Parish of Barwo Map 11

Submission Summary:

Raises concerns about flood management policy. Suggests that there needs to be a restoration of the natural catchment boundary at Broken Creek level with the Goulburn Murray Designated Catchment Boundary.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Floodplain Management Unit Comments

The issues presented at the Panel Hearing by Geoff Lucas on Wednesday 14 October 1998 reflected on issues on the failure to fully implement the recommendations of the Nathalia Flood Mitigation Scheme. The levee system designed to protect the urban environs of Nathalia system was designed with 700 mm freeboard for a flow of 10,000ML/d. This freeboard is calculated on the basis of the opening floodways as part of the scheme, but was not implemented.

The town levees are currently under serious threat of overtopping. This risk must be shown as LSIO until the scheme has been implemented.

During the 1993 flood it is understood that some sections of levees were sandbagged which reflect there is a risk of flooding in the town. Furthermore, it has been document in the Broken Creek Management Strategy (page 124, SKM 1998) that *“the freeboard on the levees was sufficiently limited to cause concern (generally 0.2 m to 0.5 m but less at specific locations). Further construction and raising of levees and on-farm works on both sides of the creek downstream of Nathalia since the 1993 flood. Hydraulic analysis indicates that this would increase flood levels in Nathalia in a recurrence of the 1993 flood, placing the town levees at greater risk”* (of over topping).

The Authority is to prepare a Regional FPM Strategy for the catchment that will indicate priorities for further action, it is clear that Nathalia is a priority.

The Nathalia will be shown LSIO.

Another issue that Mr Lucas raised was the Drain 13 had been constructed through a natural catchment boundary (a high ridge of land) into the Broken Creek at Nathalia. This has led to the problem of reverse flooding of areas to the north of Nathalia that would otherwise be regarded as free from flooding. It is understood there are moves to construct a back flow control structure to prevent this problem.

Mr Lucas agreed that under current conditions flooding of area to the north would occur as a result of ad hoc leveeing and the failure to implement the recommendation of the Nathalia Mitigation Scheme.

Areas known to be flooded to the north of Nathalia will be shown in Stage 2 Report.

Panel Comment and Recommendation:

Noted.

Submission No: FL 11 **Date Received:** 30 September 1997

Submitter: Geoff Lucas on behalf of Broken Creek Consultative
Committee

Location: Broken Creek

Submission Summary:

Objects to the flood overlays on the basis that they are reflecting a situation of forced flooding from the levee bank system, which they find unacceptable. Recommend that the flood management policy be altered and therefore the flood overlays subsequently altered.

Council Comment and Recommendation:

Flooding Overlays were established from advice of Department of Natural Resources and Environment (DNRE) - Floodplain Management Unit. The comments of the submission were referred to the Unit for further comment.

Panel Comment and Recommendation:

See responses to the previous submission.

Submission No: FL 12 **Date Received:** 16 September 1997

Submitter: Kevin Crow

Location: Cobram Map 6

Submission Summary:

Objects to the controls that state that a single dwelling entitlement only is admissible for an allotment. Notes that further dwelling entitlements should be able to be created, if the acreage is considered appropriate, without subdivision.

Objects to the controls on rural land that create a minimum lot size of 12 ha. States that most lending institutions allow the excision of a small area (1ha) to create a separate title for a house without financial penalty. Considers that this should be recognised in the planning scheme.

Considers that, for the purposes of housing entitlement, nearby properties under the same ownership should be considered as a single property.

Council Comment and Recommendation:

The Rural Floodway overlays were established upon considerable discussion with Floodplain Management, local authorities, and the Department of Infrastructure. The existing sensitivity of the land does not warrant further residential development in the area.

It is recommended that the submission not be supported.

Floodplain Management Unit Comments

Housing entitlements are not clear under the some of the Interim Floodplain Management Plans. It appears to give as of right to construct a dwelling on each entitlement.

Under the VPPs, development must be in accordance with a Floodplain Management Plan if prepared for RFO.

A FPM Plan must therefore be prepared as a stand-alone document. If dwellings are to be constructed without a planning permit, they must first be tested against flood risk criteria. This has not been included to date.

Generally, the Moira Council must be commended in developing the Interim FPM Plans, which are excellent documents, but should now be reviewed to include risk criteria.

In response to Mr Crow, development must balance risk and must ensure that the potential to create future hazard must be minimised. House lot excisions must not be as of right but be dependent on flood risk. The concept of average housing development is considered fair provided it is not pursued in high hazard areas.

Panel Comment and Recommendation:

The Panel understands that planning controls can sometimes restrict the ability of a landowner to fully exploit a lot's assumed financial potential. In rural areas, controls on subdivision serve a range of purposes including protecting the rural resource from inappropriate development. Lot sizes of one hectare are usually seen as inappropriate in such areas.

In areas that are demonstrably at risk from flooding, subdivision controls serve to limit population density and thereby reduce risk to both life and property during flood events. It is a reasonable planning response to seek to limit residential development in such areas.

Whilst the Panel is sympathetic to the concerns of the submitter, it is considered poor planning to allow denser residential development in rural areas threatened by regular, and often severe, flooding. Consequently, the Panel supports the comments of the Council in this matter.

Submission No: G 1 & 4 **Date Received:** 30 September 1997
& 1 October 1997

Submitter: TL Sloan and Chris Halpin, Department of Natural Resources and Environment

Location: General

Submission Summary (Council comments in italics below each section):

Zoning

States that all Crown land should be zoned in a Public Use zone. Indicates that there are a number of changes, which should be made. The submissions does not specify the areas which require change.

Council accepts the need to zone Crown Land in accordance with the recommendations of the Department. Specific changes to the scheme need to be identified by the Department to be incorporated into the Planning Scheme.

Mining

Recommends that an additional sentence be included into the Municipal Strategic Statement identifying the importance of mining in the municipality.

Council acknowledges that quarrying is an economic activity within the municipality, however, it is not a major economic strength of the municipality.

It is recommended that additional words be added to Clause 3.3.3 of the exhibited Municipal Strategic Statement to include the following additional objective and policy statement:

Objective:

To facilitate sustainable mineral exploration and extractive industries

Policy:

Maintain access to and encourage environmentally acceptable use of stone and mineral resources.

Exemptions to the Public Conservation and Resource Zone Provisions

Requests that licensed grazing on reserves not currently grazed be exempt from the need for a planning permit in accordance with the provisions of Clause 36.03 – 2 of the exhibited scheme (Clause 36.03 – 7 of V3 – VPP).

The change is accepted. It is recommended that the use be listed in the schedule in a accordance with the schedule attached as appendix 3 to this Panel submission.

Flora and Fauna Issues

Notes that there is not specific local policy to assist the protection of environmental assets of the Shire. Provides and outline of a draft policy which could be inserted into the scheme.

A number of word changes to the MSS are also recommended to ensure consistency and accuracy of the environmental issues in Moira. These are detailed below.

A copy of a proposed policy, which has been referred to the Department prior to the Panel hearing, is attached as Appendix 2.

The following word changes to the MSS are recommended:

MSS - Section 1. 1 Vision statement – second last dot point, change the words to state:

“The environmental assets of the region such as catchment, remnant native vegetation, mountains, waterways, wetlands and agricultural land will be conserved from degradation and alienation”

MSS – Section 2.1 Moira’s Mission – No change recommended. This Mission statement is part of the Corporate Plan already adopted by Council

MSS – Section 2.1.2 – Values and Principles dot point 2 – change the words to state:

“Sustainable natural resource management including the conservation of:

- remnant flora and fauna habitats, and*
- high quality agricultural land and the resources which support agricultural production and nature based tourism”*

The Submitter recommends additional words to Section 3.2.7 Vegetation by means of listing some the options for encouraging conservation activities on private land, including financial assistance.

The use of specific measures was deliberately not included in the MSS. This was to enable specific implementation measures to be tailored to particular programs and areas of importance. It is recommended that no change be made to this statement.

The Submitter recommends: That it is noted that the Shire has been provided with mapping titled “Selected Biodiversity Components - LGA Moira Map” It is recommends that this document should be referred to in the MSS (Clause 3.2.7) as a resource document and that the additional policy statement be added:

In addressing applications for the development of land, the responsible authority will have regard to the “Selected Biodiversity Components – LGA Moira Map” for the identification o broad vegetation types which may be affected as a result of the proposed development”.

Panel Comment and Recommendation:

The Department of Natural Resources and Environment made a detailed submission which sought a number of minor changes in wording or emphasis to certain aspects of the MSS and planning scheme. The changes sought are summarised as:

- Requests that all Crown land be included in a Public Use Zone;
- Requests that a statement be included in the MSS to recognise the importance of mining and mineral exploration;
- Exempting the need for a planning permit for grazing in the Public Conservation and Resource Zone;
- Proposing a local policy to assist the protection of environmental assets;
- Recommends wording changes to the MSS to improve environmental management;

Comments

In respect of these requests, the Panel notes that the Council has:

- Recommended that Crown land be appropriately zoned in the adopted scheme;
- Developed suggested wording to include mining and mineral exploration in the MSS;
- Prepared a schedule to the Public Conservation and Resource Zone that exempts grazing from the need for a planning permit (contained in Appendix 3 of the Council's submission); and
- Developed a suite of wording changes to the MSS that address the issue of biodiversity and environmental management in line with the comments of the submitter. These changes have been distributed to the DNRE prior to the Panel hearing. The Panel notes the requested changes and recommends that the planning scheme be amended accordingly, without the need for further exhibition.

Submission No: G 2 **Date Received:** 6 October 1997

Submitter: Rohan Storey, Conservation Officer, National Trust of
Australia (Vic)

Location: General

Submission Summary:

National Trust supports the policies of council regarding heritage and conservation of sites of significance.

Notes the need for more specific language in regard to clause on natural environment. Particularly that the words 'appropriately managed for the future benefit of the area' should be replaced by 'appropriately managed to ensure their significance is maintained and enhanced' – Cl 3.2.6 of MSS.

The National Trust supports the objectives of the Vegetation (Public and Private Lands [inc. Roadsides] – Cl.3.2.7 of MSS). The Trust recommends that the word 'minimise' be added to dot points 3 and 4 so that they read 'To control and minimise...'

The Trust notes with disappointment that the Environmental Protection Overlay is not used within the scheme. The Trust recommends that identified sites be protected under the scheme.

The Trust notes with disappointment that the scheme does not utilise the Vegetation Protection Overlay.

The Trust notes with disappointment that not all buildings and trees identified by the National Trust have be protected by the Heritage Overlay and would encourage council to do so.

Council Comment and Recommendation:

Council considered that the items raised in the submission have been adequately dealt with in the MSS and as such the submission is not supported.

The Council considered that the listing of heritage sites as identified by the National Trust into the planning scheme would require additional exhibition and therefore should be undertaken as a separate amendment to the scheme at a later stage, or as part of an incorporation of a heritage study into the planning scheme.

Panel Comment and Recommendation:

Mr David Moloney represented the National Trust at the Panel Hearing.

Mr Moloney made a detailed submission that encompassed both built and natural heritage matters. Mr Moloney noted that, although Council has obviously undertaken a number of strategic planning studies, he felt that heritage protection had been allocated a low priority. This is evidenced by the lack of a detailed Shire-wide heritage study and strategy and the fact that not all National Trust classified properties had been included in the Heritage Overlay. In response, the Council acknowledged the need for a heritage study, but felt that the funding for such works is still about 2-3 years away.

The Panel understands the concerns of the Trust and accepts their suggestion that this would, in effect, mean that properties of heritage significance might remain without planning protection for 4-5 years. Having said this, the Panel accepts the position of the Council that it has other more pressing concerns (such as flooding) and limited resources with which to address them.

In the meantime, the Council should make the following amendments to its planning scheme by placing the following buildings and sites in the Heritage Overlay in the adopted planning scheme:

- Publicly owned buildings, structures (such as buildings) and sites for which there is a citation; and
- Properties that are on the Register of the National Estate and Victorian Heritage Register.

The submitter should also forward copies of citations for any listed properties in the municipality. The Council may wish to add these buildings, sites and structures to the Heritage Overlay in advance of a detailed heritage study.

The Panel recommends that the Council includes the following buildings, sites and structures are added to the Heritage Overlay:

- **Publicly owned buildings, structures (such as buildings) and sites for which there is a citation; and**
- **Properties that are on the Register of the National Estate and Victorian Heritage Register.**

This should be done before Council adopts the Planning Scheme and does not need further exhibition.

Submission No: G 3 **Date Received:** 3 October 1997

Submitter: Ken Sampson, Plan Coordinator, Goulburn-Broken
Catchment and Land Protection Board

Location: Goulburn Broken Catchment

Submission Summary:

Generally supports the MSS and Scheme. Notes a number of requests for changes. Council responses are in italics after the Submitter comments below:

Notes that document does not always identify the need to work in conjunction with other organisations, especially the Goulburn Broken Catchment Management Authority.

Supports council's strong regional catchment strategies to address environmental issues and problems. Notes with disappointment the lack of provision for a regional drainage network and rising regional groundwater mound.

Encourages council's approach of coordination between Regional Catchment and Land Protection Boards and relevant waterway and floodplain management authorities.

Specific Comments on MSS

3.1.6 Transport and Access

Recommends that council should recognise the impact of road construction and road maintenance on flood patterns and that these activities should be consistent with the regional drainage network and the floodplain management strategy. Recommends that a high priority action be included to support the implementation of the Shepparton Irrigation Region Surface Drainage Strategy.

The comments in regard to this item were generally supported, however Council considers that the issues raised have been adequately dealt with in section 3.2.1 Flooding.

3.2.1 Flooding

Recommends that an additional high priority action be included to continue to cooperate with the Catchment Management Authority in the development and implementation of floodplain management plans.

Recommends mentioning the Goulburn and Murray Floodplain management plans.

Recommends mentioning the impact of flooding on rural land.

Recommends the inclusion of a policy to maintain natural water storage within the catchment.

Council considers that all of the recommendations pertaining to this section of the MSS have been adequately covered in the existing wording of the MSS.

3.2.2 Salinity and Nutrients

Recommends the addition of an objective to recognise the Goulburn Broken Regional Catchment Strategy.

Recommends that policy 3 includes cooperation with the Goulburn Broken Catchment Management Authority.

Suggests that priority action 1 only applies to dryland areas of the catchment, priority action 2 should include adjoining municipalities through the Municipal Catchment Coordinating Group, and priority action 4 should include implementation and may include specific examples such as Muckatah, Broken Creek, Torgannah Lagoon, Dowdles Swamp, and the Murray Valley Drains.

The recommendations pertaining to this section are generally supported, however Council does not support the recommendations by the submitter relating to the Action strategies as these have been adequately addressed when the Action strategies are read concurrently and not as isolated strategies.

3.2.3 Irrigation Farming

Recommends noting that objectives, policies, and actions need cooperation with other organisations.

Notes that Objective 4 seems to be outside the realm of local government.

Notes that Policy 2 should include consideration of regional channel, surface drainage, and sub-surface drainage infrastructure.

Notes that Action 1 'is difficult to determine what the outcome is...' should be 'to continue to cooperate with the CMA to implement the regional drainage strategy in the irrigation area and further develop and implement a similar strategy for the dryland parts of the Shire...'.
Council generally supports the recommendations of the submitter, however Council considered that the issues raised have been adequately covered when the objectives, policies and action strategies are read concurrently. Council notes that action strategy 1 should read CMA not MASN. Council does not support the comments pertaining to Objective 4.

3.2.4 Dryland Farming

Recommends that this section also refer to the Regional Catchment Strategy.

Council accepts that a minor word change to the MSS to refer to the strategy can be made.

3.2.5 Stormwater/Effluent Management

Recommends that this section refer to the Water Quality Strategy. Raises question as to the relevance of this section to urban and rural situations.

Council considers that the recommendations made by the submitter have been adequately addressed in the MSS.

3.2.6 Natural Environment

Recommends that this section refer to the Regional Catchment Strategy particularly the Regional Biodiversity Strategy.

Council accepts that a minor word change to the MSS to refer to the strategies can be made.

3.2.7 Vegetation (Public and Private Lands [inc. Roadsides])

Recommends that this section refer to the Regional Catchment Strategy particularly the Regional Biodiversity Strategy. Recommends that one of the policies should be to cooperate with the CMA in developing Local Area Plans where appropriate.

Council accepts that a minor word change to the MSS to refer to the strategies can be made.

3.3.1 Agricultural Landcare

Notes that dot point 4 seems outside local government responsibility.

Recommends an action to cooperate with the CMA on structural adjustment issues

Council considers that the recommendations made by the submitter have been adequately addressed in the MSS.

It was also noted that the salinity overlay provision was not utilised as the information available to document such an overlay was too broad and likely to continually change as land form and climate issues also changed. Council considered that other, non-statutory mechanisms could better address issues of salinity

Panel Comment and Recommendation:

Flooding and waterways management has been extensively addressed through both the Planning Scheme and the MSS. The submitter generally supports the treatment of these issues, but makes recommendations in either wording or emphasis on a number of issues including transport and access, flooding salinity and irrigation farming.

The Council has made a number of recommendations concerning these proposals, all of which are accepted by the Panel.

Submission No: G 5 **Date Received:** 30 September 1997

Submitter: Bruce Gill, Executive Officer, Shepparton Irrigation Region
Municipal Catchment Coordination (MCC)

Location: General

Submission Summary:

Raises concerns over the preservation of flood storage and minimisation of obstruction to flows.

Notes and commends the strong recognition of the importance of agriculture to the shire's economy.

Recommends the identification of need to cooperate with other organisations for matters of regional planning.

3.2.1 Flooding

Recommends the inclusion of an objective to reduce the economic impact of flooding on landholders farming flood prone land by developing a greater understanding of the risks involved. Recommends that Council's ongoing commitment to the development of floodplain management plans in conjunction with the CMA be noted in this section.

Council concurs with the recommendation of the submitter regarding the CMA, however considers that the recommendation regarding the economic impact of flooding has already been addressed in the MSS.

3.2.2 Salinity and Nutrients

Recommends rewording of the fourth dot point to read 'To ensure the impacts of salinity and high nutrient levels in the Shire are managed in accordance with the salinity and water quality programs auspiced under the Regional Catchment Management Strategy'. Recommends the deletion of the last dot point.

Comments on and suggests changes to some wording.

Council supports the Recommendations

3.2.3 Irrigation Farming

Recommends deletion of fourth objective to be replaced by the words 'To encourage all irrigation properties to have effective drainage re-use systems that reduce peak flows into the regional drainage systems and retain nutrients on each property'.

Notes that Municipalities Against Salinity in Northern Victoria (MASNV) has now become MCC.

Recommends rewording of some actions to accommodate this.

Recommends that the Regional Drainage Strategy document and maps be highlighted as a reference document to the scheme.

Council considers the current wording of the fourth objective adequately expresses Councils policy intentions, however Council supports the remainder of the recommendations pertaining to this section.

3.2.4 Dryland Farming

Recommends the deletion of the fourth dot point. Suggests instead, 'Developing water management strategies to reduce the generation of, and impact from, flooding'.

Notes with disappointment that no mention of weed management, soil erosion, or dryland salinity is made.

Council considers the wording of the fourth dot point adequately expresses Councils objective.

3.2.5 Stormwater/Effluent Management

Commendations on this section.

3.2.6 Natural Environment

Recommends the introduction of an objective to ensure developments are considered within the objectives of the Goulburn Broken Catchment Management Strategy.

Council considers that this recommendation is adequately addressed in objective 4 of this section.

3.2.7 Vegetation

Recommends the recognition of partnership arrangements with other bodies regarding weed management.

Council supports this recommendation in accordance with Councils already adopted weed management policies.

3.3.1 Agricultural Landuse

Raises concerns regarding wording of this section.

Supports policies regarding subdivision of agricultural properties.

Council considers the wording of this section of the MSS adequately expresses its intentions

3.3.3 Industry Development

Recommends the recognition of distinct primary industry groups.

Council does not support the recommendation to recognise distinct primary industry groups.

Council recommends the submission be referred to panel for comment.

Panel Comment and Recommendation:

The submitter seeks greater recognition in the MSS of agriculture and the contribution that it makes to the economy. A number of wording changes have been made that seek to enhance the profile and productivity of irrigated agriculture in the municipality.

The Panel notes that, whilst the Council is generally supportive of the submission and the matters that it raises, it feels that the changes will make little difference to the achievement of its strategic aims and objectives.

The Panel accepts this, and supports the recommendations of the Council in this matter.

Submission No: G 6 **Date Received:** 7 July 1997

Submitter: Jane Kierce, Site Registry Officer, Heritage Services
Branch, Aboriginal Affairs Victoria

Location: General

Submission Summary:

Recommends affording protection to all aboriginal sites, places, and objects by including Aboriginal Affairs Victoria's suggested policy statements. Recommends identification of key Aboriginal sites, places, and objects within the Heritage Overlay. Recommends the consideration of other overlays existing in the VPPs which may be appropriate to use in conjunction with the Heritage Overlay.

Council Comment and Recommendation:

The comments of the submission are supported. The inclusion of additional overlay over sites (still to be identified) will need to be subject of a separate exhibition.

Panel Comment and Recommendation:

The Panel supports the recommendations of the Council in this matter.

Submission No: G 7 Date Received: 20 June 1997

Submitter: Aboriginal Affairs Victoria

Location: Not Applicable

Submission Summary:

Requests that an additional policy be incorporated into the Local Planning Policy Framework to promote the identification, protection and management of Aboriginal cultural heritage values.

The additional policy would also state that applicants proposed to develop or rezone land in areas where there is a known potential for aboriginal artifacts, that an archaeological report be prepared as part of the consideration of the request.

Council Comment and Recommendation:

The proposed policy is consistent with the State Planning Policy Framework to protect areas of European and Aboriginal Heritage. The policy is also consistent with other similar policies being developed for other municipalities in the state, and the principles of the MSS.

It is recommended that the submission be accepted. A copy of the policy in correct VPP format is provided in Appendix 2 to this Panel report

Panel Comment and Recommendation:

The Panel supports the inclusion of the policy in the planning scheme and notes that:

- A copy of the policy has been given to the Yorta Yorta people for comment.
- It is possible that the local policy could act as a prompt for broader community consultation programs to discuss the issue of Aboriginal heritage more generally.
- The Council feels that the Yorta Yorta people would be happy to assist in the process of identifying sites of significance.
- That pre-European history should be included in any future heritage study of the area.

Submission No: G 8 **Date Received:** 15 September 1997

Submitter: BT Evans, Executive Officer, Plantations North East
Inc.

Location: General

Submission Summary:

Supports "as-of-right" approach taken with regard to timber production in the Rural Zone.

Council Comment and Recommendation:

It is recommended that the submission be noted.

Panel Comment and recommendation:

The Panel notes this submission.

Submission No: G 9 Date Received: 11 November 1997

Submitter: Private Forestry Council

Location: Not Applicable

Submission Summary:

Notes the establishment of the Private Forestry Council and the development of a Private Forestry Strategy for the State. The Council supports tree planting as a commercial crop where technically feasible.

States that the Forestry Council is happy to make a presentation to a Panel hearing to discuss their role further.

Council Comment and Recommendation:

Commercial wood lots are a form of development promoted by the MSS (refer section 3.2.7) as both an alternative agricultural crop and as a productive use of land susceptible to soil erosion and salinity.

It is recommended that the comments of the Private Forestry Council noted.

Panel Comment and Recommendation

The Panel notes the submission.

Submission No: G 10 **Date Received:** 17 September 1997

Submitter: JF Martin, Executive Officer, North East Region Water Authority

Location: Various

Submission Summary:

Notes various locations for rezoning to reflect their use for water authority purposes.

Notes that the existing commercial zoning at Bundalong is being rezoned to LDRZ.

Raises concerns over the accuracy of the flood overlays at Bundalong.

Notes extent of area at Bundalong, which is proposed as LDRZ. Notes that no significant landscape zone is proposed along the Ovens River foreshore vicinity.

Recommends the rezoning of land at Hogans Road, Yarrawonga, which was previously occupied by a wastewater storage from PUZ1 to an appropriate private land zone, i.e. RUZ.

Council Comment and Recommendation:

The zoning changes are noted and supported. The issues relating to flooding have been referred to the Floodplain Management Unit. Council supports the recommendations of the Unit in relation to the flooding matters of the submission.

The significant landscape overlay was applied to the area of documented significance. It may be appropriate to extend the overlay subject to further investigation, documentation, and consultation.

It is recommended that the land in Hogans Road be zoned Rural in accordance with the Moira Planning Strategy and MSS.

Panel Comment and recommendation:

The submitter requests that:

- Land used by the Authority for its statutory functions be included in the appropriate public use zone;
- that more information be undertaken to check the accuracy of flood levels in Bundalong;
- That the significant landscape overlay should be applied to some areas along the Ovens River.
- That the site of a former wastewater storage plant has now been sold and should be deleted from the public use zone.

The Panel notes the support of the Council for the North East Region Water Authority submission and recommends that:

- **The planning scheme be amended to include Authority property in the appropriate public use zone;**

- **The Floodway Overlay affecting the Bundalong area be referred to the CMA for comment;**
- **The Council review the extent of the Significant Landscape Overlay along the Ovens River; and**
- **The Public Use Zone affecting the site of the former wastewater storage plant be deleted and replaced by a Rural Zone.**

Panel Comment and Recommendation:

The submitter requests the following changes to the exhibited planning scheme:

- That all main drainage channels owned by the authority be placed in the Public Use Zone;
- That the definition of Minor Utility Installation be changed to include water channels and drains;
- That a Public Acquisition Overlay be placed over land that will be required for future drainage channels;
- That all applications for planning permits within 100 metres of a water channel or drain and within 200 metres of Lake Mulwala be referred to GMW.

The Public Use Zone

The Council informed the Panel that a number of regional and main drainage channels have already been included in the PUZ1. There are a number of other drain and channels owned by the Authority, however, that have been included in the Rural Zone. A number of other drains and channels are held as easements on titles.

The Panel understands that, in most instances, land owned by a public authority and used for a public purpose should be included in the appropriate public use zone. The Council notes that the changes requested by GMU would require extensive mapping amendments and that the exact location of these drains and channels has yet to be provided to the Council. Understandably, the Council has expressed concern that this course of action would impose a considerable financial burden upon it, and that the Authority should contribute to the cost of this process. The Panel acknowledges these concerns and considers that this would be an equitable way of resolving this issue.

Amendments to the VPP Definition of Minor Utility Installation

The Panel agrees with the submitter's view that the definition of Minor Utility Installation appears to exclude water channels and main drains for irrigation purposes. At (a) and (b) of the definition, the following matters are included:

- *Sewerage or water mains;*
- *Storm or flood water drains or retarding basins*

It would seem reasonable that irrigation channels perform a relatively similar function (i.e carrying water), and should be included in such a definition. The Panel recommends that this matter be referred to the Department of Infrastructure for comment.

Public Acquisition Overlay

The submitter originally sought to include all land proposed to be used for drainage channels to be included in the Public Acquisition Overlay. At the Panel, the submitter essentially retreated from this position, as it was not prepared to acquire these areas in the near future. In any case, a separate amendment process would be required to include these areas in the PAO. If

this occurs, the GMW would need to be prepared to accept financial responsibility for the acquisition of this land.

Referrals

The submitter has requested that all planning applications within 100 metres of a water channel or within 200 metres of Lake Mulwala be referred to GMW. Given the Authority has some 500 kilometres of drainage channels in the Moira Shire alone this action could potentially generate a considerable workload.

If the Authority is intent on this level of referral and is capable of dealing with the workload that this will generate, the next question is how will such a referral be achieved? Referral authorities are specified in the planning scheme or the *Planning and Environment Act (1987)*. The Panel understands that the referral authorities specified in the Moira Planning Scheme are listed at Clause 66 under the General Provisions section. Clause 66 forms part of the Victoria Planning Provisions and can only be altered by the Minister for Planning. Given that this issue is relatively site specific, a change to the VPPs does not seem appropriate in this instance.

What Types of Permits are to be Referred?

The Panel is not clear about the types of applications that need to be referred to GMW. Does the submitter wish to be notified of all buildings and works and changes of use? The provisions of the Rural Zone affect most of the land adjacent to GMW's drains and Lake Mulwala. A planning permit will not be required for a number of as-of-right uses (and development ancillary to these). Alternatively, does the Authority wish to comment on all use and development, including fencing, agriculture and the like, for which a planning permit is not normally required?

It is suggested that the most appropriate mechanism to address this issue would be the introduction of an overlay control that covers the drainage channels and the land adjacent to them. This overlay control could specify the types of development that would require a planning permit and include GMU as a referral authority. The most obvious problem with this approach is the extent of the drainage channel network, and the difficulties associated with including it on planning scheme maps (see discussion on the Public Use Zone above).

The Panel recommends that the submitter have further discussions with the DoI and the Council concerning this issue. It may be that there are other mechanisms that enable the Authority to supervise development near drains that are more effective than the planning scheme. If not, the Panel suggest that the Authority minimise the types of applications that would require a planning permit to minimise both the need for landowners to apply for permits, and the numbers of matters referred to the Authority for comment.

The Panel recommends that the Goulburn Murray Water Authority provide information to the Councils on the location of main drainage channels that it owns and that these be included in the Public Use 1 Zone. This should form part of a separate amendment. The Authority should contribute to the cost of this process.

The Panel recommends that the Minor Utility Installation definition be referred to the Department of Infrastructure and that irrigation channels be included in this definition.

The Panel recommends that Goulburn Murray Water have further discussions with the Council and the DoI concerning the types of applications that are referred and that all parties investigate the possibility of an overlay control being included in the scheme to clarify this issue. Any new control should be the subject of a separate amendment.

Submission No: G12 **Date Received:** 8 December 1997

Submitter: Victoria National Parks Association

Location: Not Applicable

Submission Summary:

Makes a number of comments in relation to the Local Planning Policy Framework. In particular the Association notes that Council has not used a number of the environmental overlays that are available for use in the Victoria Planning Provisions. These include the Significant Vegetation Overlay, Salinity Management Overlay and the Environmental Rural zone.

Suggests that Council consult further with the Department of Natural Resources and Environment to introduce such overlays.

Council Comment and Recommendation:

At the time of exhibition, inadequate information was available to properly identify and map areas (in sufficient detail to identify individual properties) where issues of significant native vegetation, salinity control or other environmental values exist.

Council is actively working on a number of environmental programs including proactive salinity control measures, mapping of high conservation vegetation on public and private land as well as issues of rural and urban stormwater management.

It was considered at the time of exhibition that these additional areas of work could be incorporated into the planning scheme as further information became available and consultation was undertaken. This is identified in Section 3.2 of the Moira Integrated Strategy Plan and MSS.

It is recommended that the comments of the Victorian National Parks Association be noted.

Council also recommended referred a copy of the submission to Council's Catchment Coordination Officer and the Department of Natural Resources and Environment for further comment. No further comments have been received.

Panel Comment and Recommendation:

The submitter was concerned that the scheme omitted mechanisms designed to protect areas of environmental significance and omitted the Environmental Significance and Vegetation Protection Overlays. The National Trust raised similar concerns in their submission.

In response, the Council advised that the level of information on these areas from the DNRE was not specific enough to enable these areas to be properly mapped. Notwithstanding this, the Council had developed a number environmental policies (in the LPPF) that (partially) addressed these concerns.

The Council stated that areas of environmental significance and native vegetation will be included in the appropriate overlay once the information becomes available. The Panel supports this approach.

Submission No: G13 **Date Received:** 21 January 1998

Submitter: North East Catchment Management Authority

Location: All rivers and streams

Submission Summary:

Notes the recent establishment of the authority and hence, the inability of the authority to comment in detail on the planning scheme.

Notes that the authority will soon be the management body for Crown frontage and floodplain areas in its catchment area (currently a role held by the Department of Natural Resources and Environment).

Requests that the authority becomes a referral authority for applications previously referred to DNRE in this management role.

Council Comment and Recommendation:

The comments of the authority were noted and referred to a Panel for further comment, enabling the authority to present further information at the Panel if they desire.

It is noted that general referral provisions are provided for in the planning scheme as part of the Victoria Planning Provisions. This includes a number of referrals under the Water Act, Crown Lands Act and Catchment and Land Protection Act. It is understood that if the authority is to become a management body under any of these acts as relevant, then they will become a referral authority to the planning scheme.

Panel Comment and Recommendation:

The Authority is about to become assume responsibility for the management of Crown frontage land and floodplain management from the Department of Natural Resources and Environment. The NECMA wants to be recognised as the referral authority for applications that were previously sent to DNRE for comment.

The Council notes that the referral provisions in Clause 66 form part of the VPPs and cannot be changed by the Council, but is confident that, as the NECMA will become a management body pursuant to a number of Acts and become a referral authority, no further action is required to be taken at this stage.

The Panel supports the Council's view in this matter, but notes that the issue of referrals in the planning scheme has caused some debate amongst a number of authorities. It may be that the DoI should play a co-ordinating role to ensure that the needs and concerns of these authorities are addressed by the adopted scheme.

Submission No: G14 **Date Received:** 3 February 1998

Submitter: Returned Services League - Strathmerton Branch

Location: Strathmerton Memorial Hall, and other RSL Monuments

Submission Summary:

A letter from the Strathmerton RSL makes reference to an attached letter from the State President of the RSL stating that all branches should seek to ensure that all public war memorials within their respective municipality are protected.

The Strathmerton Branch then seeks confirmation that the memorial at the Strathmerton Memorial Hall will be protected.

Council Comment and Recommendation:

War memorials are currently not protected through any heritage or special significance listing. They are, however, generally protected from being removed by virtue of the fact that they are generally located on public land.

Under the provisions of the new planning scheme, most memorials will remain on land zoned Public Use, for which a permit is required to undertake buildings and works (including demolition).

It is understood that all memorials within the municipality are located either on land zoned Public Use or on land owned by the RSL. In this latter instance the land may be zoned residential or commercial, but being in RSL ownership, presumably buildings and works will require consent of that owner prior to being undertaken. It is believed that it is the responsibility of the RSL to ensure that this is the case with any lease or rental agreements it may have over its land.

There is no evidence presented to suggest that memorials require particular heritage listing. The existence of memorials can, however, be considered within a heritage study recommended in the MSS to be undertaken in the coming three years.

It is recommended that the submission noted.

Panel Comment and Recommendation:

The submitter noted the presence of a number of war memorials and sought that these be included in the Heritage Overlay of the planning scheme. The Council noted that each of these monuments is on land owned by either itself or the RSL. Unfortunately, the absence of a heritage study means that these monuments currently have no planning protection, nor has a citation outlining their significance been prepared. The Council is reluctant to include these items until a citation has been prepared.

The Panel supports this conclusion.

Submission No: G 15 **Date Received:** 13 October 1998

Submitter: VicRoads

Location: Various sites and general comment

Submission Summary:

Makes a number of comments in relation to the MSS and Planning Strategy. Generally supports the comments of the MSS with minor additional word suggestions.

Recommends the incorporation of an additional Local Policy based on similar policies recommended for other municipalities in the North East Region of Victoria.

Lists a number of technical corrections to the maps to correlate Category 1 roads with VicRoads designated Roads.

Provides information and policy advice in relation to the Goulburn Valley Highway upgrade and investigation into the alternative route of the highway at Tocumwal.

Objects to the use of Flooding overlays over VicRoads assets.

Council Comment and Recommendation:

Council supports the use of the local policy proposed and the additional words suggestions for the MSS. It is considered that these elements complement the existing directions of the MSS and will benefit the operation of the scheme.

The technical corrections to maps are recommended to be accepted. The changes relate only to the classification of roads. No use of the Public Acquisition Overlay is suggested by VicRoads.

The imposition of flooding overlays over roads is considered necessary for roads, which are subject to flooding.

It is recommended that this part of the submission be Referred to the Floodplain Management Unit for further comment as to whether the roads of VicRoads are subject to flood. If the roads are not subject to flood then the overlays should be removed from the planning scheme.

Panel Comment and Recommendation:

VicRoads was represented by Mr Rob Steel. Mr Steel has appeared before a number of Panels in the north east and is experienced in the requirements and objectives of the planning reform program.

Mr Steel and Mr Doug Smith (Goulburn Valley Highway Planning Project Study Manager) gave the Panel a detailed and informative description of existing and proposed VicRoads assets in the municipality and the broader region. These included the:

- A 39 Goulburn Valley Highway (the region's main link between Melbourne and Brisbane). It has been designated as a national highway.
- B400 Murray Valley Highway (links most of northern Victoria, runs east west with vehicle movements of between 1500 and 4300 per day).

VicRoads has developed a policy for the Goulburn Valley Highway (Goulburn Valley Environs Policy). This policy should be included in the Local Planning Policy section of the planning scheme.

The Goulburn Valley Environs Policy submitted to the Panel (as modified by previous Panels) should be included in the adopted planning scheme prior to its adoption. No further exhibition is required.

Further Development of the GVH

It is understood that the GVH will be upgraded and that a widening will be sought. Vic Roads identified the need for future overlays along the Goulburn Valley Highway to prevent dwellings being sited too close to the future alignment of the road. It is obviously too early to determine the nature of this control, and the Panel makes no comment on it at this stage.

Numurkah

The Panel understands that the GVH on the western side of the town will be upgraded, but that this will not take place for some years. Vic roads are keen to ensure that future access points to the GVH should be minimised to reduce the risk of accidents. It is understood the GVH will be duplicated, but that any widening will probably be to the west of the existing alignment. VicRoads also foreshadowed the need for built form overlays to be introduced to the west of the existing alignment to ensure appropriate setbacks are achieved.

Zoning – Mapping

VicRoads have provided the Council with information on the correct zoning of roads in the Shire. It is recommended that the maps be updated in accordance with this information.

The Panel recommends that the Council amend Road Zones in accordance with the information provided by Vic Roads at the Panel Hearing. No further exhibition of this is required.

Flooding

Vic Roads opposed the inclusion of roads in flooding overlays. Apparently, they have extensive aerial flooding photography of the 1993 events, some of which show that the roads were above the flood line. Vic Roads are concerned that the presence of the overlay will require the authority to obtain planning permits for buildings and works.

It would seem reasonable to at least require Vic Roads to consider the impact that future road works could have on a floodplain. On the other hand, it would be excessive to require Vic Roads to obtain a planning permit for minor works, such as repairs and the like.

The Panel notes that the Land Subject to Inundation Overlay (LSIO) can exempt certain classes of application from the requirement for a permit. The Panel sees merit in exempting certain kinds of minor works, repair and maintenance from a planning permit. Works of a more detailed nature could also be exempted provided that they were in accordance with a plan approved by both the Floodplain Management

Authority and the Council. All other buildings and works should require a planning permit.

The Panel recommends that the Schedule to the Land Subject to Inundation Overlay be amended to exempt routine works and maintenance on VicRoads roads. Other buildings and works that are in accordance with a plan approved by the Floodplain Management Authority and the Council should also be exempt from planing permission.

Changes to the Municipal Strategic Statement

The submitter sought various modifications to the MSS to more fully reflect the importance of the road network in the planning scheme. It should be noted that, as Vic roads generally sought a change of emphasis rather than intent, the changes are of a relatively minor nature. The Panel supports the comments of the submitter and it is recommended that the MSS be amended to reflect the nature of their concerns.

The Panel recommends that the changes in emphasis sought by VicRoads to the Municipal Strategic Statement be made in consultation with the Council and the Department of Infrastructure.

Submission No: Z G **Date Received:** 9 February 1998

Submitter: Powercor Australia - C/- Beveridge Williams

Location: Site 1: Cnr Chapel and Healy Roads - Cobram East

Current Zoning – Public Purposes 13 – SEC
Exhibited Zoning – Rural Zone, Map 19
Proposed Zone – Special Use Zone

Site 2: Cnr Goulburn Valley Highway and Naring Road,
Numurkah

Current Zone – No Zone, rural area of former Numurkah Shire
Exhibited Zone – Rural Zone, Map 18
Proposed Zone – Special Use Zone

Submission Summary:

Requests that both sites which have be exhibited as the Rural zone be zoned Special Use to recognise their use as utility installations.

States that this will prevent any misconception by surrounding land owners that the sites are not being used for rural purposes. States that this will also enable subdivision appropriate to the utility uses.

Council Comment and Recommendation:

The general principle of the Victoria Planning Provisions is to only use special use zones where the standard suite of zones will not fit the required uses, eg. if Council wishes to restrict the use of land to a site specific purpose.

In this instance both sites are being used for non rural purposes but could be used for a number of other uses within the Rural zone provisions if considered appropriate. A utility installation is a permitted use within the rural zone.

It is believed there is no special reason for the sites to be in a “site specific” zone. The Rural zone permits smaller lot subdivision where provided for in the local schedule. In Moira, this is 0.4 where there is no dwelling on the lot. This should accommodate the needs of Powercor.

This advice was conveyed back to Powercor. In doing so Council advised the Submitter that the authority is able to present further argument at the Panel hearing that these provisions will not meet their needs. Council also resolved that whilst it believes a Rural zone is acceptable for the sites, Council is prepared to utilise a Special Use zone if this is considered more appropriate by the Panel.

Panel Comment and Recommendation:

The Panel supports the recommendations of the Council in this matter.

Submission No: Zc 1 **Date Received:** 24 September 1997

Submitter: S Boralino, Thomas Jack, Tony Corso, Jeanette Grant, GG, Brown, J Reaves, R Luck, L Hutchinson, Antonio Indriolo, Marinella Indriolo, D and J Brown.

Location: Residents of Apricot Circuit, Cobram, Map 7

Current Zone: Residential 1

Exhibited Zone: Residential 1

Proposed Zone: Residential 1

Submission Summary:

Object to limited public notice regarding changes to the planning scheme.

Wish to be kept advised of any changes that relate to their area.

Council Comment and Recommendation:

The scheme zones the land in and around Apricot Circuit to Residential 1, similar to the residential zone, which currently covers the land. The submission indicates some misunderstanding of the planning process suggesting that residents will no longer be advised of any future zoning requests or planning applications. This is not the case.

The submitters have since been advised of the processes of public notification that will remain in place under the new planning scheme.

It is recommended the submission be noted.

Panel Comment and Recommendation:

The Panel supports the comments of the Council and notes that all applications for planning permit in the Residential 1 Zone will need to be advertised pursuant to the requirements of Section 52 of the *Planning and Environment Act (1987)*.

Submission No: Zc 2 **Date Received:** 1 October 1997

Submitter: Trevor Noonan, Chairman, Cobram Development Inc

Location: General/Cobram

Submission Summary:

This submission requests a number of zoning changes to the area of Cobram. Each request and Council response is itemised below:

- (a) Current Zone: Business 2
Exhibited Zone: Industrial 3, Map 7
Proposed Zone: Business 3

Submitter recommends zoning of Jordan Street and Colgan Street as B3Z rather than IN3Z.

Council agrees. The site reflect a more commercial than industrial nature. The location and nature of development as outlined in the MSS and Cobram Local Policy also supports this.

- (b) Current Zone: Public Uses - Railway
Exhibited Zone: Business 1, Map 7
Requested Zone: Public Use 6 – Local Government

Submitter recommends the land west of the entrance to the Railway Station be changed from B1Z to PUZ6 and extended to the Murray Valley Highway.

Council does not support this requested change. The MSS and Local Policy Framework, including reference to the more recently completed Moira Towns 2010 Strategy that recommends the establishment of former railway land for a new retail area of Cobram.

- (c) Existing Zone: Industrial 1
Exhibited Zone: Industrial 1, Map 7
Proposed Zone: Business 3

The Submitter recommends that Broadway Street from Gemmell Street to Koonoomoo Road be changed from IN1Z to B3Z.

Council does not support the submission. The Moira Integrated Planning Strategy and the MSS support the continued use of this area for industrial purposes and the general expansion of the industrial area north of the Koonoomoo Road.

- (d) Existing Zone: Industrial 1
Exhibited Zone: Industrial 1, Map 7
Proposed Zone: Industrial 3

The Submitter recommends that land south of Broadway between Dillon Street and Koonoomoo Road be rezoned IN3Z.

Council does not support this change. The MSS and LPPF support the continued development of an industrial estate in this area. There is no

specific need to restrict the industrial area on this site to an Industrial 3 zone.

- (e) The Submitter notes anomalies in the base map covering Hay Avenue, Market Street, and Punt Road.

Council notes the errors. These were in the base plan provided to Council for preparation of the exhibited planning scheme. The base plan can be corrected prior to adoption of the planning scheme.

- (f) Existing Zone: Business 1, Public Use, Public Open Space
Exhibited Zone: Public Park and Recreation, Map 7
Proposed Zone: Public Use Zone 6 – Local Government

The Submitter recommends that Mivo Park be identified and zoned as PUZ6. Notes that not all other parks are identified as PPRZ.

Council considers that PPRZ is an appropriate zoning for a public park. Other parks which are not zoned PPRZ are mapping errors only and should be corrected prior to adoption of the scheme.

- (g) Existing Zone: Public Use 12 – Rural Water, Commonwealth Government, Industrial 1 and Business 2
Exhibited Zone: Industrial 1 and Rural Zone, Map 7
Proposed Zone: Industrial 3

The Submitter recommends that all land east of Dillon Street including Army Depot, Goulburn Valley Water, and Markey Court, be zoned as IN3Z.

Council does not support the change. The land has been identified for industrial purposes in both the Moira Integrated Strategy and the MSS. To zone the land to Industrial 3 would be an unnecessary restriction on the function of the industrial estate. It should also be noted that the Army base land is soon to be sold to a private land owner.

- (h) Existing Zone: Rural Zone
Exhibited Zone: Rural Zone and Rural Floodway Overlay
Proposed Zone: Low Density Residential

The Submitter recommends rezoning of the rear portion of Kirby's land as LDRZ.

Council does not support the submission. The rear of the land is subject to potential flooding and therefore not suited to Low Density Residential development.

- (i) Existing Zone: Public Purposes
Exhibited Zone: Business 1, Map 7
Proposed Zone: Public Use Zone 1, Service and Utility

The Submitter recommends identification of Police and Fire Stations as PUZ1.

Council does not support the submission as it sees no need to specifically place the uses in a Public Use zone. The submission was referred to the Department of Natural Resources for further comment as land owner. No formal response had been received at the time of writing.

- (j) Existing Zone: Special Use Zone and Residential
Exhibited Zone: Business 2 and Residential 1, Map 7
Proposed Zone: Public Use 2 and 6

The Submitter recommends identification of Punt Road and Hay Avenue Kindergartens as PUZ2 and of the Community House and Cobram Labour Market as PUZ6.

Council does not support the zoning of the land in a Public use zone. The uses on the land do not need to be in specific zones and can utilise the underlying zoning.

- (k) Existing Zone: Residential
Exhibited Zone: Residential 1 Zone, Map 7
Proposed Zone: Residential 1 Zone

Recommends identification of Ministry of Housing Units as R1Z.

Council supports the recommendation as this was what was exhibited.

- (l) Existing Zone: Residential
Exhibited Zone: Residential 1 Zone, Map 7
Proposed Zone: Business 2 Zone

Suggests the identification of land in Punt Road opposite the Civic Centre as B2Z.

Council does not support further Business zoning north of the Civic centre. The MSS, LPPF and Moira Towns 2010 support a consolidated town centre, with a rationalisation of existing business zones. Additional business zoning would conflict with this strategic direction.

- (m) Existing Zone: Special Use Zone 1
Exhibited Zone: Residential 1
Proposed Zone: Public Park and Recreation

The Submitter recommends the rezoning of Punt Road Caravan Park as PPRZ.

Council does not support this change. The land is a privately leased caravan park on land owned by the Public Transport Corporation and therefore should be placed in an appropriate private land zone. Residential 1 is an appropriate zone given the residential nature of the use and surrounding area.

- (n) Existing Zone: Public Use 19 – Local Government
Exhibited Zone: Residential 1, Map 7
Proposed Zone: Public Use 2 or 3

The Submitter recommends the identification of St Joseph's Church and Convent and the Uniting Church and Hall as PUZ2 or PUZ3.

Council supports this change to the extent that it will not impact on the objectives of the MSS or planning scheme. There is, however, no specific need to identify these uses in specific zones.

- (o) Existing Zone: Public Use 19 – Local Government
Exhibited Zone: Rural Zone, Map 4 & 6
Propose Zone: Industrial 1

The Submitter recommends identification of Cobram abattoirs as IN1Z.

Council supports this submission. The land should be zoned industrial in accordance with the directives of the MSS and Integrated Strategy. The zoning of the land to rural in the exhibited scheme would appear to be a map error.

- (p) The Submitter suggests the rezoning of Grant's land on the Murray Valley Highway opposite Punt Road for future development of Botanic Gardens.

Existing Zone: Rural Residential
Exhibited Zone: Low Density Residential Zone, Map 7
Propose Zone: Public Park and Recreation Zone

Council does not support this recommendation. The site identified by the Submitter is privately owned and identified for Rural Residential development.

- (q) Current Zone: Rural 2 – Intensive Farming
Exhibited Zone: Rural Zone, Map 7
Proposed Zone: Not specified

The Submitter recommends appropriate zoning for RACV Holiday Village.

Council does not support the recommendation. The use of tourist accommodation is a permitted use in a rural zone. The location of the use does not warrant an urban zoning.

- (r) Current Zone: Future Urban
Exhibited Zone: Rural Zone, Map 7
Proposed Zone: Not specified

The Submitter recommends appropriate zoning for Drainage Basins at Campbells Road.

Council does not support this submission. The drainage basins do not require site specific land use controls to be maintained in operation.

Panel Comment and Recommendation:

The Panel supports the Council's decisions and recommendations in relation to this submission in relation to the correction of errors and in so far as they are consistent with Council's planning strategy. Many of the matters raised can and should be dealt with in the context of the normal administration of the planning scheme. There is little more the Panel can contribute.

Submission No: Zc 3 **Date Received:** 3 February 1997

Submitter: Des Menz, Enviro-Civil P/L

Location: Oasis Village, Cobram-Koonoomoo Road

Existing Zone: Rural 1 – Broad Acre Farming

Exhibited Zone: Rural Zone

Proposed Zone: Not specified

Submission Summary:

Objects to Policy/Action No.8 in the Draft Strategy Plan to promote the relocation of this caravan park to another site.

(Note that the comment was removed from the interim strategy, which was adopted by Council prior exhibition of the planning scheme in July 1997)

Council Comment and Recommendation:

The policy statement in the draft strategy was to recognise that the caravan park, whilst an important land use in its own right, is in an inappropriate location. Concern was raised that, as the surrounding industrial land develops, amenity of the caravan park will be reduced. Similarly, industry expansion will be restricted due to the buffer provisions required by the VPPs to residential uses.

The policy recommendation was not to seek to forcibly move the caravan park but work with residents and owners toward a more positive long term outcome than will exist for the current site.

As a result of concerns of the Caravan Park owner in relation to the viability of the current operation, the action was deleted from the interim strategy adopted prior to exhibition of the planning scheme.

Under the provisions of the planning scheme the land has been zoned Rural. This will enable the caravan park to continue operating. Council notes to the Panel, however, that the surrounding land to the west and north is identified for future industrial purposes.

An on going issue of conflicting land uses remains. Council does not seek to change the zoning provisions of the land, and welcomes comment by the Panel on policy implications.

Panel Comment and Recommendation:

Mr Mustica, the owner of the Caravan Park that operates on the subject land appeared in person. This submission also relates to submission Zc 2.

The Caravan Park operated by Mr Mustica, is located in the midst of an industrial area. Apparently the Draft Strategy Plan recommended that the Caravan Park, which has been operating for some years, be relocated to another location. This comment was subsequently deleted from the Strategy when it was adopted by the Council prior to the exhibition of the planning scheme in July 1997.

According to the Council, the long-term growth of the surrounding industrial land may be prejudiced by the on-going operation of the Caravan Park. Similarly,

residents of the Caravan Park may also experience a lower standard of amenity due to the proximity of industrial uses to the park.

The Caravan Park has been exhibited in a Rural Zone. This Zone will allow for the continued operation of the park (which in any case, would presumably have existing use rights, regardless of the zoning).

The dilemma facing the Council is whether to zone the land to recognise its existing use, or should it be zoned to reflect a possible future use? In this case, the Panel believes that the former approach should be adopted. The Panel understands that there are still considerable supplies of vacant industrial land in the vicinity and that Council's strategy envisages a change of land use at some point in the future. In the meantime, the land is effectively in a holding zone that could change if and when demand for industrial land becomes sufficient to make such a change desirable to the owner. Until then, the owner is entitled to use the land for whatever purpose he is legally entitled to undertake.

The Panel supports the Council recommendation in this matter.

Submission No: Zc 4 & 5 **Date Received:** 26 August 1997

Submitter: Bruce A Mitchell

Location: Lot 4 LP 62690 Campbell Road, Cobram

Existing Zone:	Future Urban
Exhibited Zone:	Rural Zone
Proposed Zone:	Residential 1

Submission Summary:

Recommends that this land be included in the revised planning scheme with a residential zoning. Notes that the land has been previously zoned future urban and had “in principle support for residential zoning”.

Council Comment and Recommendation:

The local policy 22.03 reiterates the “in principal” support for the future zoning of this land to residential. The policy, however, states that existing zoned land should be further developed prior to this land being zoned.

Since this time Council has resolved that the land is appropriate to be zoned for residential purposes given the proximity of the land to urban services and other zoned land. Council therefore supports the request of the Submitter and requests that the land be zoned Residential 1.

Panel Comment and Recommendation:

The Panel notes that the land was recognised in the previous planning scheme as having some long-term residential potential. Since then, the Moira Shire Council Integrated Strategy Plan (1997) has undertaken a strategy plan for Cobram. This plan no longer identifies the subject land as future residential, instead including it in an area described as “Intensive High Quality Agricultural Land” where urban encroachment should be minimised (Figure 6).

The Panel does not believe that there is a strategic justification for extending the residential zone to include this land at this stage. We note that there are considerable supplies of vacant zoned residential land to the north of the subject site, and believe that they should be consumed before this site is rezoned.

The Panel does not support the Council in this instance and recommends that the land remain in the exhibited Rural Zone.

In response to the specific queries of submitters in Zc 6a it is noted that:

- 1 - All residents were sent a Council newsletter advising exhibition of the planning scheme. This included indication of the issues of flooding and rural land development. A number of workshops and public information sessions were held advising of the planning scheme changes.
- 2 - East Cobram is the direction of growth of the town. The Local Planning Policy Framework of the scheme, however, promotes consolidated town growth, particularly in light of the issues of flooding and protection of the high quality agricultural land surrounding the town.

Council considers that the submission has some merit based on the existing small lot size provision of the current zoning controls and the perceived demand for rural residential land in the Cobram district. Council has therefore resolved that the submission should be referred to a panel for their deliberation.

Panel Comment and Recommendation:

The submissions relate to a number of parcels of land located along River Road Cobram. River Road forms the eastern boundary to the town, running along the banks of the Murray River.

The subject land is currently zoned Rural Residential pursuant to Chapter 6 of the Moira Planning Scheme. This zone allows for the land to be subdivided into lots of between one and 0.2 hectares (if connected to sewerage) or 0.4 and 2 hectares if it is not. The exhibited Scheme seeks to rezone this area to Rural, although there is no explanation offered about the reasons behind such a change.

At the Hearing, the Council explained that the back-zoning was appropriate on the grounds of poor access, difficulties with effluent disposal, negative impacts on water quality and a concern that a residential zoning would lead to a reduction in areas available for orchard production. Having said this, the Council admitted that there was demand for low-density residential lots in the area and that the previous zoning did argue in favour of the submitters' request.

The Panel finds this a rather difficult matter to adequately address in this report. The exhibited strategy is explicit in its desire to restrict the easterly expansion of Cobram. At the same time, the Council adopted an amendment in 1992 (only seven years ago) which would inevitably have led to the redevelopment of this area for residential purposes.

The Panel feels that, unlike the previous and subsequent submissions, this matter raises a matter of strategic policy that cannot be adequately resolved in this report. The Panel feels that the Council should revisit its strategy for this part of Cobram as a matter of some urgency. If the Council wishes to support the rezoning of this land (from Rural Residential in the current scheme to Rural in the new scheme) this issue could be addressed as part of the first review of the planning scheme.

Submission No: Zc 7 **Date Received:** 12 September 1997

Submitter: Elser and Associates for Mr Gattuso

Location: River Road, Cobram

Existing Zone: Rural Residential

Exhibited Zone: Rural Map 7

Proposed Zone: Residential 1 and Rural

Submission Summary:

Objects to the proposed zoning of partially subdivided rural residential land as rural.

Council Comment and Recommendation:

The local policy 22.03 for Cobram, identifies this land for future residential development. It was however, zoned rural enabling existing, more consolidated development of the town through infill of existing residential areas to the west.

It is accepted that part of the area already subdivided into residential lots should be zoned residential.

It is recommended that the submission be supported in part by zoning the existing small lots on the site as Residential 1.

Panel Comment and recommendation:

Mr Chris Banon represented the submitter at the Panel.

The land is currently zoned Rural Residential under the provisions of Chapter 6 of the Moira Planning Scheme. This zone allows for the land to be subdivided into lots of between one and 0.2 hectares (if connected to sewerage) or 0.4 and 2 hectares if it is not.

A six-lot plan of subdivision (affecting the land owned by Mr Gattuso) was been certified by the Council in 1997. The plan creates five lots of between 4000 and 4500 square metres and a balance lot of 17 hectares.

The Council noted that it was happy to include the land already subdivided in the Residential 1 Zone. Apparently, it was concerned that the remainder of the land was constrained by access, servicing and flooding issues (it was suggested that river Road floods every five years and access to the site is a problem at this time).

It seems reasonable to include this property in the Residential 1 Zone given the previous history of the land, the fact that the property has already been partially subdivided, the proximity of the land to serviced residential land and the fact that the property has been identified as suitable for future residential purposes. The Panel considers that the undeveloped land (of 17 hectares) should be covered by a Development Plan Overlay that would require the landowner to resolve access and servicing issues to the satisfaction of the Council prior to any further subdivision of the balance lots.

The Panel recommends that the Gattuso land, River Road Cobram, described in this submission, be included in a Residential 1 Zone in the adopted planning scheme. A Development Plan Overlay should be applied to the

remnant lot comprising 17 hectares. The Overlay should ensure that all issues concerning servicing, flooding and access are resolved prior to the further subdivision of this parcel.

Submission No: Zc 8 **Date Received:** 15 October 1998

Submitter: John Hogarth

Location: Cnr Murray Valley Highway and Koonomoo Road, Koonomoo

Existing Zone: Rural
Exhibited Zone: Rural
Proposed Zone: Low Density Residential

Submission Summary:

Submitter has two existing houses on a 3.24 hectare lot in Koonomoo. Seeks to excise the second house from the lot.

Requests that the land be either zoned in a Low Density Residential Zone or exempted from the provisions of the rural zone to enable this to occur.

Council Comment and Recommendation:

The area of Koonomoo is a fragmented rural area. Many of the lots are of a rural residential nature and are unlikely to convert to productive rural purposes.

Despite this some of the larger lots are productively used for horticulture.

The area is subject to regular flooding. This is represented with the Rural Floodway overlays that affect most of the land in the area. For this reason it is strongly recommended that the rural zone be retained on the property and surrounding area with the rural floodway overlay.

It is recommended that the submission not be supported.

Panel Comment and Recommendation:

The Panel does not believe that the presence of second house on the lot is sufficient to warrant a rezoning. Accordingly, the Panel supports the recommendations of the Council in this matter.

Submission No: Zy 1 **Date Received:** 25 September 1997

Submitter: Michael Carne, Esler and Associates

Location: Council Property fronting Murray Valley Highway and Woods Road and Orr street, Yarrawonga

Current Zone: Residential – Low Density

Exhibited Zone: Public Use 6 – Local Government, Map 23

Proposed Zone: Residential 1

Submission Summary:

Object to zoning of aforementioned land for municipal purposes. Recommends the rezoning of the eastern part of that land as residential. Notes this is consistent with negotiations for a land swap with Council in relation to Orr Street.

Council Comment and Recommendation:

This submission relates to a proposed land swap with between Council in relation to a proposal for a retirement village on adjoining land that did not proceed.

Council therefore seeks to retain its land holding in PUZ 6 until such time that it has determined the future use for the land. A public use zoning is considered appropriate in this instance so as to identify to adjoining land purchasers of the Council ownership, and therefore potential Council use, of the land.

On this basis the submission is not supported. Should the submitter wish to pursue a strategic change to the scheme, a separately exhibited zoning request should be submitted for consideration by Council.

Panel Comment and Recommendation:

The Panel supports the recommendations of the Council in this matter.

Submission No: Zy 2 **Date Received:** 25 September 1997

Submitter: Michael Carne, Esler and Associates

Location: Burley Road, Yarrawonga (Allots 5, 6, 7, and 8)

Current Zone: Residential - Medium Density
Exhibited Zone: Industrial 1, Map 23
Proposed Zone: Residential 1

Submission Summary:

Objects to proposed zoning as industrial. Recommends maintaining the existing zoning as residential. The Submitter notes that, whilst the current use of the site and adjoining site is for industrial purposes, they consider the long term use of the site would be better as residential.

Council Comment and Recommendation:

The zoning of the land to industrial was a strategic decision based on the statements of the MSS and Local Policies. This identified that there was more than adequate provision of residential land elsewhere in Yarrawonga, with the dominant residential area being to the east of the town.

The location of the land is considered more suited to industrial development. The land can also provide serviced industrial land, which is lacking in Yarrawonga.

On this basis the submission is not supported. Should the Submitter wish to pursue a strategic change to the scheme a separately exhibited zoning request should be submitted for consideration by Council.

Panel Comment and Recommendation:

It was submitted by Mr Bannon, on behalf of the landowner, that the exhibited zoning would legitimise an incompatible land use. The Council, on the other hand, suggested that the current zoning was appropriate given the strategic plan for Yarrawonga and should be retained.

Issues

Although the land is currently zoned Residential – Medium Density, it has been developed for industrial purposes, including a wreckers yard and a concrete batching plant. It was submitted by Mr Bannon that the industrial uses have been there for many years and probably have some existing use rights. Over time, residential development has encroached upon the industrial land, to the extent that a Residential 1 Zone abuts the subject land.

According to Mr Bannon the owner of the land wishes to relocate the existing uses to another site. If the land is kept in an Industrial Zone as exhibited, industry is a Section 1 use and it is likely that other incompatible land uses would be developed on the site.

It was submitted by Mr Bannon that there is an oversupply of serviced industrial land in Yarrawonga and the loss of this site to residential purposes would not have a

serious strategic impact on the development of the town. Indeed, he pointed out that clause 22.04-2 notes that (at dot point six):

Ample supply of smaller serviced industrial lots exist within existing zoned land.

The Panel notes that there are large tracts of industrial land south of the railway line. The Panel also considers that the railway line might also represent a reasonable edge to conventional residential to the south of the town.

It is considered that the submitter's land should remain in a residential zone, probably the Residential 1 Zone. This offers the community a number of benefits including:

- The industrial uses would become non-conforming. If the existing uses continue (despite the comments of the submitter to the contrary) they would be prevented from expansion and possibly from redevelopment if they were destroyed by fire etc.
- If the use was to change, the Council would be able to ensure that a new use had less impact on the amenity of the surrounding residents.
- The zone acknowledges the sensitive land uses nearby and would prevent new industrial uses from being established.

Accordingly, the Panel recommends that the zoning of the subject land be included in a Residential 1 Zone in the adopted planning scheme. No further exhibition is required as the land is already within a Residential Zone in the existing scheme.

The Panel recommends that the lots 5,6,7 and 8 Burley Road Yarrawonga be included in a Residential 1 Zone in the adopted planning scheme. No further exhibition of this change is required.

Submission No: Zy 3 **Date Received:** 26 September 1997

Submitter: Mr Keenan

Location: Burley Road, Yarrawonga (Allots 5,6,7 and 8)

Current Zone: Residential - Medium Density

Exhibited Zone: Industrial 1, Map 23

Proposed Zone: Residential 1

Submission Summary:

Objects to proposed zoning of above mentioned land to industrial. Recommends zoning as residential.

Council Comment and Recommendation:

Refer comments of submission Zy 2.

Panel Comment and Recommendation:

Refer to submission Zy 2 for Panel comment.

Submission No: Zy 4 **Date Received:** 25 September 1997

Submitter: Michael Carne, Esler and Associates

Location: Murray Valley Highway, Bundalong (14A, 15A, 18, and
19)

Current Zone: Rural Living
Exhibited Zone: Rural Zone, Map 24,25,26
Proposed Zone: Low Density Residential

Submission Summary:

Objects to proposed zoning of aforementioned land as rural. Recommends zoning as residential. The land is located at the eastern edge of the Stevenson Place strip development along the edge of Lake Mulwala.

Council Comment and Recommendation:

The MSS, Local Policies, and Significant Landscape Overlay of the exhibited planning scheme make very specific comment regarding the need to protect the visual amenity of the lake and the water quality environs through discouraging any further residential subdivision around the lake. The zoning of the land to rural is content with these policies.

It is recommended that the submission not be supported.

Panel Comment and Recommendation:

Mr Bannon, who represented the owners of the land, J. Judd and Sons at the panel made both a verbal and written submission.

Apparently the land was formerly owned by Brymay Forestry for match wood production. The land became surplus to their needs some 8-10 years ago. As part of the sale of the land, the company sought to have the land rezoned to Reserved Residential. As part of this, the company entered into an agreement pursuant to Section 173 of the Act. The agreement referred to, amongst other things that:

The Council agrees to cause the land to be rezoned Rural Residential as soon as possible.

It is generally agreed that the reference to Rural Residential was an error and that it was supposed to refer to Reserved Residential.

The subsequent rezoning formed part of Amendment L21, which was subsequently exhibited and adopted by the Council. Prior to approving the amendment, the Minister sought to have an outline development plan prepared to direct servicing and other issues at the time of subdivision. This plan was never prepared due to a dispute over who should pay for it. At about the same time, the land was purchased by the current owner, Mr Judd. According to Mr Bannon, Mr Judd had approached the Council in 1997 to discuss the matter, but was allegedly told that the matter would be resolved as part of the planning scheme review. It was not.

The Panel does not wish to comment on the validity or otherwise of the Section 173 agreement. If the landowner wishes to pursue the agreement, then he has legal rights in this regard. Instead, the following comments address the planning merits of such a proposal and its impact on the Council's adopted strategy.

It is clear that past approvals have led to an unfortunate pattern of development, which has resulted in a long stretch of residential development along the edge of Lake Mulwala. The submitter conceded that this pattern of development would not be supportable if it were proposed in 1999.

The Yarrawonga township area is effectively split in two, with the majority of development occurring west of Botts Road. The area to the east (which includes the subject land) is remote from the main town and comprises a series of ad hoc and disparate residential subdivisions.

The submitter seeks approval to include a large area of land exhibited in the Rural Zone to Residential 1. An outline development plan was submitted which showed a few hundred residential lots located behind the existing Woodland Estate.

It was submitted that the existence of the Woodland Estate gives a certain justification for the subject land to be included in a Residential 1 Zone. Whilst the Panel recognises that the existing pattern of development exists, it is considered that this estate represents poor planning and is contrary to notions of orderly and proper planning. To zone the land for residential purposes would simply compound the errors of the past and, by creating a large number of lots away from the main township area, would undermine the Council's strategic planning for Yarrawonga.

Despite previous intentions to the contrary by the former Shire of Yarrawonga, the new Council has now developed and adopted a strategic framework that discourages growth in this part of Yarrawonga. The Panel believes that the strategy is sound, and sees no reason to depart from it in this instance.

Accordingly, the Panel supports the recommendation of the Council in this matter.

Submission No: Zy 5 **Date Received:** 25 September 1997

Submitter: Michael Carne, Esler and Associates

Location: Murray Valley Highway, Cobrawonga

Current Zone: Unzoned
Exhibited Zone: Rural, Map 19
Proposed Zone: Low Density Residential

Submission Summary:

Objects to proposed zoning as rural. Recommends zoning that would reflect sites potential as rural residential.

Notes a planning permit has already been issued for subdivision of the land and is concerned a rural zoning will override this permit.

Council Comment and Recommendation:

The site is currently zoned rural under the provision of the existing Moira Planning Scheme. It is located within an active rural area, well away from the township of Yarrawonga or Cobram. If a planning permit exists for subdivision then this permit will continue to have rights under the new planning scheme, regardless of the zoning of the land. A zone change would be inconsistent with the statement of the MSS and Local Policies regarding rural land. It is recommended that the submission not be supported.

Council also resolved to advise the submitter that any planning permit issued under the existing planning scheme will retain existing use rights under the new Scheme, subject to any conditions which may exist on that permit.

Panel Comment and Recommendation:

The Panel supports the recommendations of the Council in this matter.

Submission No: Zy 6 **Date Received:** 25 September 1997

Submitter: D Fotia

Location: Yarrawonga (Various)

Submission Summary:

Raises various urban design issues regarding the Yarrawonga retail precinct.

Recommends the zoning of land abutting the Woodlands Estate as residential;

Current Zone:	Rural Highway (RU2)
Exhibited Zone:	Rural Map 24
Proposed Zone:	Township/Low Density Residential.

Recommends the zoning of Lake Mulwala foreshore as special use to encourage commercial developments.

Raises concerns over the zoning of land adjacent to the airport as residential.

Recommends the creation of a precinct for heavy industry.

Council Comment and Recommendation:

The issues regarding urban design and foreshore development are noted and supported to the extent that Council, through the Town 2010, has also recognised the need to promote the foreshore area. Changes to the MSS have been recommended subsequent to the Towns 2010 report. This includes greater emphasis on tourism development at the lake interface with the town centre.

The issue regarding the airport environs is a matter, which is best, addressed through the introduction of an airport environs overlay. This requires separate amendment exhibition. Council is working on this matter as part of the Yarrawonga Aerodrome Development Plan and will form a separate amendment at a future stage. The issue of residential development in proximity to the airport is addressed in the development strategy. This indicates that residential development should be restricted in the area surrounding the airport.

Industrial land has been provided for in the scheme based on the Moira Planning Strategy. An industrial 1 zone is the most appropriate zone for these areas. Industrial 2 is for specific noxious type industries which require large buffer distances. The MSS and planning strategy do not recommend this type of industry to establish in Yarrawonga.

Council does not support the zoning of land abutting the Woodlands Estate as residential. The MSS, Local Policies, and Significant Landscape Overlay in the exhibited planning scheme make very specific comment regarding the need to protect the visual amenity of the lake and the water quality environs through discouraging any further residential subdivision around the lake. The zoning of the land to rural is content with these policies.

Panel Comment and Recommendation:

The Panel supports the concerns of the submitter over the need to control residential development near to the Yarrawonga Aerodrome. It should be pointed out, however, that the types of aircraft are generally only small recreational types and the frequency of take-offs and landings is quite low (when compared to larger airfields such as Essendon). The amenity impacts to surrounding development, therefore, would be relatively small. Notwithstanding this, the Panel supports the Council in their endeavours to investigate appropriate airport environs overlays and to include them via a separate amendment if required.

The Panel also supports the submitter's desire for the town to give greater focus on the lake, although we do believe that this would necessarily require a special purpose zone as suggested.

At the Panel, Mr Bigger also sought to rezone the southern end of Belmore Street to Business 4 to allow for expanded retail purposes. Mr Bigger was concerned that there were limited opportunities for businesses to expand, and that a retail centre in this location would create an attractive gateway to the town. Mr Bigger asked for and was granted an opportunity to present a further written submission on this matter.

A detailed written submission by consultant planner, Mr Bill Kusnirczuk of Clement Stone Town Planners. This submission essentially restates the findings of the Moira Towns 2010 Strategy and notes, amongst other things, that:

- Yarrawonga's population will increase;
- Tourists make a considerable contribution to the local economy;
- As a consequence, the food sector captures a considerably higher level of retail spending than it would otherwise be generated from a population of this size;
- That there are few vacant shops in the Belmore Street shopping precinct.

It was submitted that the Business 4 Zone would enhance the function of the retail core and:

(P)rovide an excellent transition between the intensive retail activity and residential development further to the south. Therefore, the proposed Business 4 Zone will achieve a desirable planing outcome by discouraging large peripheral sales uses taking up large amounts of floor space in the primary town centre. The area of land designated for Business 4 development will satisfy the medium term needs of the population base in the future" (p.19:1998).

Comments on the Strategic Implications of this Proposal

The Moira Towns 2010 Strategy seeks to consolidate mainstream retailing within the existing retail core, and orient retailing activity towards Lake Mulwala (to the north).

Belmore Street is a relatively long street. Like many other retail areas, the periphery contains a number of "fringe" retail and commercial uses. The Panel understands that the southern end of the Business 1 Zone already contains a supermarket, car yard and petrol station. Land to the north of Belmore Street contains the area's mainstream

retail core. Apparently, this is a relatively successful shopping strip and is used by both locals and tourists alike.

The submitter is seeking to establish a new commercial precinct (comprising bulky goods retailing) at the southern end of Belmore Street. The Panel is reluctant to support such a proposal for the following reasons:

- Such a proposal appears to be contrary to the adopted strategy. The Panel believes that the strategy seeks to contain retail uses within the existing zoned area, thereby creating a heightened sense of activity, competition and intensity of land use in this area. These are essential elements of attractive and vibrant retail areas.
- The proponent has not demonstrated a need for such a zoning change, other than to submit that his current premises require more space which he is unable to acquire in his present site.
- It would appear that there are other sites within the exhibited Business 1 Zone that could be redeveloped at some stage to accommodate the types of uses sought.
- The exhibited scheme contains an area proposed to be zoned Business 3. The use of land for restricted retail purposes is a Section 2 use in the zone, enabling a planning permit to be granted for such a use.

The Panel does not support the application of the Business 4 Zone at the southern end of Belmore Street and reiterates the absence of any strategic basis that would support such a decision. In the absence of an such a strategy, the Panel recommends that the southern end of Belmore Street remain in the exhibited zone.

It may be that the Council needs to review its strategic plans for Yarrawonga in light of this submission to fully analyse the implications of such a zoning change. Any subsequent zoning change (if needed) would, of course, be part of a separate amendment.

Submission No: Zy 7 **Date Received:** 29 September 1997

Submitter: Stephen J Oxley, Director, Stephen Oxley and Company.

Location: Murray Valley Highway between Botts Road and Whites Road

Existing Zoning: Rural Residential

Exhibited Zoning: Rural, Map 24

Proposed Zoning: Low Density Residential

Submission Summary:

Objects to the zoning of this land as rural. Recommends rezoning as Low Density Residential in accordance with previous Council endorsement of the land as Rural Residential. Notes a planning permit has been issued in 1994 for rural residential development of the land.

Council Comment and Recommendation:

The zoning of the land to Low Density Residential Development is inconsistent with the MSS and Local Policy framework. A rural zone is appropriate.

The use rights of the existing permit will still apply under the new scheme subject to complying with conditions of that permit. Hence the existing subdivision rights of the land as contained in the permit will not be lost, but a rural zoning will restrict any further small lot development in the area.

It is recommended that the submission not be supported and referred to a Panel.

Panel Comment and Recommendation:

The Panel notes that the subject site is relatively remote from the township of Yarrawonga and supports the recommendations of the Council in this matter.

Submission No: Zy 8, **Date Received:** 30 September 1997
Zy 9 & Zy 10

Submitter: J Remain (Zy 8), DC and BJ Baker et. al. (Zy 9), Peter Kilpatrick
(Zy 10)

Location: Rosemary Court, adjacent to Woodlands Estate,
Yarrowonga

Existing Zone:	Rural Residential
Exhibited Zone:	Township, Map 24
Proposed Zone:	Low Density Residential

Submission Summary:

Objects to the zoning of adjacent land as Township. Recommends rezoning of this land be retained as low density residential area. Notes this was the intent of the subdivision and subsequently does not have full urban servicing.

Council Comment and Recommendation:

The Woodlands estate was zoned township in the exhibited scheme to recognise its small lot development, but to discourage its interpretation as part of Yarrowonga. This was consistent with the intent of the MSS to consolidate the urban area of Yarrowonga. A township zone was also consistent with the zoning of the land under the current planning scheme.

It is acknowledged that Rosemary Court is more akin to Rural Residential type development, and zoning due to the services available to this land and the subdivision layout of the area.

The township zone was used in the exhibited scheme as this was considered an appropriate translation of the current controls over the land. It is however, accepted that a low density residential zone would be more appropriate to the intent of MSS and Planning Strategy as well as the form of development on the subject land.

It is recommended that the submission be supported with a recommendation to zone this land to Low Density Residential.

Panel Comment and Recommendation:

The Panel supports the recommendations of the Council in this matter.

Submission No: Zy 11 **Date Received:** 30 September 1997

Submitter: Michelle M O'Meara, Director, Des O'Meara First National Real Estate

Location: Various (refer specific points below)

Submission Summary:

The Submitter makes a number of comments. Each is addressed with Council comments following.

- (a) The Submitter objects to the zoning of industrial uses along the Murray Valley Highway, east of Yarrawonga as residential.

Existing Zone:	Future Urban
Exhibited Zone:	Residential 1 Map 23,24
Proposed Zone:	Business 3

- (b) The Submitter raises concerns over zoning of Belmore Street, Yarrawonga where development of the business precinct may be restricted.
- (c) Notes that no provision has been made within the planning scheme for the development of a tourism precinct around Hunt Street and the Lake Foreshore.
- (d) Suggests residential zoning and urban design improvements around Burley Road and Curtois Street.
- (e) Recommends that land in the vicinity of Burley Road and Murray Valley Highway be considered for zoning as industrial. The land is currently zoned Residential and it is exhibited as Residential.
- (f) Recommends that some land in the vicinity of Flanagans Road and Old Wilby Road be considered for zoning as Low Density Residential. The land is currently zoned Rural and exhibited as rural.
- (g) Recommends the inclusion of land between the Murray Valley Highway and Woodlands Estate be zoned as township zone. This area is currently zoned Rural and exhibited as Rural.
- (h) Recommends the inclusion of small portion of land adjacent to Phalaris Land and Murray Valley Highway in the Township zone.

Council Comment and Recommendation:

- a) The semi industrial uses are currently zoned future Urban. The zoning of the land to residential is consistent with the MSS and Township policy. There are other opportunities for semi commercial development in other industrial locations of the township, away from the designated residential areas. The design of this eastern part of Yarrawonga is important being a gateway entry to the town. This requires careful consideration to urban design in accordance with the Township policy of 22.04 and the directives of the MSS. A commercial zoning is considered inappropriate.

- b) Council believes that further consideration needs to be given to the suggested commercial development at the south end of Belmore Street, however agrees with the findings of the Towns 2010 Urban Design Strategy and other submissions of this nature, that the retail sector should be consolidated toward the northern end of Belmore Street. The submission has been referred to a panel for further consideration on this basis.
- c) Council acknowledges that the establishment of a tourism precinct around the lake has been identified in the Town 2010 project and should be identified in the local policies. A residential zoning is considered appropriate at this stage. Restaurants and tourist uses are permitted in this zone. The item is noted.
- d) This does not require a change to the Planning scheme. Additional work has now been undertaken on the design issues of the Yarrawonga town centre as part of the Towns 2010 strategy. The item is noted.
- e) Council considers there is no strategic basis for the rezoning of this land to industrial. The item is not supported.
- f) The MSS and LPPF provide no strategic basis for the rezoning of this land to Rural Residential. It is also considered that the land cannot meet the tests of Ministerial Direction No. 6 in relation to Rural Residential development. The item is not supported.
- g) This land is not an appropriate location for further urban development. Further there is no current justification for further Rural Residential development, similar to that of the Woodlands estate. The item is not supported.
- h) Council has retained this land in a rural zone to restrict further strip development. The directions of the MSS and LPPF do not support any further urban development of this nature. The item is not supported.

Panel Comment and Recommendation:

The Panel supports the following recommendations of the Council:

(a), (c), (d), (e), (f), (g) and (h).

Submission No: Zy 12 **Date Received:** 30 September 1997

Submitter: Jamie Dowling, Yarrawonga-Mulwala Direct

Location: Yarrawonga - various locations Map 23

Submission Summary:

- (a) Recommends the zoning of land along the Murray Valley Highway on the eastern approach to Yarrawonga be industrial not residential.
- (b) Recommends the zoning of land at the corner of Hogans Road and the Murray Valley Highway should be zoned residential as an extension of the Woodlands estate.
- (c) Suggests that commercial retail development of the main street should focus on the existing central area with some retail development towards the lake and commercial zoning to the south end of Belmore Street.
- (d) Raises concerns about the proximity of residential land to the airport.
- (e) Notes that the planning scheme does not provide for heavy industry.
- (f) Notes that the planning scheme does not provide for commercial development in the foreshore area.

Council Comment and Recommendation:

The issues raised in points (a), (b), (c), and (f) are dealt with in submission Zy 11. The same comments apply to this submission. The issue of an airport environs overlay does need to be addressed but needs to be considered as a separate exhibition to the scheme. Provision for heavy industry can be made in the industrial 1 zoning located on the Benalla-Yarrawonga Road.

It is recommended that the submission and comments be noted.

Panel Comment and Recommendation:

The Panel will address each of these requests separately:

- (a). There are considerable areas of industrially zoned land in this area. The Panel does not support the rezoning of the area between the railway line and Curtois Street to Industrial 1.
- (b) The Panel does not support the extension of the Woodlands Estate.
- (c) The Panel does not support the extension of the commercial area towards Belmore Street.
- (d) The Panel shares this concern and supports Council's recommendations in this regard.
- (e) The Panel does not believe that there is a need for an Industrial 2 Zone in Yarrawonga. The Industrial 1 Zone offers considerable flexibility in terms of the types of industrial uses that can be established.

- (f) The Business 1 Zone provides for commercial development close to the foreshore area. The 2010 Strategy supports commercial development in this area.

Submission No: Zy 13 **Date Received:** 30 September 1997

Submitter: Margaret and John Marchant

Location: South end of Belmore Street, Yarrawonga. Map 23

Existing Zone: Residential – Medium Density
Exhibited Zone: Residential 1 Map 23
Proposed Zone: Commercial

Submission Summary:

Recommends that the area between McNally Street and Telford Street be zoned for future use as commercial.

Council Comment and Recommendation:

Council believes that further consideration needs to be given to the suggested commercial development at the south end of Belmore Street, however agrees with the findings of the Towns 2010 Urban Design Strategy and other submissions of this nature that the retail sector should be consolidated toward the northern end of Belmore Street. The submission has been referred to a panel for further consideration on this basis.

Panel Comment and Recommendation:

See comments on Submission Zy 6.

Submission No: Zy 14 **Date Received:** 18 August 1997

Submitter: N Porter

Location: Yarrawonga CBD

Existing Zone: Residential – Medium Density
Exhibited Zone: Residential 1 Map 23
Proposed Zone: Commercial

Submission Summary:

Recommends the rezoning of land along Belmore Street South to the Murray Valley Highway be zoned for commercial purposes.

Council Comment and Recommendation:

Council believes that further consideration needs to be given to the suggested commercial development at the south end of Belmore Street, however agrees with the findings of the Towns 2010 Urban Design Strategy and other submissions of this nature, that the retail sector should be consolidated toward the northern end of Belmore Street. The submission should be referred to a panel for further consideration on this basis.

Panel Comment and Recommendation:

See comments on Submission Zy 6.

Submission No: Zy 15 **Date Received:** 22 September 1997

Submitter: Robert G Scantleton, Permewans

Location: Yarrawonga township Map 23

Submission Summary:

Raises various urban design issues relating to the Yarrawonga township.

Recommends the rezoning of land adjacent to the Murray Valley Highway as industrial.

Recommends that land abutting the Murray Valley Highway at the rear of Woodlands Estate should be zoned residential.

Recommends that planning provisions be made to utilise the commercial value of Lake Mulwala and the Murray River.

Expresses concern over the proximity of residential zoning to the airport.

Recommends that planning provisions be made to create opportunities for heavy industry.

Council Comment and Recommendation:

Raises the same issues raised in submissions Zy 11 and Zy 12. The same comments and recommendations apply.

Panel Comment and Recommendation:

See comments on Submission Zy 12.

Submission No: Zy 16 **Date Received:** 19 September 1997

Submitter: James Andrew Collins, Director, Channel Land Company P/L

Location: Lot 1 PS142044 Parish of Yarrawonga
Cnr Burley Road and Murray Valley Highway, Yarrawonga

Existing Zone: Reserved Residential and Rural
Exhibited Zone: Business 3 and LDRZ (note Council identified technical correction that this should be RUZ) Map 23
Proposed Zone: Residential 1

Submission Summary:

Recommends the rezoning of aforementioned land as residential as opposed to Business 3 as exhibited. Notes the former Shire of Yarrawonga strategic decision to zone this land to residential.

Council Comment and Recommendation:

The MSS and local policies direct the zoning of this land to Business 3 to compliment the other industrial uses in the area. It is considered that there is more than adequate residential land to the east of Yarrawonga to accommodate future residential development.

It is recommended that the submission not be supported and referred to a Panel.

Panel Comment and recommendation:

Mr James Collins represented the submitter. Mr Collins called evidence from Mr Noel Haydon, who was a planner at the former Shire of Yarrawonga. My Haydon gave evidence that the former Shire had identified this land was considered appropriate for residential purposes and that the Minister for Planning had visited the land in 1993 and agreed to have the land zoned Reserved Residential. The Panel accepts this evidence as correct.

On face value, the issues here are similar to those discussed in submission Zy 2. Both parcels are included in a Residential – Medium Density Zone in the existing planning scheme. The subject land in this instance is proposed to be included in a Business 3 Zone. This decision to rezone the land reflects the main road frontage on two sides and the Council’s decision to direct residential growth to the east of Yarrawonga, rather than the east. The Yarrawonga Development Plan shows the land in a potential light industry zone.

The Panel supported the land opposite the subject land (to the east) should be included in a Residential Zone due to fact that it abutted an established residential area and that the rezoning would improve the amenity of the adjoining residential land. This is not the case in this instance.

The Panel generally supports the strategic direction of the Council to direct residential growth to the east of the town. It considers that the inclusion of this site in a residential zone would challenge the implementation of this strategy, and as such should be discouraged.

As a residential zoning is no longer suitable, it is felt that the Business 3 Zone is an appropriate Zone for this site. The Council should also consider the introduction of a Design and Development Overlay to ensure that the appearance of future buildings is appropriate given the proximity of residential development to the east. It is suggested that the overlay should ensure reasonable setbacks and opportunities for landscaping are provided to ensure that the visual impact of any new development is minimised.

The Panel also understands that the rear portion of the land was mistakenly included in a Low Density Residential in the exhibited scheme. It is proposed to include this land in a Rural Zone. We note that the strategy plan shows this land is identified as "Potential Rural Residential". As the VPPs do not contain a reserved land classification, the most appropriate holding zone is the Rural Zone. Accordingly, the Panel supports the inclusion of this portion of the land being included in a Rural Zone in the adopted planning scheme. No further exhibition of this change is required.

The Panel recommends that the eastern portion of lot 1 PS 142044 located on the corner of Burley Road and Murray Valley Highway mistakenly included in a Low Density Residential Zone in the exhibited planning scheme be included in a Rural Zone in the adopted planning scheme. No further exhibition of this is required.

Submission No: Zy 17 **Date Received:** 27 August 1997

Submitter: KG Campbell, Elser and Associates, for the Gorman family

Location: Crown Allotment 26B, Parish of Yarrawonga

Existing Zone: Future Urban
Exhibited Zone: Rural Map 23
Proposed Zone: Low Density Residential

Submission Summary:

Recommends that the above-mentioned land be zoned as rural residential rather than rural.

Council Comment and Recommendation:

The existing zoning of this land as part residential and part rural is consistent with the MSS and local policies. A rezoning of the rural part to rural residential would be inconsistent with the policy of consolidating town growth.

Council also noted that the land is in proximity to the Yarrawonga Aerodrome and its intentions to establish an Airport Environs Overlay in this vicinity as part of a separate amendment to the planning scheme.

It is recommended that the submission not be supported

Panel Comment and Recommendation:

The Gorman family, who own the subject land, were represented at the Panel by Mr Chris Bannon, who made both a written and verbal submission.

Essentially, Mr Bannon submitted that the land should be included in a Residential 1 Zone because the subject land was zoned Future Urban in the existing scheme and was identified as Potential Residential in the Integrated Strategy. Mr Bannon submitted that the flooding problems were the result of localised drainage issues, which could be remedied by increasing the size of a culvert running under the Murray Valley Highway.

At the Panel hearing the Council indicated that it wished for all of the land to be included in a Rural Zone until the local flooding issues are resolved. Moreover it submitted that population growth in the area had declined and there was probably little justification for zoning more land to residential at this stage. Mr Bannon was upset by Council's position on this matter, and believed that these issues should have been foreshadowed in their written response to the Panel.

The Integrated Strategy states that:

Building statistics for the past six years indicate an average of 68 dwellings being constructed within the town each year. Based on this average it could be assumed that an additional 685 new dwellings will be constructed in the town over the next ten years..... This anticipated demand could be accommodated within the existing zoned land and subdivided land. The

existing Reserved residential to the east, bounded by Botts Road to the east ensures that there is adequate zoned land available for additional development if demand exceeds these current estimates (page 48).

The Panel notes that the strategy identifies two parcels of land as Potential Residential. These are the subject land and an L shaped parcel of land. Of these, only the parcel to the north is included wholly within a Residential 1 Zone. The subject land, on the other hand, is included in a part Residential 1 Zone and part Rural Zone. The zoning boundary appears to have been (at least in part) influenced by the pattern of local flooding.

In effect, the Council is seeking to exercise control over the pattern and staging of residential development in Yarrawonga. By including all of the Potential Residential land north of the Highway in a Residential 1 Zone, it is effectively expressing a preference for this area to be developed first. Given the low rates of development (68 dwellings per year), the Council is sensibly seeking to direct most growth in one area, whilst allowing for a smaller development front to occur on the subject land. The Panel believes this to be a sensible response to local conditions.

The Panel has already stated that the Rural Zone is an appropriate holding zone for land that has some longer term residential potential. In this case, it seems likely that the entire parcel will be required for conventional density residential purposes. Consequently all of the subject land should also be included in a Development Plan Overlay to ensure that the provision of services, layout of roads and the like are coordinated with surrounding areas and staged appropriately.

The Panel recommends that the Gorman land be included in a part Residential 1 Zone and part Rural Zone as exhibited. A Development Plan Overlay should be applied to the whole of the land. The Overlay should address issues such as servicing, road patterns and lot layouts and should be included in the adopted planning scheme without the need for further exhibition. The drafting of the Overlay should be undertaken in consultation with the landowner.

Submission No: Zy 18 **Date Received:** 27 August 1997

Submitter: KG Campbell, Esler and Associates, for Mr Flanigan

Location: North West corner of Flanagan's Road and Woods Road, Yarrawonga

Existing Zone: Rural 1 – Rural Farming
Exhibited Zone: Rural Map 23
Proposed Zone: Low Density Residential

Submission Summary:

Recommends that land be zoned rural residential not rural.

Council Comment and Recommendation:

The local policy for Yarrawonga identifies this land as potential rural residential subject to developer led rezoning which can demonstrate that the proposal meets the provisions of Ministerial Direction No 6. A separate amendment is required to consider this.

It is recommended that the submission not be supported on this basis.

Panel Comment and Recommendation:

Mr Chris Bannon represented the owner of the land (Mr Flanagan) at the hearing. Both a written and verbal submission was made.

The submitter sought to have the land included in a low density residential zone. Mr Bannon appreciated that such a request would require a separate amendment and would need to address various issues, as well as comply with the provisions of Ministerial Direction No.6.

In the absence of such information, the Panel is unable to recommend the land be rezoned at this stage. The Panel supports the recommendations of the Council in this matter.

Submission No: Zy 19 **Date Received:** 27 August 1997
Submitter: KG Campbell, Esler and Associates
Location: Allot 1, and part Allots 2, 3, and 4, Parish of Bundalong

Existing Zone: Reserved Residential
Exhibited Zone: Rural Map 27
Proposed Zone: Residential 1 and Township

Submission Summary:

Objects to the zoning of subject land as rural. Recommends rezoning subject land for residential uses.

Council Comment and Recommendation:

The rural zoning is consistent with the MSS and local policies to restrict further strip development in Bundalong. The submission is effectively a rezoning submission, which should be the subject of a separate amendment consideration.

It is recommended that the submission not be supported.

Panel Comment and Recommendation:

On its face, the decision to include the subject land in a Rural Zone, when other areas of Bundalong were included in a Township Zone, appears unfair. The existing scheme permits residential development to occur once reticulated sewerage is provided. The Panel understands that sewerage can now be connected to the lots. Other parcels of land zoned Reserved Residential (in the existing scheme) have also been included in the Township Zone in the exhibited one.

From the Council's perspective, it is keen to discourage residential development in Bundalong, and has back-zoned the subject land to reflect this strategic intention. It would also appear that there are considerable supplies of vacant land in Bundalong already, and that no further supplies of land need be created in the short term.

The Panel is somewhat confused by the Council's decision to back-zone this parcel of land. If it genuinely wished to prevent further residential development in Bundalong, it should have included all Reserved Residential land in a Rural Zone, or some other low density residential zone. It chose not to do that..

The Panel believes that it would unfair to use the introduction of the new format planning scheme to back zone the subject land in this manner. The Panel has been unable to find any strategic justification for such a rezoning in either the Integrated Strategy or LPPF (notwithstanding the presence of the Bundalong Structure Plan, which provides no explanation for the change).

Accordingly, the Panel believes that the subject land should be included a Township Zone in the adopted planning scheme. A Development Plan Overlay should also be applied to the land to ensure that services and road layouts properly integrate with surrounding developments. The Panel also believes that the Murray Valley Highway to the south of the subject land forms a sensible barrier to the southward expansion of this strip of residential development.

The Panel recommends that the Jane land be included in a Township Zone and that a Development Plan Overlay be drafted and applied to the whole of the land. The Overlay should address issues such as servicing, road patterns and lot layouts and should be included in the adopted planning scheme without the need for further exhibition. The drafting of the Overlay should be undertaken in consultation with the landowner.

Submission No: Zy 20 **Date Received:** 26 August 1997

Submitter: KG Campbell, Esler and Associates for Daniels.

Location: Between Murray Valley Highway and Murray River
Floodplain

Existing Zone: Rural Residential

Exhibited Zone: Rural Map 21

Proposed Zone: Rural Residential

Submission Summary:

Recommends land in this area to be zoned as rural residential.

Notes this is to reflect a recent rezoning of the property in 1996 to such purpose.

Council Comment and Recommendation:

This parcel of land has been affected by a rezoning which has now been approved and incorporated into the Moira Planning Scheme. It is recommended that the submission be supported.

Note further advice indicates that a planning permit for subdivision has now been issued for a seven lot subdivision. The permit was issued under delegation on 15 October 1998.

Panel Comment and Recommendation:

The Panel supports the position of the Council in this matter.

Submission No: Zy 21 **Date Received:** 16 October 1997

Submitter: Lou Castellano, Castellano and Co

Location: 59-63 Belmore Street, Yarrawonga Map 23

Submission Summary:

Objects to the expansion of retail area along Belmore Street.

Recommends that the land abutting the Murray Valley Highway, north of Woodlands Estate should be zoned residential.

Recommends a special purpose zone in the foreshore areas of Murray River and Lake Mulwala to encourage tourism and commercial development.

Raises concerns over the proximity of residential zoning to the Yarrawonga airport.

Raises concerns over the lack of provision for heavy industry in the planning scheme.

Council Comment and Recommendation

Refer comments of submissions Zy 11 and Zy 12.

Panel Comment and Recommendation:

See Panel comments on submission Zy 11.

Submission No: Zy 22 **Date Received:** 2 March 1998

Submitter: Dontell Sue Pty. Ltd.

Location: 162 Belmore Street, Yarrawonga

Existing Zone: Residential – Medium Density
Exhibited Zone: Residential 1 Map 23
Proposed Zone: Business 1

Submission Summary:

Requests that the Business 1 zone of the Yarrawonga Business centre be extended south to Lott Street or the Murray Valley Highway, including their property. Advise that they intend to establish a retail business on the site, which is currently occupied, by an unused dwelling. The Submitter notes that the Mobil service station is adjacent and a car sales and repairs is opposite.

Council Comment and Recommendation:

The Moira Integrated Strategy Plan and the Planning Scheme MSS (Pg. 15 of Report 1 in Strategy and Sections 3.2.3 and 4.1.4 in the Local Planning Policy Framework) note that the existing strip development of the Yarrawonga Main Street needs to be focused around promoting a core of activity, particularly at the northern (river) end of the street. This is based on a need to promote a pedestrian friendly activity centre, which focuses on the tourist feature of the lake.

Council agrees with the findings of the Towns 2010 Urban Design Strategy and other submissions of this nature in so much that it believes that the retail sector should be consolidated toward the northern end of Belmore Street.

However, Council believes that further consideration needs to be given to the suggested commercial development at the south end of Belmore Street on the basis that the nature of the site may warrant some form of commercial development.

It may be appropriate to consider an alternative zoning, such as business 2 or 3 as an ancillary business zone to the core business area further north in Belmore Street.

It is recommended that the submission be reviewed by the Panel on this basis.

Panel Comment and Recommendation:

The Panel has made detailed comments on this issue in response to submission Zy 6.

Submission No: Zy 23 **Date Received:** 2 September 1998

Submitter: Richard Rogalsky

Location: Hogans Road, Yarrawonga

Existing Zone: Public Purposes 2i - Sewerage Authority
Exhibited Zone: Public Use 1 – Service and Utility
Map 24
Proposed Zone: Township

Submission Summary:

The Submitter notes that the land has been sold from North East water and is now in private land ownership.

The Submitter recommends that the land be zoned township as an extension to the Woodlands estate development to the north.

Council Comment and Recommendation:

North East water confirms that the land is no longer required for their purposes and should be placed in a private land zone (refer submission G 10). Council has recommended that the land be zoned Rural which reflects the nature of the existing land use and the majority of the surrounding land.

The MSS and Moira Planning Strategy do not support an extension of the Woodlands estate. This is to consolidate the urban development of Yarrawonga and to restrict the further strip development surrounding Lake Mulwala.

The submission is not supported

Panel Comment and Recommendation:

The Panel has already stated that it does not support extending the Woodlands Estate. In this case, however, the landowner has a valid planning permit for the land to be subdivided into three parcels and for a dwelling to be built upon each lot. On its face, the decision to grant a planning permit seems to contradict the current planning policy of restricting residential development to within existing zoned areas.

In its response to both the previous submission and to Zy 7, the Panel recommended against requests that sought to rezone land simply because a planning permit for a particular use or development had previously been issued.

In this case, as with the previous matters, there was no strategic justification to support such a change. The current zoning reflects that the land was previously set aside for public purposes. The fact that this parcel is no longer required for a public purpose does not, of itself, indicate that it is necessarily suitable to be included in an urban zoning. Given that land use strategy is the primary determinant for zoning decisions, the Panel cannot support this request. This decision does not mean that the landowner cannot use the land for any purpose for which he is legally entitled to do.

The Panel recommends Lots 1,2 and 3 Hogans Road Yarrawonga be included in a Rural Zone in the adopted planning scheme. No further exhibition of this change is necessary.

Submission No: Zy & nu 1 **Date Received:** 18 September 1997

Submitter: RG Harvey and Peter Jewell, RG Harvey P/L

Location: 36 Belmore Street, Yarrawonga,

Existing Zone: Public Purposes - Telecom
Exhibited Zone: Business 1 Map 23
Proposed Zone: Not Specified

and Quinn Street, Numurkah

Existing Zone: Public Purposes Reservation – Post Office
Exhibited Zone: Business 1 Map 18
Proposed Zone: Not Specified

Submission Summary

Raises concerns about the proposed Business 1 zone for these sites. Notes that the existing use may become non-conforming.

Council Comment and Recommendation:

Both Australia Post and Telstra are now corporatised bodies. Commercial zoning of their properties is appropriate. It is believed that the Business 1 zoning will not prohibit the continued use of the sites by the bodies.

It is recommended that the submission be noted and that no change be made to the planning scheme.

Panel Comment and recommendation:

Noted.

Submission No: Znu 2 **Date Received:** 15 September 1997
Submitter: Brian Wallace
Location: Allots 131 and 133, Goulburn Valley Highway, Numurkah
Existing Zone: Highway Commercial
Exhibited Zone: Residential 1 Map 18
Proposed Zone: Business 3

Submission Summary

Recommends the rezoning of the aforementioned lots from Residential to Business 3 to reflect their use as a garden centre.

Council Comment and Recommendation:

The current zoning of the land is highly restrictive allowing only a plant nursery or motor sales showroom, subject to a planning permit.

The use of a retail plant nursery is a permitted use within the Residential 1 zone.

Council recognises that this site has more relationship to the highway frontage and the Business 3 zoning recommended for the land to the north than to the residential area to the rear of the site land.

The zoning of land along the highway frontage to Business 3 is consistent with the MSS and local policy framework. It addresses a long standing policy issue of promoting business uses, via service road access, to the highway.

The Business 3 zoning does require all buildings and works to be subject to a planning permit. The purpose of the zone is to encourage integrated development of offices, manufacturing, and associated commercial uses. The scheme provisions also provide uses to consider buffer distances between residential uses and industrial type uses. Council will therefore retain discretion through the planning permit process to refuse inappropriate development.

It is believed that a Business 3 zoning would provide greater flexibility of use and could be appropriately developed as part of this commercial area. This would be consistent with the statements in the MSS and LPPF regarding commercial development facing the highway.

A minor change to the township map for Numurkah Local Policy would need to be made to reflect the commercial use of this site.

It is recommended that the submission be supported.

Panel Comment and recommendation:

This is a request from the owner of land on the corner of Goulburn Valley Highway and Saxton Street to rezone to B3. He is currently in the Highway Commercial Zone. The submitter wants to be able to use his property for a wider range of uses. The Panel does not believe that a spot zoning of this property is warranted. However, the Panel notes that the property has a frontage to the Highway and Saxton Street and its current use may suggest that some commercial zone is appropriate.

The Panel believes that any request for such zoning should be preceded by a strategic study that would develop a more comprehensive approach to the future land use and development patterns of land facing Saxton Street. Any change of zoning should only occur as part of a separate amendment, thereby allowing adjoining property owners an opportunity to comment on the proposal.

The Panel does not support the recommendations of the Council in this matter and believes that the Council should undertake further work to investigate the implications of this change of land use on surrounding properties and its strategy generally.

Submission No: Znu 3 **Date Received:** 25 September 1997

Submitter: Anthony and Anne Cadel

Location: Land bounded by the Goulburn Valley Highway, Trengrove Street, Nelson Street, and Saxton Street

Existing Zone: Residential A
Exhibited Zone: Residential 1 and Business 3
Map 18
Proposed Zone: Residential 1 only

Submission Summary:

Objects strongly to the rezoning of this residential land to Business 3 due to impacts on the amenity of adjoining residential land.

Council Comment and Recommendation:

The zoning of land along the highway frontage to Business 3 is consistent with the MSS and local policy framework. It addresses a long standing policy issue of promoting business uses, via service road access, to the highway.

The Business 3 zoning does require all buildings and works to be subject to a planning permit. The purpose of the zone is to encourage integrated development of offices, manufacturing, and associated commercial uses. The scheme provisions also provide uses to consider buffer distances between residential uses and industrial type uses. Council will therefore retain discretion through the planning permit process to refuse inappropriate development.

It is believed that residential zoning for the land is inappropriate. Goulburn Valley Highway is a major transport corridor of national significance. It is not a road on which residential development, with direct frontage to the highway should be encouraged.

Panel Comment and Recommendation:

See comments on Znu 6.

Submission No: Znu 4 **Date Received:** 29 September 1997

Submitter: JR and JN Steel

Location: Campbell Street, Numurkah Map 18

Submission Summary:

Object to the proposed zoning of land between the Murray Valley Highway and Campbell Street as Business 3 Zone. Recommend zoning as residential.

Council Comment and Recommendation:

Refer comments relating to submission Znu 3.

Panel Comment and Recommendation:

Mr and Mrs Steel live in Campbell Street and live close by the Gread's property. The Steels' are concerned about the existing level of truck traffic currently using local streets and fear that this will become worse if the land is rezoned to Business 3.

The submitters were concerned that the Council was splitting up its industrial areas and were concerned to see the encroachment of industrial land uses into predominantly residential areas. They felt that this would affect their amenity and further devalue land prices in the area.

The Panel has made detailed comments in its response to Znu 6.

Submission No: Znu 5 **Date Received:** 30 September 1997

Submitter: Mr and Mrs F Cadel

Location: 38 Trengrove Street, Numurkah Map 18

Submission Summary:

Objects to the rezoning of land abutting Trengrove Street as Business 3 Zone.

Council Comment and Recommendation:

Refer comments of Submission Znu 3.

Panel Comment and Recommendation:

Mr David Fordyce of Felthams Solicitors represented the Cadels at the hearing. Mr Fordyce made a detailed written and verbal submission, which has been considered by the Panel.

It is clear that this has been a protracted matter and has caused considerable upset to all parties. Given that this matter dates back over twenty years, it is hoped that it can now be resolved with the introduction on the new format planning scheme.

The Panel has made detailed comments on this matter in its response to submission Znu 6.

Submission No: Znu 6 **Date Received:** 29 September 1997

Submitter: FC Neville on behalf of Mr and Mrs W Gread

Location: Lots 4, 5, and 6 Campbell Street and Lots, 9, 10, 11, 12, and 13 Trengrove Street, Numurkah.

Existing Zone: Residential A Zone
Exhibited Zone: Residential 1 and Business 3
Map 18
Proposed Zone: Business 3

Submission Summary:

Objects to the zoning of aforementioned land as residential. Recommends zoning as Business 3 to be consistent with land to the west. The submitter notes that the land is currently used as a transport depot, although it is zoned residential.

Council Comment and Recommendation:

The use of part of this land for a transport depot has existing use rights under the provisions of the former Numurkah Planning Scheme.

The current use of the site has been a long standing management issue for Council and the surrounding residents. In 1994 the former Shire of Numurkah exhibited an amendment to the then Numurkah Planning Scheme to zone the land Light Industrial. The amendment never proceeded with the amalgamation of the municipality.

Council believes that the proposal has undergone extensive public debate and that the issue could be resolved through this Panel process.

The Moira Planning Strategy recognises the need for opportunities for local industry in Numurkah. The strategy and MSS also recognises the need to promote business development adjacent to the Goulburn Valley Highway. Council considers that the zoning of this additional land to Business 3 should be viewed as a means of complementing this highway business development.

Panel Comment and Recommendation:

It was put to the Panel that all of the Gread land including the their house and the land north of Trengrove Street, be included in a Business 3 Zone. Mr Borelli stated that the existing industrial estate is largely full and that more land is needed to accommodate this demand. He felt that the subject land and its surrounds could accommodate some of this. Mr Borelli also stated that there is merit in containing industrial development on the east of town, as this will minimise trips across the highway.

There has been a long history relating to the use of the Gread's land. This dispute culminated in the Shire taking enforcement action against the Greads in 1996. It was submitted that the Shire had no foundation to take such action because the use of the land was legal. Mr Hunt suggested that the land had been used as a car park since the Greads purchased the land in 1965. Mr Hunt submitted that the use of the land for car park was an as-of-right use in the scheme at 1956. Therefore, no planning permit was ever required for Gread to use the land in the manner that the currently do. Consequently, the land has existing use rights.

Mr Hunt submitted that because the land has existing use rights, the Council has limited powers to control the future use and development of the land. Notwithstanding this, Mr Gread is willing to limit his rights in this regard by entering into a Section 173 agreement with the Council that would impose some restrictions on the use of the land, access, parking and the like. This agreement would come into effect upon the Council zoning the land B3 and signing the agreement.

Existing Use Rights

The submitter strongly argued that the Gread land has existing use rights. The Panel points out that the only appropriate forum for such a determination is the Victorian Civil and Administrative Tribunal. The Panel in this matter is responsible for assessing the proposed planning scheme and the relationship between the exhibited controls and the adopted strategy. The Panel, in this instance, has been forced to comment on this issue because the submitter has made the issue central to his position.

Mr Hunt claimed that the 1956 scheme should be read as allowing land to be used for a car park without a planning permit. This conclusion relies on the following assumptions that:

- The use of land for a car park does not require a planning permit; and
- The use of the land by the Greads can most accurately be described as a car park.

The Panel does not support this interpretation. At clause 8 of the scheme, the Residential Zone provisions state that:

Within the area indicated on the map as a Residential Zone the use of the land or buildings or the construction of any buildings or works for any purpose other than the following is hereby prohibited: -

This paragraph seems to suggest that there are two classes of development: permitted and prohibited. Uses that do comply with the scheme can be permitted; those that do not are prohibited.

Part VII of the scheme discusses the need for “Applications for Consent”. These applications must be made for all uses and development that require consent. It seems reasonable to conclude, therefore, that Applications for Consent must be made for each of the uses and developments listed in the scheme (i.e the uses and developments listed are “permit required”). It follows that other uses not listed in the zone are prohibited.

For example, an application for consent would be required for a block of flats in a residential zone, or a factory in an industrial zone. Not surprisingly, a block of flats is not mentioned in the industrial zone (and is prohibited), whilst a factory is treated similarly in the residential zone.

It was Mr Hunt’s submission that if the term was listed in the Zone (i.e car park) then such a use was as-of-right. This seems incongruous given the presence of Part VII requiring Applications for Consent. Moreover, if we were to accept Mr Hunt’s submission, the 1956 Planning Scheme would have two classes of use and development – as-of-right and prohibited. If so, one would have to wonder why anyone would ever need an Application for Consent on any matter?

The Panel believes that an Application for Consent was required for all matters listed in the Zone. If the use or development was not listed, or did not accord with the requirements of the zone, then it was prohibited. There is no evidence to suggest that Consent was ever given to the Greads. Mr Hunt said that if an Application for Consent was required, then the Panel should give the benefit of the doubt to the Greads. The Panel does not favour such an approach. There is considerable correspondence between the Council and Greads dating back over the past twenty years. At no time did the Greads ever claim to have applied for and/or been granted such consent by the Council.

Amendment L1 to the Numurkah Planning Scheme

Mr Hunt's submission relied in part on the fact that all parties were relying on their interpretation of the 1983 scheme to prove that the use was illegal. It was submitted that the 1956 scheme had never been available or consulted and if it were, then the Greads would be able to prove existing use rights. It is interesting to note that the subject of existing use rights was discussed in the Panel report on Part 6 of Amendment L1 to the Numurkah planning scheme in 1990. In his report, the Panel member Mr Gannon said that:

In the course of his submission the Shire Engineer referred to the use of land on the south side of Trengrove Street for the storage and retailing of sand and gravel and plant repairs and resultant problems from same.

The Shire of Numurkah Planning Scheme was implemented in 1956, and the above mentioned uses commenced approximately 15 years ago therefore have no non-conforming use" rights.

On the strength of this, it seems reasonable to conclude that both the Council and the Panel considered the 1956 Planning scheme at this time and concluded that the use of the land by the Greads was illegal. At page 10 of the Panel Report, Mr Gannon concluded that:

Illegal use of land in Trengrove Street, for many years unchecked, has generated much of the feeling evident at the hearing and if the Responsible authority is to honour its mandate in this matter the offending use must cease and the rezoning to be recommended must offer an alternative location for this use and if not suitable there is evidence that other sites are available elsewhere in the town.

Does the use comply with the 1956 Scheme?

Mr Hunt argued strongly that the use fitted within the description of car park. It is at least arguable that the use could fit within a number of other land use terms, including:

Residential Zone

(k) Any trade storage building ancillary to any house in the same occupation provided that the area of the building does not exceed three hundred (300) square feet, is not more than ten (10) feet in overall height, and is not closer than seventy five (75) feet from the frontage and provided further that such building does not cause nuisance by the emission of smoke, dust fumes, noise, vibration, offensive effluvia, odours or vapours.

The Panel suggests that the use of the land by Gread for the purposes described could well fit within this land use term. Unfortunately for them, the term seeks to restrict the size of such a building to a maximum of 300 square feet. In 1974, the Gread's applied for and were granted a building permit for a garage measuring 1800 square feet. This is six times the size permitted for trade storage ancillary to a house. This discrepancy suggests to the Panel that the use undertaken by the Greads is of a scale significantly at odds with the residential use of the land, and instead is more akin to a commercial or industrial use, which would be prohibited in the Residential Zone.

Mr Hunt also points out that because there was no definition section in the 1956 scheme, that words must be given their ordinary everyday meaning. It was submitted that the land was primarily used for car parking (or more appropriately, the storage of trucks, earth moving equipment and the like). Of course, there is no doubt that the subject land was used for many purposes other than simply parking motor vehicles. On the evidence presented, it seems reasonable to conclude that the land was really used as the headquarters of the Gread's earthmoving business. It is common ground that the Greads, as well as using the land to store trucks and earth moving equipment, also used and built a large shed (1800 square feet in area) for the purposes of maintaining and refuelling these vehicles. At some stage, they also used the land for storing and selling gravel, sand and soil. This practice was stopped soon after a planning permit was granted for this use on land that they owned on the north side of Trengrove Street.

On this evidence, it is possible that the use could also be characterised as:

- Petrol service station or motor car service station with facilities for minor car repairs (prohibited in the Residential Zone, but permitted in the Commercial A Zone (clause g).
- Storage of petroleum products (permitted in the Industrial A Zone (clause d), but prohibited in the Residential Zone).
- Factory, workshop or building ancillary or incidental to the uses of land permitted..... (permitted in the Commercial A Zone [clause j] and most other commercial and industrial zones, but prohibited in the Residential Zone).

To focus simply upon the storage of motor vehicles as the primary use seems to understate the true nature of the operation, which has been consistently held to be more appropriate in an industrial zone, than a residential one.

Panel Conclusions

The Panel has some concerns with the decision to include the land fronting the highway in a Business 3 Zone. Mr Borelli suggested that poor access could be overcome by the construction of a new road connecting Eddy Street to Saxton Street. Whilst this seems technically possible, it seems to represent a less than optimum solution to the future development of this land.

For instance, it would mean that lots facing this new road would be quite short, with a depth of only about 40 metres. This would mean that new buildings would have minimal front and rear setback. Unless they are consolidated, the existing lots will almost certainly have little room for landscaping or car parking on-site. This would result in poor presentation to at least one, but probably two street frontages and possibly led to car-parking problems on local streets.

Having said this, the Panel acknowledges that the Highway Commercial Zone in the existing scheme currently affects the land and the strategy supports its retention in a similar zoning in the future. Accordingly, the Panel believes that the exhibited B3 Zone should remain, but that a Development Plan Overlay be applied to ensure that access, traffic, parking siting, and landscaping issues are addressed prior to any further development taking place in this area.

The Panel supports the retention of the Business 3 Zone affecting land fronting the Goulburn Valley Highway, north of Saxton Street. The Panel recommends that a Development Plan Overlay be drafted and applied to the land prior to the implementation of the Scheme. The Overlay should ensure that vehicular access to Saxton Street via Eddy Street is provided and that building envelopes be applied that allow for proper car parking, landscaping and setbacks to ensure a high standard of presentation to the Goulburn Valley Highway to the west and Eddy Street to the east.

The Council's adopted strategies contain no justification for the inclusion of the Gread land in the B3 Zone. The integrated strategy not only makes no mention of such a proposal, it in fact encourages new industrial development to occur on the western side of the Goulburn Valley Highway and then recommends that incompatible industrial development in residential areas be relocated. The land opposite the Goulburn Valley Highway has been included in an Industrial 1 Zone in the exhibited planning scheme and will become available for development once the scheme is approved by the Minister. The size of the proposed industrial area will enable it to be efficiently designed, provided with appropriate infrastructure, access, and lot sizes and setbacks. Its location away from residential development will protect residential amenity and will ensure that the types of problems raised in this matter do not occur.

The only reason to include the Gread land in the B3 Zone is to legitimise a use that both the Shire and a previous Panel had concluded was both inappropriate and illegal in its present location. Even if the Gread proposal did have existing use rights (and we suggest that it does not), the Panel cannot support the extension of a commercial/industrial type zone into an established residential area. The B3 Zone allows for a considerable range of uses to occur, many of which would be inappropriate given the proximity of residential land uses nearby and adjacent to it.

The Panel believes that Mr Gannon properly dealt with the issue of existing use rights in his Panel Report on Part 6 Amendment L1 in 1990. Mr Gannon concluded that the subject land had no existing use rights and the Greards were conducting their operations illegally on the land. If the subject land has no existing use rights, then it does not enjoy the sorts of rights attributed to non-conforming uses. Instead, it becomes the subject of enforcement action, which we believe the Shire of Moira was correct in commencing in 1996. Accordingly, the Panel recommends that the Gread land known as Lots 4,5 and 6 Campbell Street and Lots 9,10,11, 12 and 13 Trengrove Street be included in a Residential 1 Zone.

The Panel recommends that the Gread land known as Lots 4,5 and 6 Campbell Street and Lots 9,10,11, 12 and 13 Trengrove Street be included in a Residential 1 Zone.

Submission No: Znu 7 **Date Received:** 20 August 1997

Submitter: AV and MJ Canobie

Location: North East cnr Goulburn Valley Highway and Saxton Street, Numurkah Map 18

Submission Summary:

Supports the proposal to rezone the land to Business 3 Zone as presented in submission Znu 6.

Council Comment and Recommendation:

Refer comments and recommendation of Submission Znu 6.

Panel Comment and Recommendation:

See comments on Znu 6.

Submission No: Znu 8 **Date Received:** 29 September 1997

Submitter: JW Mapletoft

Location: Goulburn Valley Highway West, south of Sampson Road, Numurkah.

Existing Zone: Rural
Exhibited Zone: Rural with Land and part Rural
Floodway overlay Map 14
Proposed Zone: Industrial 1

Submission Summary:

Notes that this site may be suitable for future industrial development.

Council Comment and Recommendation:

The zoning of land to industrial, west of the Goulburn Valley highway is consistent with the MSS and local policies. The framework plan to local policy 22.01 sought to identify this. The notation of flooding areas, late in the planning scheme preparation stage saw the alteration of the zone boundary west of the floodplain. This had been previously excluded because it was thought it was flood prone. The map to 22.01 needs to be corrected to reflect possibility of industrial land as indicated on the zoning plans.

This submission refers to the suitability of land south of Sampsons Road as being suitable for future development. This area has is subject to the Rural Floodway Overlay and the land abutting the highway would need to meet the requirements of Vic Roads with regard to setback, access and advertising. Should the submitter wish to pursue a strategic change to the scheme, a separately exhibited zoning request should be submitted to the Council for consideration.

It is recommended that the submission be noted.

Panel Comment and Recommendation:

Mr PW Mapeltoft represented the submitter at the panel. Mr Mapletoft was concerned that the Council has misinterpreted his father's original submission. The Mapeltofts have two parcels of land, both of which are included in the Rural Zone in the exhibited planning scheme.

The first parcel is located on the western edge of the Goulburn Valley Highway between Walshs Bridge Road and Sampson Road. The northernmost part of the road, part of which is included in a flooding overlay, has been developed with a roadhouse and a separate house. The submitter is seeking to have this land included in either a light industrial or commercial type zoning.

The Panel does not support this request, as the land is relatively remote from the existing urban area and would create another activity node distinct and separate from the Numurkah township.

The second parcel of land is located to the south of Sampson Road and to west of the Goulburn Valley Highway. Part of the land has recently been developed for rural living type lots. This area and the land adjacent have both been included in a Rural

Zone. The Panel notes that the strategy for Numurkah is to consolidate growth within the township.

The Panel does not support the submitter's request to include the land in a Rural Living Zone due to the subject land's proximity from the township and the absence of any strategic basis upon which to include the land in such a zone.

Submission No: Znu 9 **Date Received:** 29 September 1997

Submitter: PD Seager

Location: Site 1 - Department of Conservation and Land, Moss Street, Numurkah

Existing Zone: Residential A
Exhibited Zone: Public Use 5 - Cemetery Map 18
Proposed Zone: Residential 1

Site 2 – 4 & 5 Holmes Court, Numurkah

Existing Zone: Residential B, Rural Residential
Exhibited Zone: Rural Zone, Low Density Residential Zone Map 18
Proposed Zone: Low Density Residential Zone

Submission Summary:

Notes that the Moss Street land, currently zoned residential, has potential for residential subdivision. Objects to zoning of this land as public use zone.

Raises concerns about discrepancies in the zoning of two properties, which are currently combined. Raises concerns that 4 Holmes Court (zoned Rural), which is used in the same way as 5 Holmes Court (zoned Low Density Residential), may be restricted by its zoning as Rural Zone.

Questions the impact of the zone change on the rating of properties.

Council Comment and Recommendation:

The zoning of the Moss Street land to PUZ5 in the exhibited planning scheme is a drafting error of the exhibited plans. The PUZ5 zone should extend as far west as Moss Street, but replicate the existing zone boundary.

It is recommended that this part of the submission be supported.

The zone boundary between 4 and 5 Holmes Court was based on the flood issues that affect the area. The rural zoning of 4 Holmes Court will not necessarily prohibit the establishment of a house but a permit for the use will be required. It will not be possible to further subdivide 4 Holmes Court under a rural zone. This is considered appropriate given the flood inundation, which occurs, in this area.

This part of the submission is not supported.

The issue of rating needs is an issue to be addressed by Council's rates department and outside the issues, which can be addressed by the planning scheme review.

Panel Comment and Recommendation:

The Panel supports the recommendations of the Council in this matter.

Submission No: Znu 10 **Date Received:** 26 August 1997

Submitter: David Wain

Location: 130 Saxton Street, Numurkah

Existing Zone: Residential A
Exhibited Zone: Residential 1 Map 18
Proposed Zone: Business 3

Submission Summary:

Recommends that the allotments on the north side of Saxton Street be included in Business 3 Zone or that a line be drawn two blocks further east of the current proposed Business 3 Zone to include 130 Saxton Street, Numurkah.

Council Comment and Recommendation:

The submission raises similar issues to that of submission Znu 6. The comments and recommendations in relation to this land are the same as for those of submission Znu 6.

Panel Comment and Recommendation:

At this stage, the Panel does not support the request to rezone this land to Business 3. Whilst there may be merit in such an outcome, the Panel cannot find any strategic justification for such a rezoning in the MSS or the Integrated Strategy. It is suggested that the Council undertake a review of its land use strategy for this area to ascertain the appropriate direction for future development of land facing Saxton Street. If required any change of zoning should take place as part of a separate amendment to the planning scheme.

Submission No: Znu 11 **Date Received:** 1 October 1997

Submitter: Graeme and Kathleen Thorne

Location: Strathmerton

Submission Summary:

Existing Zone:	Unzoned (but proposed as Residential in TBA work)
Exhibited Zone:	Rural Maps 4 & 5
Proposed Zone:	Residential 1

Recommends that the residential zone be extended to cover the entire planned subdivision of land on Findlay Street, Strathmerton.

Existing Zone:	Unzoned (but proposed as Industrial in TBA work)
Exhibited Zone:	Rural Map 5
Proposed Zone:	Industrial 1

Recommends that the industrial zone on the Murray Valley Highway near Mywee Road be extended to include land to the west.

Recommends planning provisions are applied to the Mywee Road property to allow for a possible three-lot subdivision.

Council Comment and Recommendation:

It is recommended that the submission be supported with regard to the extension of the township zone north of the existing residential subdivision. Whilst there is little demand for additional urban land it is acknowledged that there is an existing plan of subdivision which encompasses the entire land holding. Proper plan dictates that the whole site subject to the subdivision should be included in the urban zone.

There is limited industrial development east of the Kraft factory that should be recognised within an industrial zone. It is recommended that this zoning be limited to that land occupied by existing development. Expansion of industrial development within Strathmerton can occur west of the Kraft factory within the township bounds. Further expansion of the strip development along the highway is not consistent with the MSS or policy regarding highway development.

Panel Comment and Recommendation:

The Panel supports the recommendations of the council in relation to the extension of the Township Zone to include all of the land affected by the planning permit for subdivision held by the submitters.

The submitter also requested the extension of the Industrial Zone to allow for Bryford Engineering to extend their operations so that they can comply with the conditions of an existing planing permit. Apparently the plant is operating in breach of its planning permit and requires more land so that it can expand and meet the conditions of the planning permit.

The Panel does not support the extension of the Industrial Zone on this basis alone. If the company is operating in breach of its planning permit, the Council is obliged under the Act to investigate the matter and ensure that the company becomes compliant.

5. RECOMMENDATIONS

The recommendations are set out in three parts: actions recommended for implementation prior to adoption of the scheme, those that can be deferred for later action by Council, and those that should be taken up by the Department of Infrastructure.

A. Before Adoption

The Panel and Advisory Committee recommends that the new format Moira Planning Scheme be adopted with the following changes:

1. The revised and enlarged set of Local Planning Policies submitted at the hearing be approved subject to the modifications set out in this report.
2. The Municipal Strategic Statement be approved subject to the modifications discussed in this report.
3. That the MSS be reviewed in the light of the VPP Practice Notes – Format of Municipal Strategic Statements.
4. That the MSS be amended to make explicit the relationship between Council's planning objectives and strategies and the controls on use and development of land in the Planning Scheme.
5. That the Council prepare a Settlement Strategy for the Shire to include the strategic elements of the Township policies at present contained in Clause 22.01 to 22.05 of the LPP's. Re-exhibition is not required.
6. That Clause 3.1.5 be changed to provide specifically for consultation with local Aboriginal communities in the preparation of a comprehensive Heritage Conservation Study of the Shire.
7. That the revised Schedules to the Rural, Environmental Rural and Rural Living Zones be included in the Planning Scheme prior to adoption.
8. The Interim Floodway Management Plans should be included in the adopted Planning Scheme.
9. Council in cooperation with the Goulburn Broken Catchment Management Authority monitor the use and assess the usefulness of the Interim Floodway Management Plans in addressing development activity in each of the precincts during the first 12 months of the Scheme.

10. Council in consultation with the Goulburn Broken Catchment Management Authority develop a local policy in relation to flooding and the way in which applications will be considered and performance monitored.
11. The Department of Natural Resources and Environment, Department of Infrastructure and the Goulburn Broken Catchment Management Authority consider the development of an education information program to better explain the Victorian Floodplain Management Program and the planning tools used.
12. That the Muckatah Drain be shown on the Planning Scheme maps as Public Use Zone 1.
13. That the Agricultural Land Use policy be included in the Local Planning Policies of the scheme.
14. That the MSS be amended to include an explanation of the Council's strategy for subdivision in the Rural zones and the rationale for the lot sizes adopted.
15. That the Open Space and Recreation local policy be included in the LPPF prior to adoption. Re-exhibition is not required.
16. That the objectives, strategies, implementation actions and relevant local policies arising from Moira's environmental strategy reports be incorporated in the revision of the LPPF.
17. That the revised MSS make explicit the need for close cooperation between the Shire and the Goulburn Broken Catchment Management Authority on all natural resource and environmental issues.
18. That the relevant section of the MSS dealing with the open space be amended to state:

Open space will be provided in accordance with Moira Shire Sport and Recreation Strategy Plan (1998) and any development contribution that may exist.
19. That the Public Conservation and Resource Zone be used in the Murray River environs in place of the Public Park and Recreation Zone to be consistent with the approach taken in Campaspe Shire.
20. That the proposal to introduce a minimum lot size of 0.4 ha for the Rural Zone not be adopted. Following completion of the land capability assessment by DNRE, Council should reconsider this matter in consultation with DNRE, and develop an alternative proposal for inclusion in a subsequent amendment to the Planning Scheme.

21. That a Tourism strategy and local planning policy be included in a revision of the LPPF prior to adoption.
22. That the proposed program for monitoring and review be finalised and included in the MSS prior to approval of the scheme. Re-exhibition is not necessary.
23. That the changes to the exhibited planning scheme sought by the Council and outlined in Appendix B to this report be made prior to the planning scheme being adopted by the Council. Re-exhibition is not necessary.
24. That the planning scheme be redrafted to ensure it is consistent with the changes made under Amendment V3 and subsequent amendments to the Victoria Planning Provisions. These changes should be made prior to the scheme being adopted by Council.
25. That the Special Use Zones 1, 2 and 3 exhibited, be deleted from the Planning Scheme and that the land revert to the Residential 1, the Public Park and Recreation Zone, the Public Conservation and Resource Zone and Industrial 1 Zone respectively.
26. That Schedule 1 to the Significant Landscape Overlay – Lake Mulwala Surrounds, should be revised to take account of the comments made in this report.
27. The Panel recommends that the Council includes the following buildings, sites and structures are added to the Heritage Overlay:

Publicly owned buildings, structures (such as buildings) and sites for which there is a citation; and

Properties that are on the Register of the National Estate and Victorian Heritage Register.

This should be done before Council adopts the Planning Scheme and does not need further exhibition.
28. The Panel supports the inclusion of the Aboriginal Culture and Heritage policy in the planning scheme and notes that:
 - A copy of the policy has been given to the Yorta Yorta people for comment.
 - It is possible that the local policy could act as a prompt for broader community consultation programs to discuss the issue of Aboriginal heritage more generally.
 - The Council feels that the Yorta Yorta people would be happy to assist in the process of identifying sites of significance.
 - That pre-European history should be included in any future heritage study of the area.

29. The Panel notes the support of the Council for the North East Region Water Authority submission and recommends that:
 - The planning scheme be amended to include Authority property in the appropriate public use zone;
 - The Floodway Overlay affecting the Bundalong area be referred to the CMA for comment;
 - The Council review the extent of the Significant Landscape Overlay along the Ovens River; and
 - The Public Use Zone affecting the site of the former wastewater storage plant be deleted and replaced by a Rural Zone.
30. The Goulburn Valley Environs Policy submitted to the Panel (as modified by previous Panels) should be included in the adopted planning scheme prior to its adoption. No further exhibition is required.
31. That the Council amend Road Zones in accordance with the information provided by Vic Roads at the Panel Hearing. No further exhibition of this is required.
32. That the Schedule to the Land Subject to Inundation Overlay be amended to exempt routine works and maintenance on Vic Roads roads. Other buildings and works that are in accordance with a plan approved by the Floodplain Management Authority and the Council should also be exempt from planing permission.
33. That the changes in emphasis sought by Vic Roads to the Municipal Strategic Statement be made in consultation with the Council and the Department of Infrastructure.
34. That the lots 5,6,7 and 8 Burley Road Yarrawonga be included in a Residential 1 Zone in the adopted planning scheme. No further exhibition of this change is required.
35. That the eastern portion of lot 1 PS 142044 located on the corner of Burley Road and Murray Valley Highway mistakenly included in a Low Density Residential Zone in the exhibited planning scheme be included in a Rural Zone in the adopted planning scheme. No further exhibition of this is required.
36. That the Gorman land be included in a part Residential 1 Zone and part Rural Zone as exhibited. A Development Plan Overlay should be applied to the whole of the land. The Overlay should address issues such as servicing, road patterns and lot layouts and should be included in the adopted planning scheme without the need for further exhibition. The drafting of the Overlay should be undertaken in consultation with the landowner.

37. That the Jane land be included in a Township Zone and that a Development Plan Overlay be drafted and applied to the whole of the land. The Overlay should address issues such as servicing, road patterns and lot layouts and should be included in the adopted planning scheme without the need for further exhibition. The drafting of the Overlay should be undertaken in consultation with the landowner.
38. That Lots 1,2 and 3 Hogans Road Yarrawonga be included in a Rural Zone in the adopted planning scheme. No further exhibition of this change is necessary.
39. The Panel supports the retention of the Business 3 Zone affecting land fronting the Goulburn Valley Highway, north of Saxton Street Nurmurkah. The Panel recommends that a Development Plan Overlay be drafted and applied to the land prior to the implementation of the Scheme. The Overlay should ensure that vehicular access to Saxton Street via Eddy Street is provided and that building envelopes be applied that allow for proper car parking, landscaping and setbacks to ensure a high standard of presentation to the Goulburn Valley Highway to the west and Eddy Street to the east.
40. That the Gread land known as Lots 4,5 and 6 Campbell Street and Lots 9,10,11, 12 and 13 Trengrove Street Nurmurkah be included in a Residential 1 Zone.
41. The Panel recommends that the Gattuso land, River Road Cobram, described in this submission, be included in a Residential 1 Zone in the adopted planning scheme. A Development Plan Overlay should be applied to the remnant lot comprising 17 hectares. The Overlay should ensure that all issues concerning servicing, flooding and access are resolved prior to the further subdivision of this parcel.

B. After Adoption

1. That the terminology and content of the Township Development Options (structure) plans be reviewed in the light of the Department of Infrastructure submission as part of a subsequent amendment to the scheme.
2. That Council consult with the local community and investigate the possible extension of the Significant Landscape Overlay in the area from Lake Mulwala to the Ovens River as part of a subsequent amendment to the Planning Scheme.
3. That Council consider the addition of a further purpose to the Conservation of Parks and Conversation Reserves local policy to the following effect:
 - To liaise with the managers of parks and conservation reserves to minimise the off-site effects of those reserves on adjoining land uses.

4. That the Goulburn Murray Water Authority provide information to the Councils on the location of main drainage channels that it owns and that these be included in the Public Use 1 Zone. This should form part of a separate amendment. The Authority should contribute to the cost of this process.
5. That Goulburn Murray Water have further discussions with the Council and the DOI concerning the types of applications that are referred and that all parties investigate the possibility of an overlay control being included in the scheme to clarify this issue. Any new control should be the subject of a separate amendment.

C. Other Recommendations

1. That the Department of Infrastructure and the Department of Natural Resources and Environment work with municipalities and catchment management authorities adjoining the Murray River to develop a regional environmental plan comparable with the New South Wales model.
2. That DOI consider amending the SPPF to incorporate specific reference to Victoria's Biodiversity Strategy - Directions in Management and use of the Significant Sites Register and maps.
3. That DOI, in consultation with DNRE, develop model schedules, Statements of Significance and local planning policies to assist Councils incorporate the Biodiversity Strategy into their planning schemes when the mapping becomes available.
4. The Department of Natural Resources and Environment and the Goulburn Broken Catchment Management Authority should cooperate to devote additional resources to expediting the process of reviewing the floodplain mapping for Moira Shire to ensure that the overlay maps present an accurate representation of the flooding conditions defined.
5. The Department of Infrastructure should liaise with Land Data Victoria and the Goulburn Broken Catchment Management Authority to secure the provision of more precise topographic base maps of Moira Shire and comparable areas of low relief.
6. That the Minor Utility Installation definition be referred to the Department of Infrastructure and that irrigation channels be included in this definition.

APPENDIX A

TERMS OF REFERENCE

MOIRA SHIRE COUNCIL
NEW FORMAT PLANNING SCHEME

TERMS OF REFERENCE FOR ADVISORY COMMITTEE

PART A BACKGROUND

The three key objectives of the current program of planning reform in Victoria are:

- To establish a focus on state and local strategic directions which provide the bases for controls in planning schemes and guidance to decision-making.
- To provide a consistent set of statewide planning scheme controls and provisions.
- To test the system's effectiveness by annual monitoring and review.

The introduction of new format planning schemes for every municipality in Victoria presents a unique opportunity to put in place a complete set of consistent new schemes which express clear and implementable strategic objectives, eliminate unnecessary controls and display a high standard of statutory drafting.

The program also provides an opportunity to begin to build into schemes performance measurement criteria as a basis for the evaluation of the longer term effectiveness of each scheme and the effectiveness of individual policy initiatives.

To achieve these outcomes, it is very important that each scheme be examined and enhanced wherever possible to ensure that it is strategically well founded, well constructed and as technically correct as possible at the time of approval. In particular, a scheme should:

- Be consistent with statutory requirements, Ministerial Directions and the guidance given about the use of the *Victoria Planning Provisions*.
- Be consistent with the State Planning Policy Framework.
- Be constructed to actively implement the Municipal Strategic Statement and local policies, rather than being a best fit translation of the previous scheme.
- Only include clearly justified local policies.
- Use performance based or outcome based requirements wherever practicable.

An advisory committee appointed under Section 151 of the *Planning and Environment Act 1987* provides a means to assess schemes in these terms and to develop a comparative understanding of schemes on a statewide basis.

The development and use of new format planning schemes will be a learning process. Good ideas which emerge from this review of schemes will be able to be passed on for the benefit of all planning authorities: similarly with lessons.

There is a potential for planning authorities to use the *Victoria Planning Provisions* in a way which may make planning schemes unduly cumbersome. Experience with using the VPPs will overcome many of these problems, however this opportunity should be taken to identify if there are schemes that are overly cumbersome and whether there are more appropriate approaches which could overcome this.

PART B THE TASK

The task of the Advisory Committee is to evaluate schemes and recommend modification or improvement to achieve a high standard statutory and strategic document.

It is not intended that the Advisory Committee re-examine the principles underlying the reforms to the planning system, the approval of the Victoria Planning Provisions, the structure of new planning schemes or any other matter introduced under the Planning and Environment (Planning Schemes) Act 1996.

The Advisory Committee must hold a public hearing at which it will give the planning authority an opportunity to respond to the specific matters identified in Part E. It may hear from any other person with respect to these matters also.

The Advisory Committee must prepare a report in accordance with Part D which responds to the matters set out in Part C.

The Advisory Committee must undertake its task in conjunction with its role as a panel appointed to consider submissions about the planning scheme under Section 153 of the Planning and Environment Act 1987.

PART C WHAT SHOULD ADVISORY COMMITTEES CONSIDER?

1. Consistency

Is the planning scheme consistent with:

- the Ministerial Direction on the Form and Content of Planning Schemes under section 7(5) of the Planning and Environment Act 1987;
- Ministerial Directions under section 12 of the Planning and Environment Act 1987;
- the Manual for the Victoria Planning Provisions?

2. Municipal Strategic Statement (MSS)

Does the MSS further the objectives of planning in Victoria to the extent that they are applicable in the municipal district?

Are the strategic planning, land use and development objectives of the planning authority a reasonable response to the characteristics, regional context, development constraints and opportunities of the municipal district?

Considering the objectives of planning in Victoria and the planning authority's objectives, are there any important omissions or inconsistencies?

Does the MSS contain realistic and reasonable strategies for achieving the objectives?

What were the processes used in arriving at the MSS?

Are there satisfactory links with the corporate plan?

Are local provisions clearly expressed and written following plain English principles?

3. Local Planning Policy Framework (LPPF)

Is the LPPF and other local provisions consistent with the SPPF?

4. Zones, Overlays and Schedules

Are there clearly defined linkages between the MSS and the application of zones, overlays and schedules?

Is the application of zones, overlays and schedules the most appropriate of the VPP techniques to achieve the stated outcomes?

Are overlays and schedules being used when it may be more appropriate to use local policies?

If there are situations where the application of zones, overlays and schedules are not clearly linked to the MSS, is reasonable justification provided and is it considered acceptable?

Are the zones, overlays and schedules reasonably compatible at the interface with adjoining schemes?

Do local provisions adopt a performance based approach?

Have local provisions introduced referral requirements additional to those in the VPP?

5. Local Policies

Are local policies directed towards implementation of the MSS?

Are local policies soundly based and reasonably justified?

Will local policies be of practical assistance in day-to-day decision making about permit applications?

To what extent have local policies been created as part of the new planning scheme and to what extent are they a replication of previous local policies?

6. Incorporated Documents

Does the planning scheme include incorporated documents apart from those in the VPP?

What is the basis for incorporating any such documents?

Can the intentions of the planning authority in using incorporated documents be better achieved by other techniques in the VPP such as local policies?

7. Monitoring and Review

Has the planning authority established appropriate mechanisms for:

- monitoring decisions made under the planning scheme;
- evaluating decisions against the intentions of the LPPF;
- reviewing the LPPF and other local provisions and the planning scheme generally?

PART D REPORTING REQUIREMENTS OF PANELS AND ADVISORY COMMITTEES

The reports of a panel and an advisory committee in respect of any new format scheme and submissions to it should be combined.

The Advisory Committee must prepare a report which:

- Addresses the terms of reference.
- Recommends appropriate modifications (either generally or specifically) to the exhibited scheme.
- Identifies matters which warrant ongoing review or monitoring, including the need for time limits or "sunset clauses" for such matters.
- Recommends matters or issues to be considered as part of a further review of either the scheme or the *Victoria Planning Provisions*.
- Addresses or recommends any other matters which the Committee considers appropriate.

The report should be structured in the following way:

- The first part should be a general overview including a brief appraisal of the municipality and its strategic planning response to its circumstances. Any major strategic issues which have not been sufficiently addressed or emphasised should be identified together with any major inconsistencies or apparent anomalies. This part of the report should also evaluate:
 - whether or not the scheme is in line with the expectations of planning reform
 - whether the scheme is an improvement on the old format scheme
 - options for further improvement in the short and long term.

- The second part should contain the Advisory Committee's responses to the matters set out in Part C, together with any discussion and recommendations arising from this part of its task. In doing this, the Committee should take into consideration the responses from the council under Part E.
- The third part should deal with all submissions and recommendations arising from them.
- The fourth part should assemble all the recommendations and divide them into two sections:
 - those which, in the opinion of the Panel/Advisory Committee, should be implemented before the planning scheme is adopted and approved. This will include any recommendations for rezoning etc. which arise from consideration of individual submissions.
 - those which can be considered as part of a further review or a proposed amendment following adoption and approval of the planning scheme. This will include any suggestions for revision of the VPPs.

Without limiting the ambit of recommendations which a Panel/Advisory Committee may make, the following actions are open to a Panel/Advisory Committee when making recommendations about a planning scheme:

- Change the zone or overlay applying to land.
- Modify a schedule.
- Recommend that the scheme be approved with identified modifications to the MSS or other parts of the LPPF.
- Recommend that the scheme be approved with a "sunset clause" applying to certain provisions which require further consideration.
- Recommend that the scheme not be approved until certain matters are reviewed or done by the planning authority, or certain changes are made to the scheme.

The Panel/Advisory Committee should leave the drafting of modifications to the planning authority unless there is a specific reason for recommending a particular wording. In particular, the Panel/Advisory Committee should avoid attempts to rewrite any part of the council's MSS or local policies.

When identifying matters which warrant further review or ongoing monitoring, the Panel/Advisory Committee should consider the need to specify a time limit within which such review or monitoring should be carried out.

A copy of the report must be submitted to both the Minister and the planning authority within two months following the last day of hearings. A copy of the report must also be provided to the Minister and the planning authority on disk in MS Word format.

The Panel/Advisory Committee report will be available to the public 28 days after it is received by the planning authority or earlier if the planning authority agrees.

PART E RESPONSES REQUIRED FROM COUNCILS

The Panel/Advisory Committee will rely heavily on the material presented to them by Council. It is important that this material assist the Panel/Advisory Committee to fulfil its terms of reference and, in particular, to respond to the matters set out in Part C. Council’s submission should respond to the following matters.

E.1. THE PLANNING SCHEME

1. What are Council’s strategic planning, land use and development objectives?

This responds to section 12A(3)(a) of the Planning and Environment Act 1987 and essentially answers the question, “What are we trying to achieve”? This section should identify the key issues in the municipality and explain how the objectives were arrived at.

2. What are the strategies for achieving these objectives?

This responds to section 12A(3)(b) of the Planning and Environment Act 1987 and essentially answers the question, “What are we going to do to reach the objectives?” This is the core of the Municipal Strategic Statement and sets the framework for the application of zones, overlays and schedules, and the development of local policies. The response is likely to contain a mixture of sectoral (eg. housing, industry,) and geographical (eg. activity centres, foreshore) statements identifying what Council intends to do and where it intends to do it.

3. How are the strategies to be implemented?

This is an important step in explaining how the planning scheme has been developed. Some strategies or parts of strategies will be implemented through the application of zones, overlays, schedules and local policies and the subsequent administration of the planning scheme. Some strategies or parts of strategies may require actions or budgetary commitments through other Council programs and services, eg. tree planting programs, capital works programs, traffic management schemes. There are therefore likely to be two aspects to the response.

For those strategies that are to be implemented through the planning scheme, it will be necessary to explain the relationship between the strategic action and the application of zones, overlays and schedules (where appropriate) and the relationship with particular local policies. One way of working through this exercise is to think of it in terms of the following matrix.

<i>Strategy</i>	<i>Zone</i>	<i>Overlay</i>	<i>Schedule</i>	<i>Local policy</i>
<i>1</i>				
<i>2</i>				
<i>etc</i>				

The components of the matrix would only be filled in as required. Not every strategy will require overlays and schedules nor have a specific local policy.

The matrix is only a tool; it is not necessary to include a matrix in Council's submission. What is necessary, however, is to explain to the Advisory Committee the relationship between the elements of the strategy and the zones (with any overlays or schedules) and local policies which are to be used in the planning scheme to implement the various elements of the strategy.

It is expected that this explanation will include reference to maps in order to explain where the zones etc apply.

This explanation responds to section 12A(3)(c) of the Planning and Environment Act 1987.

For those strategies that will be implemented, wholly or in part, through other activities of Council, it will be necessary to explain how they fit in with Council's corporate plan; what actions will be taken and when; and whether there is any budget commitment if one is necessary.

This explanation can be provided in the form of a simple matrix. It responds to section 12A(4) of the Planning and Environment Act 1987.

<i>Strategy</i>	<i>Relevant Council corporate program</i>	<i>Action</i>	<i>Time line</i>	<i>Budget commitment</i>
<i>1</i>				
<i>2</i>				
<i>etc</i>				

4. Explain any particular or special situations where zones, overlays, schedules or local policies have been included in the planning scheme which do not bear a direct relationship with Council's municipal strategic statement.
5. What mechanisms have been established or are proposed for:
 - Monitoring decisions made under the planning scheme and evaluating them in terms of the MSS and local policies?
 - Reviewing strategy and policy within the planning scheme and the planning scheme generally?
6. Are there any:
 - Inconsistencies with the Ministers Directions under sections 7(5) and 12 of the Planning and Environment Act 1987?
 - Inconsistencies with the Manual for the Victoria Planning provisions?
 - Technical corrections which Council has made or wishes to make to the exhibited planning scheme?

7. How does the planning scheme relate to those of adjoining municipalities, particularly with reference to the compatibility of zones etc and local policies across municipal boundaries?
8. Are there any incorporated documents in the planning scheme in addition to those included in the VPPs and, if so, what is the basis for their incorporation?
9. Are there any referrals in the planning scheme in addition to those included in the VPPs and, if so, what is the basis for their incorporation?

E.2 SUBMISSIONS TO THE PLANNING SCHEME

Councils should provide a response to ALL submissions received resulting from exhibition of its planning scheme. The response should include the following sections:

- submission number
- submittor's name
- address of property (if relevant)
- existing zone (if relevant)
- exhibited zone (if relevant)
- requested zone (if relevant)
- brief summary of submission
- strategic assessment
- Council comment and recommendation
- Panel comment and recommendation (to be left blank)

E.3 OTHER MATTERS

Councils may raise any additional issues as part of their overall submission which they consider appropriate.

APPROVED:



Peter Bettess
Executive Director,
Planning, Building and Development

DATED: 30/7/93

APPENDIX B

TECHNICAL CHANGES TO THE SCHEME

Submission	Change
F 1 – FL 12	Amend Flood maps as discussed with the Department of Natural Resources and Environment
G1 – Dept. Natural Resources and Environment	Amend the MSS as detailed in Council's response to the submission
G 1 – Dept. Natural Resource and Environment	<p>Amend the following maps as detailed in the additional maps and information detailed by the Department of Natural Resources and Environment</p> <p>Map 4 – Frontage along Deep Creek - zone PCRZ Bushland Reserves H29, H30 and H 31 - Zone PCRZ (exhibited RUZ)</p> <p>Map 8 – State Forest, Regional Park and Stream Frontage - zone PCRZ (Exhibited RUZ)</p> <p>Map 9 – Bushland Reserves H 13, 14 and 16 – Zone PCRZ (Exhibited RUZ)</p> <p>Map 11 – Bushland Reserves H19A and 22, and Recreation Reserve 04 - zone PCRZ (Exhibited RUZ)</p> <p>Map 21 – Bushland Reserve U 34 – zone PCRZ (Exhibited RUZ)</p> <p>Map 32 Bushland reserves H 39 and H53 - Zone PCRZ - Exhibited RUZ and PUZ 2</p> <p>Map 36 – LCC area G 11 at Bowya extend PCRZ zoning to cover the full extent of the reserve (Exhibited part PCRZ part RUZ)</p>
G 3 – Goulburn Broken Catchment and Land Protection Board	Amend the MSS as recommended in Council's comments on the submission to the Panel
G 5 – Municipal Catchment Coordination	Amend the MSS as recommended in Council's comments on the submission to the Panel
G 7 – Aboriginal Affairs	Add policy - as detailed in Appendix 2 to this Council report to the Panel
G 10	Zone area south of Woodlands Estate in Hogans Road, Yarrowonga from PUZ 1 to RUZ (Map 24)
Zc – 2 Cobram Development Inc.	<p>Map 7 – Change the IN3 Zoning at Jordan and Colgan Streets to B3</p> <p>Correct the base map as detailed by the submitter in relation to Hay Avenue, Market Street and Punt Road</p> <p>Map 4 and 6 and 8 Zone Cobram abattoirs Industrial 1 not RUZ</p>
Zc4 & 5 Bruce Mitchell	Zone land on Map 7 in Campbell road from Rural to Residential 1
Zc 7 Esler Assoc. for Mr Gattuso	Existing urban subdivided land in River Road Cobram (map 7) change from RUZ 1 to Residential 1

Zy 6, 78,9 & 10	Zone the existing large lot subdivision of Woodlands Estate (Map 25) from Township to Low Density Residential
Zy 13,14 and 22	Zone the southern section of Belmore Street Yarrawonga (Map 24) from the existing Business 1 zoning to the Murray Valley Highway Business 3 (exhibited residential 1)
Zy 20, Esler and Assoc. for Mr Daniels	Zone existing approved subdivision to Low Density Residential (exhibited Rural) Map ??
Znu 2 Brian Wallace	Map 18, zone the land on the south east corner of the Goulburn Valley Highway and Saxton Street from Residential 1 to Business 3
Znu 6	Zone the land as identified in the Map forming part of the submission from Residential 1 to Business 3
Znu 8	In the township map for Numurkah (Local Policy 22.01) correct the alignment of areas for preferred industrial development west of the Goulburn Valley Highway to accord with the flood map and the exhibited zoning maps
Znu 9	Zone land at the south west corner of Moss Street and Madeline Road Residential 1 (exhibited PUZ 5)
Znu11 – G and K Thorne	Extend the township Zone in Strathmerton (Map 5) to align with the northern property boundary, and the existing approved plan of subdivision for this land, north of the Murray Valley Highway Extend the Industrial 1 zoning east of the Kraft manufacturing plant Strathmerton (Maps 4 and 5) to include the existing industrial development along the Murray Valley Highway.