

CONTACT

James Reid Director JReid@ethosurban.com (03) 9419 7226

Reproduction of this document or any part thereof is not permitted without prior written permission of Ethos Urban Pty Ltd.

This document has been prepared by:

This document has been reviewed by:

Sean Brien 1 July 2019 James Reid 1 July 2019

Reproduction of this document or any part thereof is not permitted without written permission of Ethos Urban Pty Ltd. Ethos Urban operates under a Quality Management System. This report has been prepared and reviewed in accordance with that system.

VERSION NO.	DATE OF ISSUE	REVISION BY	APPROVED BY
1	3.5.2019	SB	JR
2	19.6.2019	NC, LW, SB	JR
3	1.7.2019	NC, SB	JR
4	17.7.2019	LW	JR

Ethos Urban Pty Ltd
ABN 13 615 087 931.
www.ethosurban.com

Contents

1.0	Introduction	8
1.1	Purpose	8
1.2	Project Overview	9
1.3	Report Structure	10
1.4	Engagement Methodology	12
2.0	Background	14
2.1	Shire of Mount Alexander	14
2.2	Previous Planning Scheme Reviews	19
3.0	State Policy Context	23
3.1	Planning & Environment Act	23
3.2	Metropolitan Planning Policy	24
3.3	Loddon Mallee South Regional Growth Plan	24
3.4	Smart Planning Program	25
3.5	VicSmart	26
3.6	Infrastructure Contributions	27
3.7	Climate Change	27
3.8	Bushfire Hazard	28
3.9	Wind Energy	29
3.10	Sustainable Animal Industries	29
3.11	Planning Practice Notes	29
3.12	Ministerial Direction	32
3.13	State Planning Amendments	32
4.0	Local Policy Context	34
4.1	Council Plan	34
4.2	Diamond Gully Structure Plan	35
4.3	Forest Street to Forest Creek Heritage Assessment Report	36
4.4	Public Open Space Strategy	36
4.5	Thematic Heritage Study (Volumes 1 & 2)	36
4.6	Domestic Wastewater Management Action Plan	36
4.7	Local Planning Amendments	37
5.0	Panel Reports	39
5.1	Revision of the LPPF	39
5.2	Bushfire Risk in Rural Residential Development	39
5.3	Recommendations	39
6.0	VCAT Decisions	41
6.1	Rural Development and Subdivision	41
6.2	Assessment of Applications	41
6.3	Recommendations	42
7.0	Consultation	44
7.1	Clear Strategic Direction	44
7.2	Heritage Investigation and Reform	44
7.3	Responding to State Planning Policy Reform	45

Contents

7.4	Growth Area Planning	45
7.5	Specific Statutory Reforms	46
7.6	Separation Distances	47
7.7	Other Issues	48
<hr/>		
8.0	Planning Policy Framework	50
8.1	Integrated Planning Policy Framework	50
8.2	Municipal Strategic Statement	50
8.3	Local Planning Policies	59
<hr/>		
9.0	Zones	64
9.1	Residential Zones	64
9.2	Industrial Zones	65
9.3	Commercial Zones	65
9.4	Rural Zones	65
9.5	Public Land Zones	67
<hr/>		
10.0	Overlays	69
10.1	Environmental and Landscape Overlays	69
10.2	Heritage and Built Form Overlays	72
10.3	Land Management Overlays	76
10.4	Other Overlays	78
<hr/>		
11.0	Particular Provisions	80
11.1	Provisions that Apply only to a Specified Area	80
11.2	Provisions that Require, Enable or Exempt a Permit	80
11.3	General Requirements and Performance Standards	83
11.4	VicSmart Applications and Requirements	84
<hr/>		
12.0	General Provisions	86
12.1	Referral and Notice Provisions	86
<hr/>		
13.0	Recommendations	88
13.1	Implementation Plan	88
13.2	Small Administrative Changes	91

Figures

Figure 1: Applications received by Date	15
Figure 2: Applications received by Suburb / Locality (20 or more)	16
Figure 3: Applications received by Type	17
Figure 4: Applications received by Topic	18

Tables

Table 1 Implementation Plan	3
Table 2: Major amendments to the Planning & Environment Act 1987	23
Table 3: Summary of Planning Practice Notes	30
Table 4: Implementation Plan	88

Executive Summary

Mount Alexander Shire Council is undertaking a review of the Mount Alexander Planning Scheme in accordance with the requirements of Section 12(B) of the Planning and Environment Act 1987. The review has been undertaken with guidance from the Continuous Improvement Review Kit 2006 and Planning Practice Note 32: Review of Planning Schemes (PPN32).

This report takes into consideration stakeholder views, strategic work and recent planning reforms including proposed, active and implemented planning scheme amendments. It also audits the planning scheme and provides recommendations for Council to refine the effectiveness of the Mount Alexander Planning Scheme over the next 4 years.

The planning scheme review comprises an audit of local Planning Scheme content, consultation with Council and key stakeholders, and analysis of additional relevant strategies and reports. All inputs considered for the review are listed below.

- State Amendments
- Local plans and strategies
- Local Amendments
- Planning Panel reports
- VCAT Cases
- Consultation Feedback
- Municipal Strategic Statement (MSS)
- Local Planning Policy (LPP)
- Zones and Overlays
- Particular Provisions

As a result of the audit, a comprehensive list of recommendations was developed for further strategic work and Planning Scheme Amendments. These have been consolidated into an Implementation Plan (Table 1), which identifies and prioritises work to be undertaken over the next review period.

Table 1 Implementation Plan

No.	Recommendation	Relevant Clause(s)	Relevant Section(s)	Priority
01	In conjunction with DELWP, restructure the current LPPF into the new Municipal Planning Strategy (MPS) and integrated Planning Policy Framework (PPF) following Amendment VC148.	21, 22	8.1	High
02	Undertake a policy neutral Planning Scheme Amendment that consolidates all the Small Administrative Change (SAC) actions recommended by the audit.	Various	8.0, 9.0, 10.0, 11.0	High
03	Undertake further strategic work relating to rural living, and ensure this strategy updates and appropriates the provision of Rural Zones throughout the Shire. <ul style="list-style-type: none"> • Amend Clause 22.04 to provide more guidance on how Council exercises discretion • Consider PPN42, PPN37, PPN18 • Consider V073 • Ensure appropriate application of the DPO 	35, 22.04	9.4.1, 10.2.3	High
04	Update the MSS based on the current local strategies, in particular the Council Plan. <ul style="list-style-type: none"> • Undertake a review of reference documents with relevant stakeholders 	21	8.2	High
05	Undertake strategic work relating to housing and settlement to update town framework plans to incorporate into the Scheme	21.03, 21.08, 32	8.2, 9.1	High

No.	Recommendation	Relevant Clause(s)	Relevant Section(s)	Priority
	<ul style="list-style-type: none"> Consider housing affordability, short-term accommodation, and ageing-in-place as part of this strategic work Ensure the strategy is clear in directing areas for planned, rural living areas and urban development and update the MSS to reflect this Consider PPN37 Appropriate the provision of residential zones Develop housing change areas Review the content of the Castlemaine Residential Strategy 			
06	Consolidate the list of further strategic work in the MSS, particularly as it relates to Castlemaine	21	8.2	High
07	Remove, relocate, or reword objectives and requirements in the LPP to better demonstrate how Council will exercise discretion	21.08, 21.09	8.3	High
08	Consolidate local heritage policy at Clause 21.07, 22.01, and 22.02	21.07, 22.01, 22.02	8.2, 8.3, 10.2	High
09	Prepare a planning scheme amendment to make key technical updates to the schedules to the Significant Landscape Overlay (SLO1-SLO4), as per the recommendations of the 2010 review, and clarify which landscapes/views are to be protected	42	10.1.3	High
10	Review and update the Heritage Overlay <ul style="list-style-type: none"> Consider PPN1 Rectify mapping anomalies 	43	10.2.1	High
11	Implement Flood Management Plans for townships and update overlays	21.05	8.0, 10.3	High
12	Engage with NCCMA to prepare updated flood mapping for Bells Swamp and Muckleford Creek.	44.03	10.3	High
13	In conjunction with DELWP and CFA, undertake further strategic work to appropriate the BMO <ul style="list-style-type: none"> Prioritise Newstead Consider PPN64 	44.06	10.3	High
14	Adopt the Planning Scheme Review 2019 at Council Meeting and forward to the Minister for Planning.	-	-	High
15	Develop local policy for Chewton	21.12	8.2.12	High
16	Council to monitor and review its internal process in assessing permit applications and development plans on land subject to a DPO.	43.04	10.2.3	High
17	Undertake a Neighbourhood Character Study <ul style="list-style-type: none"> Prioritise Castlemaine 	21.08, 43	8.0, 9.1	Moderate
18	Prepare Structure Plans for Harcourt and Newstead	21.03, 21.12	8.2.12	Moderate
19	Investigate the identified former landfill sites and the potential application of the ESO or PUZ	21.06	10.1.1, 9.5.1	Moderate
20	Review statements of significance for Castlemaine in accordance with the Thematic Environmental History	21.07	8.2.7, 10.2	Moderate

No.	Recommendation	Relevant Clause(s)	Relevant Section(s)	Priority
21	Undertake a Heritage Study in consultation with existing heritage groups and the local Aboriginal party <ul style="list-style-type: none"> Review Maldon Design Guidelines 	21.07, 22.01, 43	8.3, 10.2	Moderate
22	Undertake a review of existing planning provisions that apply to the LDRZ in this area (DPO and Clause 22.08) to ensure policy guidance in the LPP is assisting Council to achieve their desired outcome(s).	22.08	8.0, 9.4, 10.2	Moderate
23	Undertake the development of a retail analysis <ul style="list-style-type: none"> Consider the inclusion of design guidelines for commercial areas Consider PPN85 Consider inclusion of land in the C3Z 	21.09, 34	8.2.9, 9.3	Moderate
24	Undertake further strategic work and potentially update the Schedules to the ESO	42	10.1.1	Moderate
25	Implement the Environment Strategy 2015-2025	21.04, 21.05	8.2.4	Moderate
26	Review the map at 21.06-1 for legibility	21.06	8.2.6	Moderate
27	Investigate location and extent of potential commercial uses in smaller townships (e.g. Harcourt and Campbells Creek)	21.03	8.2.3	Moderate
28	Prepare a Scenic Landscapes Strategy	21.04	8.2.4	Moderate
29	Prepare a local planning policy on 'Environmental Sustainability' to address energy, waste, and water efficiency issues.	21.04	8.2.4	Moderate
30	Prepare a Land Management Study	21.05	8.2.5	Moderate
31	Investigate wastewater considerations for Elphinstone and Guildford	21.06	8.2.6	Moderate
32	Prepare an urban design plan for Castlemaine and incorporate this into the MSS	21.07	8.2.7	Moderate
33	Rewrite the content of Clause 21.07 to provide greater guidance in regards to preferred character and design	21.07	8.2.7	Moderate
34	Prepare an industrial land strategy for the Shire	21.09	9.2	Moderate
35	Redraft the provisions into four (4) separate Schedules to the RLZ which are reflected on the planning scheme maps and remove the hand drawn maps.	35	9.4.1	Moderate
36	Investigate the need to protect existing agriculture activities through the use of separation distances	21.09	9.4, 10.1	Moderate
37	Identify potential infrastructure projects to be funded by DCPs in future as well as sites for the potential application of DCPs	21.10	7.1.4, 10.3	Moderate
38	Strengthen clause 22.05 to include other considerations in the MSS for the objective the LPP is derived from: noise, dust, odour, hours of operation.	22.05	8.3	Moderate
39	Undertake further investigations into applying the Vegetation Protection Overlay to the roadsides of 'high' conservation value, as per Figure 9 in the State of the Environment Report (2010, 22).	42	10.1.2	Moderate
40	Prepare Design and Development Overlays for Castlemaine Town Centre to manage built form and design issues.	43.02	10.2.2	Moderate
41	Engage with DEPI (now DELWP) to develop standard policies for the consideration of applications under the Erosion Management Overlay.	44.01	10.3.1	Moderate

No.	Recommendation	Relevant Clause(s)	Relevant Section(s)	Priority
42	Review the extent of the EMO and undertake further strategic work to appropriate the provision of this overlay throughout the municipality.	44.01	10.3.1	Moderate
43	Create local advice and information materials for the VicSmart provisions to assist the public with VicSmart applications	59.15, 59.16	11.4	Low
44	Clarify local policy objectives for large scale events supported by tourism policy, but not supported by farming/agricultural policy.	22.04	9.4	Low
45	Review inconsistencies of “Caravan and Camping Parks” definitions between the Residential Tenancies Act 1997, and the planning scheme.	22.04	-	Low
46	Investigate the need to create local content at 52.05s	52.05	11.2	Low



1.0 Introduction

1.1 Purpose

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

Section 12(B) of the Act requires:

(1) A planning authority which is a municipal Council must review its planning scheme—

(a) no later than one year after each date by which it is required to approve a Council Plan under section 125 of the Local Government Act 1989;

Mount Alexander Shire Council ('Council') was required to produce a four-year Council Plan by 30 June 2017. Council adopted the Council Plan 2017-2021 on 20 June 2017 and provided a copy to the Minister on 30 June 2017. A full review of the Mount Alexander Planning Scheme was required to be conducted and provided to the Minister by 30 June 2018.

The Minister granted all Councils an extension of 6 months to review their Planning Schemes due to changes implemented by Smart Planning reform. Council also sought an additional extension of 6 months from the Minister. The Planning Scheme Review must now be completed by 30 June 2019.

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

(3) The objective of a review under this section is to enhance the effectiveness and efficiency of the planning scheme in achieving—

(a) the objectives of planning in Victoria; and

(b) the objectives of the planning framework established by this Act.

(4) The review must evaluate the planning scheme to ensure that it—

(a) is consistent in form and content with the directions or guidelines issued by the Minister under section 7; and

(b) sets out effectively the policy objectives for use and development of land in the area to which the planning scheme applies; and

(c) makes effective use of State provisions and local provisions to give effect to State and local planning policy objectives.

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

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

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

1.2 Project Overview

The Project is being undertaken in five (5) stages, as described below:

Stage 1: Inception and Background Review

An inception meeting was undertaken during this stage to confirm Council's requirements, scope and overall approach of the project, including the work program, key stakeholders. The collation and review of background information was also undertaken in this stage.

Stage 2: Issues and Analysis

This stage sought to further analyse the background information, including:

- State and Regional Plans and Strategies;
- Victoria Planning Provisions (VPP) reform and State Amendments;
- Planning Practice Notes (PPN);
- Local Plans, Strategies, Amendments and Panel Reports;
- VCAT Cases;
- Demographics and permit application data;
- Ministerial Direction for the Form and Content of Planning Schemes;

The issues that emerged from consideration of this background material was used to undertake internal consultation with Council officers to further develop and refine the key issues.

The primary output of this stage was a Key Issues Summary which provided a summary of background material and Council officer feedback in the development of the key issues to inform consultation.

Stage 3: Consultation

Targeted consultation with State Government agencies and a group of frequent users of the Mount Alexander Planning Scheme were provided with a summary of the key issues identified during Stage 2 and invited to make a written submission or participate in an interview.

Stage 4: Draft Report

This stage has sought to audit the local provisions of the Mount Alexander Planning Scheme against the key issues identified in Stage 2, outcomes of stakeholder consultation in Stage 3 and the Ministerial Direction for the Form and Content of Planning Schemes (October 2018). It is guided by PPN32: Review of Planning Schemes and the Continuous Improvement Review Kit (2006). The primary output of this stage is the Draft Planning Scheme Review Report.

Stage 5: Final Report

Following feedback from Council officers, the draft report has been refined to culminate in the final Planning Scheme Review Report (this Report), which will be presented to Council for adoption.

1.3 Report Structure

This Report is divided into thirteen (13) sections, as described below:

Section 1: Introduction

This section has detailed the purpose of the Planning Scheme Review process and the requirements of the Planning and Environment Act 1987. An overview of the project and this report has also been provided.

Section 2: Background

This section considers the context of the municipality through its geophysical location, recent demographic and economic activity, and trends in permit application data since the previous review. Previous planning scheme reviews have also been considered to capture the planning context of the Shire as it has changed over time and identify recommendations made by the Panel for further strategic work.

Section 3: State Policy Context

This section summarises new and updated State Planning legislation and major state planning reform that has occurred since the previous Planning Scheme Review in 2014. This section also considers new and updated Planning Practice Notes and the most recent version of the Ministerial Direction for the Form and Content of Planning Schemes (October 2018).

Section 4: Local Policy Context

This section summarises completed and updated local strategic work including planning studies, strategies and the like since the previous Planning Scheme Review in 2014. This includes a summary of the Council Plan 2017-2021 and the strategies and actions that will guide the municipality over the next 4-year review period.

Section 5: Panel Reports

This section considers the Panel Reports associated with Local Planning Amendments since the previous Planning Scheme Review in 2014 to highlight emerging issues in the municipality. This section includes recommendations made directly by the Panel (often highlighting the need for further strategic work) or in response to the issues identified.

Section 6: VCAT Decisions

This section considers VCAT decisions involving Mount Alexander Shire Council that were made since the previous Planning Scheme Review in 2014. The outcome of these cases is analysed to determine the effectiveness of the current planning scheme provisions and to identify potential issues or the need for further strategic work.

Section 7: Consultation

This section details the outcome of ongoing consultation with Council and relevant stakeholders during the project. Council officers provided feedback on the effectiveness and potential issues with the Mount Alexander Planning Scheme during internal workshops and a summary has been provided based on the key issues that emerged. Further targeted consultation was held with a group of external stakeholders, including Stage Government agencies and frequent users of the Planning Scheme.

Section 8: Planning Policy Framework

This section describes recent administrative changes to the integrated Planning Policy Framework (PPF) due to Smart Planning reform and Amendment VC148, and the implications this has for the Mount Alexander Planning Scheme. The outcome of the audit of the Municipal Strategic Statement (MSS) and Local Planning Policies (LPP) is also summarised in this section.

Section 9: Zones

This section provides a summary of the outcome of the audit of the zoning provisions of the Mount Alexander Planning Scheme.

Section 10: Overlays

This section provides a summary of the outcome of the audit of the overlay provisions of the Mount Alexander Planning Scheme.

Section 11: Particular Provisions

This section provides a summary of the outcome of the audit of the particular provisions of the Mount Alexander Planning Scheme.

Section 12: General Provisions

This section provides a summary of the outcome of the audit of the general provisions of the Mount Alexander Planning Scheme.

Section 13: Conclusions and Recommendations

This section consolidates the recommendations from the audit of the Mount Alexander Planning Scheme into the work program detailing actions Council should undertake over the next 4-year review period and beyond. These actions will include a recommended priority based on the number and significance of recommendations throughout the audit that contribute to the action.

1.4 Engagement Methodology

The Project had two (2) rounds of consultation with key stakeholders to ensure the review considers the most relevant and important issues in the municipality.

The first round of consultation was held in February 2019 with internal Council staff. The primary objective of this round of consultation was to provide an early opportunity for Council staff to identify key issues to be investigated during the review.

Consultation at this stage included:

- A meeting of the Project Steering Committee; and
- Workshops and interviews with Council officers.

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

The second round of consultation was held during Stage 3 and sought targeted feedback from key stakeholders. The outcome of this round of consultation assisted in refining the key issues and identifying additional issues to be included in the final Planning Scheme Review. It also included stakeholders in the development of potential solutions.

The methods used for this stage of consultation included:

- A Project Bulletin was prepared based on the identified key issues which summarised work to-date and invited stakeholders to make a written submission and/or request an interview with the project team.
- Three (3) written submissions were received during this period.

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



2.0 Background

2.1 Shire of Mount Alexander

Mount Alexander Shire is located in central Victoria approximately 110 kilometres north of Melbourne. The settlement pattern throughout the Shire is diverse, with smaller townships and farming areas developed in response to the demands of the gold rush era. This has left a general settlement pattern of larger lots on the outskirts of smaller townships, now popular for hobby farming and rural lifestyles. Almost half of Mount Alexander Shire residents live in Castlemaine.

Castlemaine is the main activity centre within the Shire, and is the economic, administrative and commercial centre of the municipality. Castlemaine is located in a valley, where the urban area extends to several other urban areas and smaller towns. The town has one railway station, which is located on the Melbourne to Bendigo line.

Demography

Mount Alexander Shire has an estimated resident population of 19,300 persons (Remplan 2019, figure rounded). Overall the shire has a smaller percentage of young people (16.1%) aged 0-15 than the Victorian average of 19.4%, and a significantly larger percentage of elderly residents aged 65+ (24.2%) compared with the Victorian average of 15.6%. The age profile of the Shire is largely comprised of people within the 40-79 year age cohorts.

Mt. Alexander Shire is comprised of 84.8% Australian citizens, only slightly higher than the Victorian percentage of 81.6%. The Loddon-Campaspe region in which Mt. Alexander Shire sits, is comprised of 89.2% Australian citizens.

Families in Mt. Alexander Shire are predominantly comprised of couple families without children at 47%, while couple families with children represent 35.4% of families. One parent families comprise 16.1% of families, slightly higher than the Victorian average of 15.1%.

Education rates in Mt. Alexander Shire are generally lower compared with Victorian averages, with higher rates of year 8, 9, 10 and 11 attainment, although significantly lower rates of year 12 (VCE) attainment (43.9%).

Economy

The major employment industries in Mt. Alexander Shire are Health Care & Social Assistance (16.3%), Manufacturing (11.3%), Education & Training (10.2%) and Retail Trade (10.1%). The Shire still has a relatively strong manufacturing base, although this will likely decline over time with increased automation. Agriculture, Forestry and Fishing represents only 4.4% of industry of employment, which is quite low for a regional shire.

Worker occupation in Mt. Alexander Shire is represented predominantly by 'Professionals' who account for 23.9% of occupations. Managers (14.5%) and Technicians and Trades Workers (13.3%) represent the second and third highest shares for occupation. Professionals in Mt. Alexander Shire are much more prominent than they are in the Loddon Campaspe region where they only represent 19% of workers.

Journeys to work in Mt. Alexander Shire are car dominated, with 24% travelling by car as the driver. The second best represented category was 'did not go to work' at 5.2%, while a further 3.6% worked from home. Active and public transport are particularly underrepresented.

2.1.1 Permit Application Data

Council provided planning permit activity data which considered the date of decision, property address and application description. The data did not include zone or overlay information which was not able to be manually sourced.

Quantity of Applications

The quantity of applications received over time is shown in Figure 1, and the following observations are made:

- The data is highly variable month-to-month;
- The trend in applications appears to be gradually increasing over time;
- December and May-June commonly have less applications received, with some exceptions;
- March commonly has a very high number of applications received;
- October 2018 saw the largest number of applications received since the previous Planning Scheme Review.

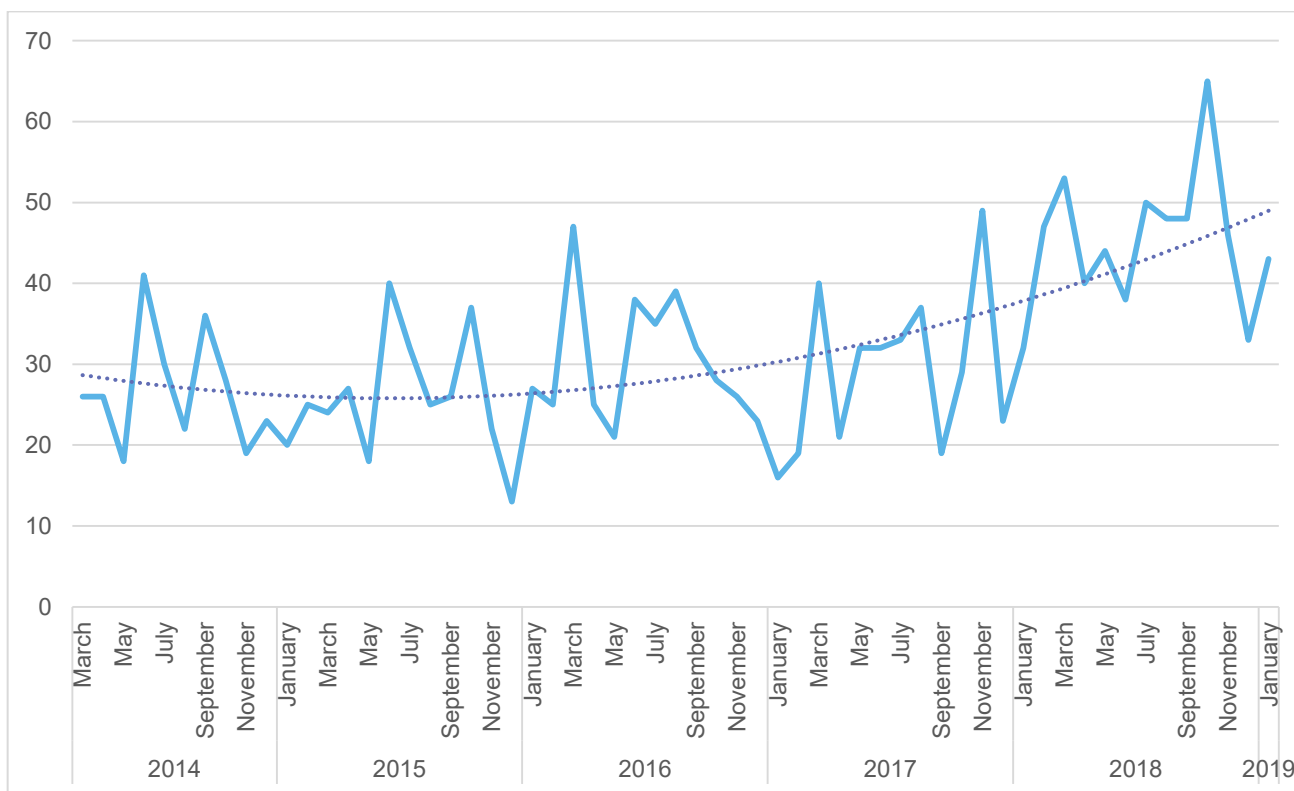


Figure 1: Applications received by Date

Applications by Suburb

As expected, the largest number of applications received since the last Planning Scheme Review relate to land in the suburbs of Castlemaine and Maldon. Other suburbs with a high quantity of applications over this period include McKenzie Hill, Chewton, Campbells Creek, Elphinstone, Newstead and Harcourt. Figure 2 below shows only suburbs and localities which cumulatively had 20 or more applications.

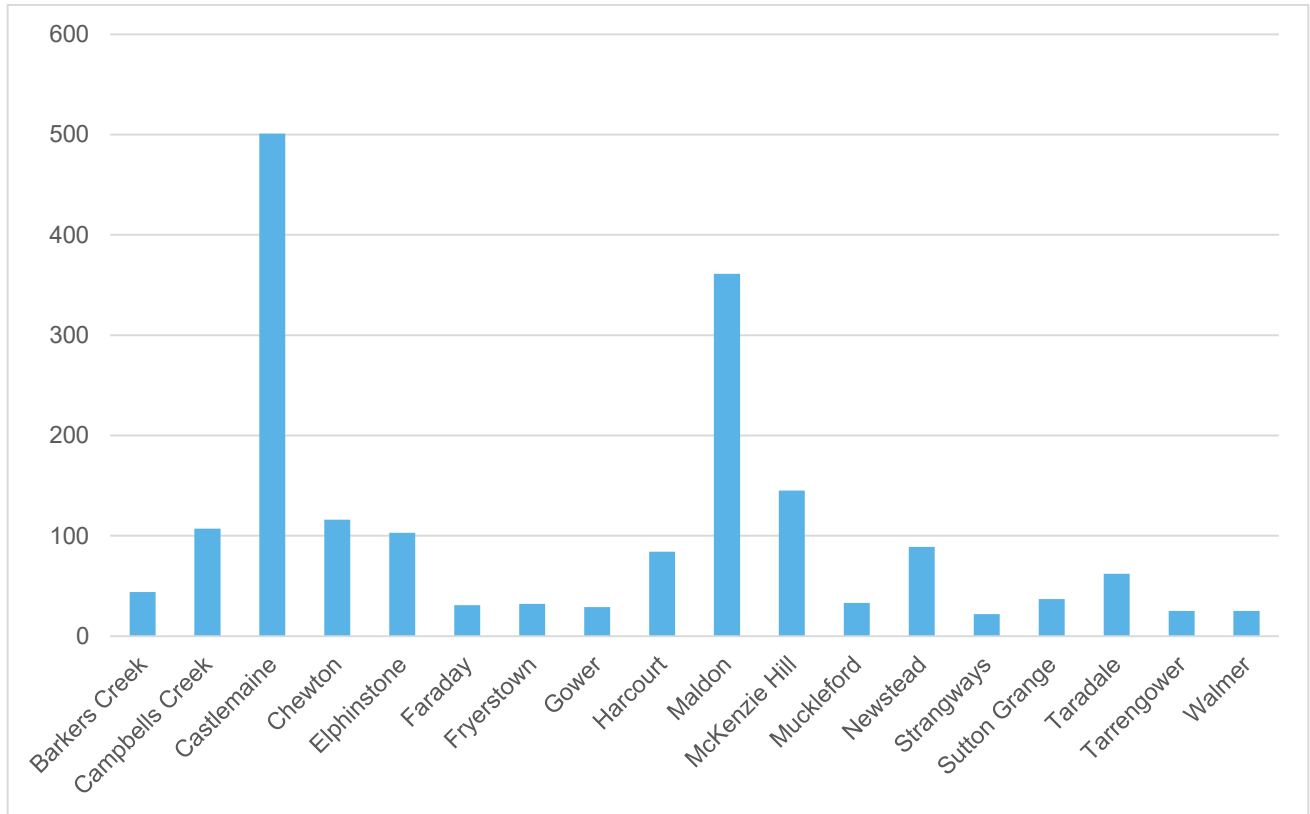


Figure 2: Applications received by Suburb / Locality (20 or more)

Applications by Type (Keyword)

Analysis of application description was conducted by finding the most common words repeated and grouping these as either ‘type’ or ‘topic’. Type refers to an action, such as construction or demolition; while topic refers to the use or type of development, such as a dwelling or shop. The words below generally include their variants (e.g. construct will also include construction) and exclude unrelated words (e.g. tree will include trees but will exclude street). There is also a significant amount of overlap, where one application description may have used multiple ‘type’ words in this category and have been counted for every instance. The additional assumptions associated with this analysis emphasises that these results are indicative only.

The results for applications received by type in the top 6 suburbs / localities (which are those that saw more than 100 applications) are shown in Figure 3 below.

The majority of applications received in Castlemaine appear to relate to construction, subdivision and modification or existing uses or buildings. Many of the less common “type” keywords (such as install, extend, add, alter, replace and renovate) appear to be evenly distributed in Castlemaine, but almost non-existent elsewhere. This reflects the broader range of types of development occurring in Castlemaine compared to other suburbs and localities in the municipality.

Maldon had a very high proportion of applications for construction, existing uses and building, extending and replacing, which may be associated with the extensive application of the Heritage Overlay provision to the residential zones in this area. Despite the notably high quantity of applications that competes with Castlemaine in this respect, there were comparably very few applications associated with subdivision, use, develop and building.

Applications received in McKenzie Hill are almost entirely related to construction. There has been some activity around less common “type” keywords (such as build, works and subdivide), but this is insignificant compared to construction in Castlemaine generally. There has been little to no activity around keywords such as extend, add, alter, replace and existing, which likely relates to the predominantly greenfield nature of applications for this area.

Data for Chewton and Elphinstone is relatively similar, with an evident focus on construction and a fairly even distribution of keywords that may be linked to both greenfield and infill development. Chewton has seen a greater quantity of applications containing a keyword suggesting subdivision than Elphinstone and McKenzie Hill but is still significantly lower than Castlemaine.

Campbells Creek had a very high proportion of applications containing a key word that suggested subdivision, being the only locality where keywords suggestion construction did not have the highest result.

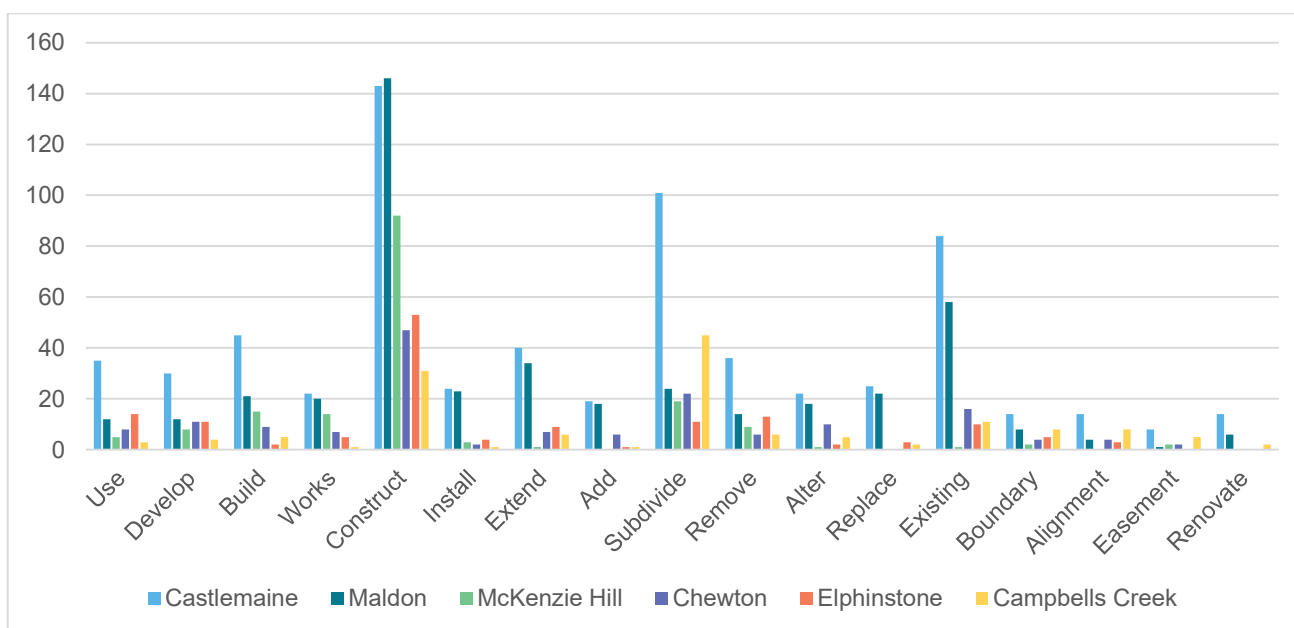


Figure 3: Applications received by Type

Applications by Topic (Keyword)

The same assumptions discussed in Section 4.3 apply to the examination of applications by topic.

A large quantity of applications was received that related to dwellings, sheds or (advertising) signs in Castlemaine. Less common “topic” keywords were relatively evenly distributed, indicating a more diverse range of use and development in Castlemaine than other areas in the municipality.

Maldon had a very high proportion of applications associated with dwellings and sheds. The quantity of applications for sheds far exceeded that of Castlemaine. Signs, shops, fences and verandahs also saw a relatively high number of applications when compared with Castlemaine and other localities. This is again likely due to the extensive application of the Heritage Overlay provision and associated permit requirements in Maldon.

McKenzie Hill, Chewton, Elphinstone and Campbells Creek all showed very similar results, with high proportions of applications relating to dwellings and sheds, and a very low diversity in other uses and development. McKenzie Hill saw a much higher proportion of applications relating to dwellings and came close to matching the quantity of Castlemaine, which may be linked to the existing Erosion Management Overlay (EMO) triggers.

Very few applications were found to contain “topic” keywords such as farm, solar, heritage and unit in all areas. Given the assumptions associated with the analysis of this data it is difficult to draw conclusions, however these low numbers may be a reflection of either (or both) of the following:

- A lack of development in the municipality that includes agricultural uses, renewable energy (solar), uses associated with heritage areas and consolidated residential development (units).
- A lack of triggers or a potential gap in planning provisions or existing strategic work for these areas and uses.

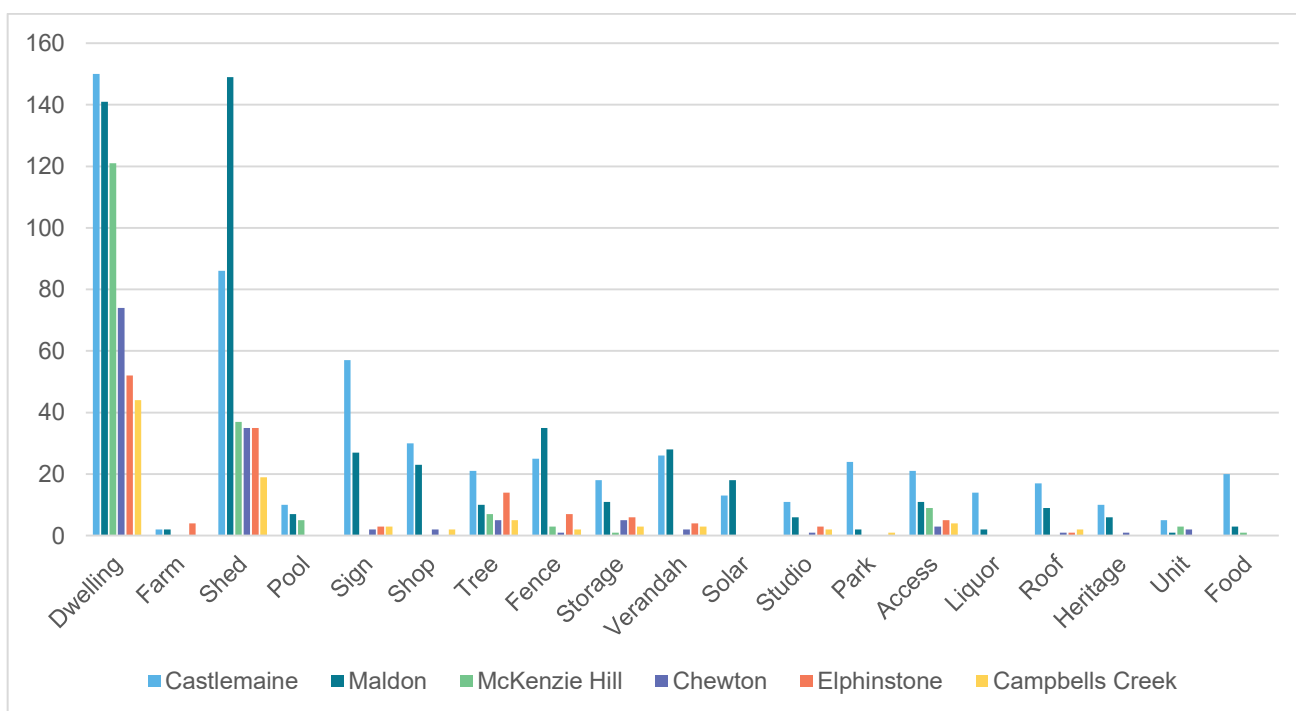


Figure 4: Applications received by Topic

2.2 Previous Planning Scheme Reviews

There have been three (3) planning scheme reviews including when the Mount Alexander Planning Scheme was changed to the new format planning scheme in 1999.

Review (2010 and 2014) and Amendment C61

Amendment C61 and the associated Panel Report combined the findings of the Mount Alexander Planning Scheme Review 2010 (Part 1) and the Planning Scheme Review 2014. The Panel recommended the following strategic work be undertaken after the adoption of Amendment C61:

- *Review the list of 'further strategic work' related to Castlemaine in the Municipal Strategic Statement. The review should consider the scope for synergies, efficiencies and better planning outcomes that might be achieved if some of the projects are consolidated, particularly as part of a broad structure or framework planning exercise for Castlemaine.*
- *Undertake a further review of the structure and content of the Local Planning Policy Framework to address the issues raised in this report and to achieve greater consistency with Planning Practice Note 4 Writing a Municipal Strategic Statement and Planning Practice Note 8 Writing a Local Planning Policy.*
 - *Reviewing the LPPs to identify material that can be repositioned as policy guidelines, or as objectives and strategies in the MSS. Although Council has already deleted or repositioned most of the LPPs, there is scope to remove more.*
 - *Reviewing the objectives and strategies in Clause 21.03 - 21.011 in order to ensure that their meaning is clear, to ensure that they are consistent with PPN4, to delete material that is repetitive of other elements of the Planning Scheme, to delete material that is unrelated to the operation of the Planning Scheme and to reposition material that should be located elsewhere in the MSS. There is significant scope to reduce the amount of unnecessary material in the MSS and to clarify the meaning and operation of various provisions.*
 - *Reviewing the Implementation sections in Clauses 21.03 - 21.11 to delete unnecessary or irrelevant material (including a further review of Reference Documents), to improve the use and drafting of policy guidelines (in accordance with PPN4) and to adopt a more consistent approach to using the sub-headings included in PPN4.*

These recommendations highlight the tasks to focus on in the current Planning Scheme Review. The list of further strategic work related to Castlemaine in the MSS is provided in Section 12.1 and is further refined by the Implementation Plan in Section 12.2. Consistency with Planning Practice Notes (PPN) 4 and 8 is considered in detail as part of the audit of the Municipal Strategic Statement (MSS) and Local Planning Policies (LPP). The MSS and LPP will soon undergo a significant restructure following the introduction of the integrated Planning Policy Framework (PPF) by Amendment VC148 as part of the Smart Planning Program.

Review (2005) and Amendment 26

Council undertook a review of the MSS in 2005. The intent of this review was implemented through the Mount Alexander Planning Scheme by Amendment 26. Recommendations for future work to be undertaken by Council after the adoption of Amendment 26 included:

Local Planning Policies

- *Following the adoption of Amendment 26, that the Local Policies at Clause 22 be reviewed, as part of the next 3-year review of the Mt Alexander Planning Scheme; and*
- *The submissions relating to local planning policies be considered by Council in its review of the policies.*

Castlemaine Urban Forest Interface Study

- *The proposed Castlemaine Urban Forest Interface Study be given high priority by Council;*
- *That the study area include all interfaces between existing or potential urban areas and the Castlemaine Diggings National Heritage Park and other reserved Crown land, as well as the proposed areas of private forest; and*
- *Rezoning of the land for residential use adjacent to the proposed Castlemaine Urban Forest Interface Study area be deferred until the Study is completed.*

Housing Strategy

- *That preparation of a Housing Strategy be given high priority by the Council;*

- *That issues raised in relation to affordable and sustainable housing be considered in the Housing Strategy study;*
- *The proposed Housing Strategy include revised population growth and housing demand figures and an inventory of infill subdivision potential and medium density housing infill opportunities to assist implementation of urban consolidation policies; and*
- *The review of population growth and housing demand figures be carried out in consultation with DSE.*

Newstead Framework Plan and Development Plans

- *Preparation of an updated Framework Plan and Development Plans for Newstead be given high priority by the Council.*

Other studies

- *That Council work with the NCCMA and DSE to identify biodiversity assets in the Shire as a whole and to develop appropriate planning controls to ensure their protection;*
- *Further detailed studies be conducted in both Elphinstone and Taradale to provide a sound basis for the coordination of urban design, heritage and infrastructure planning;*
- *Conclusions from the urban design study for Chewton be incorporated into the strategic framework for the Shire and for Castlemaine in particular, as soon as this work is completed; and*
- *An urban design study be undertaken for Taradale to ensure that the valued character of the township is maintained into the future. This may result in some modifications of the Framework Plan.*

While the previous review focussed on the settlement pattern and provision of rural residential development, this review highlighted the importance for an overarching housing strategy to facilitate population growth in a way that takes advantage of opportunities for urban consolidation policy. Further research into the relationship between urban design and heritage was recommended in areas Elphinstone, Taradale, Chewton and Castlemaine.

Review (1999) and Amendment NPS1

The Panel Report associated with Amendment NPS1 recommended that the New Format Planning Scheme (NPS) be adopted subject to a number of recommendations prior to adoption and for further strategic work following adoption. It is expected that recommendations prior to adoption were undertaken at the time, so only the recommendations for further strategic work are described below. These recommendations are now very outdated, but provide some insight into the issues Council was facing at the time:

MSS

- *Ongoing work to analyse land capability as an important basis for evaluating proposals.*
- *Implement the recommendations of the proposed rural living study*
- *Analysis of the impact of sewerage schemes on land supply in affected townships and with the outcome of analysis feeding into the scheduled review of the scheme.*
- *Evaluation of the adequacy of provision for industrial development.*

Local Policies

- *Revise prescriptive development requirements imposed on development to achieve a more performance basis, particularly with regard to development in Maldon's heritage areas.*
- *Revise structure plans and amend the planning scheme if necessary, to reflect the effect of sewerage schemes.*

Zones, Overlays and Schedules

- *That a further amendment be exhibited relating to land in the vicinity of the Barfold Gorge providing for an Environmental Rural Zone, Environmental Significance Overlay and Landscape Significance Overlay generally as shown in Appendix 2 and supported by decision guidelines which are consistent with the recommendations of the report "Landscape Assessment Barfold Gorge and Surrounds" Landscape Australia Consultants January 1998. The LPPF should be strengthened to reflect Council's planning objectives for the area.*
- *That the rezoning of the Elizabeth Street area to a Business or mixed use zone be the subject of a separate amendment.*

- *Use of the Environmental Rural and Rural Living Zones be addressed as part of the scheduled review of the scheme.*
- *Information regarding vegetation, salinity discharge/recharge and agricultural quality has been mapped. This information should be evaluated for use in the LPPF and as the basis for development of Salinity Management and Vegetation Protection Overlays to be included in a further amendment.*
- *Council evaluate extension of Erosion Management Overlay and Land Subject to Inundation Overlay to Bells Swamp (map2) and additional areas of Muckleford Creek.*
- *That the extent of the ESO over the Muckleford Gorge be examined to be considered as part of a further amendment.*
- *The extent of ESO4 around Mount Alexander should be addressed at the scheduled review of the scheme*
- *Evaluate areas identified in submissions for application of the Significant Landscape Overlay including the National Trust Classified Landscapes between Elphinstone and Castlemaine and the extensive Mt. Alexander Goldfields area, plus Mt. Consultation. Evaluation of these areas should occur as part of the review process.*
- *Council identify areas where existing ownership patterns require it to take responsibility for/coordinate the preparation of the Development Plans*
- *That Council undertake more detailed evaluation of areas to which an Environmental Rural Zone may be justified to regulate the timber industry or the 40 hectare threshold for approval of timber plantations should apply as part of the scheduled review of the planning scheme.*

A number of these recommendations reflect issues and strategic work that the Shire of Mount Alexander is still facing today. The settlement pattern of rural residential development and management of heritage sites (particularly in localities such as Maldon) continues to be the subject of strategic work and further refinement to date.

DATION

SHAKESPEARE HOUSE

ART

GALLERY

DOLPHIN ST

PP

3.0 State Policy Context

There has been a significant amount of reform to Victorian planning system since the previous review in 2014, including changes to the Planning Policy Framework (PPF) and Victoria Planning Provisions (VPPs) as discussed in this Section.

3.1 Planning & Environment Act

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

Amendments

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

Table 2: Major amendments to the Planning & Environment Act 1987

Amendment	Purpose
21/2013: Growth Areas and Miscellaneous	Expands the role of the Growth Area Authority for the declaration of growth areas and the criminal liability of bodies corporate and clarifies responsibility for the ongoing administration and enforcement of permits issued under Division 6 of Part 4 of the Act.
3/2013: General	Implements Government election commitments and introduces process improvements and red tape reductions, abolishes the Development Assessment Committees and establishes the Planning Application Committee.
40/2014: Building a Better Victoria (State Tax and Other Legislation Amendment)	Among other things, the purpose of this Act is to impose a levy for the privilege of making certain planning permit applications. Part 6 of this Act comes into operation on 1 July 2015.
30/2015: Recognising Objectors	To require responsible authorities and the Victorian Civil and Administrative Tribunal to have regard to the number of objectors in considering whether a permit application may have a significant social effect.
35/2015: Infrastructure Contributions	To provide for a new system for levying and collecting contributions towards the provision of infrastructure and make related consequential amendments.
49/2017: Affordable Housing	Facilitates affordable housing by introducing an objective the Act, defines 'affordable housing', and clarifies that Responsible Authorities can enter into agreements with landowners and others under s173 of the Act for provision of affordable housing as part of a development.
7/2018: Public Land Contributions	Introduces a land contribution model for the Infrastructure Contributions Plan (ICP) system which enables land for public purposes to be provided as part of an infrastructure contribution when land is developed, replacing the monetary public land component of the standard levy.
17/2018	Provides for the declaration of distinctive areas and landscapes and the preparation and implementation of a Statement of Planning Policy in relation to each declared area to ensure coordinated decision-making by public entities.

3.2 Metropolitan Planning Policy

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

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

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

The broad objectives of Plan Melbourne 2017-2050 are:

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

3.3 Loddon Mallee South Regional Growth Plan

The Loddon Mallee South Regional Growth Plan 2014 was implemented alongside Plan Melbourne 2014, and was in draft format during the last planning scheme review for Mount Alexander Shire Council.

It is a plan for the region to guide the growth and change in the area for the next 30 years, applying to the municipalities of Mount Alexander Shire, Central Goldfields Shire, City of Greater Bendigo, Loddon Shire and Macedon Ranges Shire.

The vision for this plan is for these communities to enjoy regional liveability with urban accessibility, and offer vibrant, innovative, sustainable and connected communities with a diversity of lifestyles, heritage, natural environment and agricultural landscapes.

The plan seeks to achieve the following for the region:

- Establish a framework for strategic land use and settlement planning that can accommodate growth within ecologically sustainable development principles
- Identify important economic, environmental, social and cultural resources to be preserved, maintained or developed
- Provide direction for accommodating growth and change including residential, employment, industrial, commercial, agriculture and other rural activities
- Show which areas of land can accommodate growth and which are to be maintained for other uses
- Identify opportunities for supporting regional level infrastructure, providing an essential contribution to the long-term sustainability of the region.

Harcourt is identified as a key town in the growth of the Loddon Mallee South Region, as it is strategically located adjacent to the Calder rail and road corridor, as well as being 30km from Bendigo and 7km from Castlemaine. Rezoning could occur in appropriate locations around Harcourt for urban development, and further strategic and structure planning work was noted as underway. Council are currently preparing Plan Harcourt, an updated framework plan which will inform future rezoning and establish planning processes that will shape the town in the future.

3.4 Smart Planning Program

The Smart Planning program was introduced by the Victorian State Government on 1 July 2016 and is the first funded review of Victoria's planning system in more than 20 years. Smart Planning seeks to reform Victoria's planning regulations to make the system more efficient, accessible and transparent. The reform aims to:

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

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

Improve

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

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

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

Reform

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

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

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

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

- Introduces a new Planning Policy Framework (PPF)
- Enables the future introduction of a Municipal Planning Strategy (MPS)
- Simplifies the VPP structure by:
 - Restructuring particular provisions

- Integrating VicSmart into applicable zones, overlays and particular provisions
- Consolidating operational and administrative provisions
- Amends specific zones, overlays and particular provisions to improve their structure and operation, and to support the future translation of Local Planning Policy Frameworks (LPPFs) to the MPS and PPF
- Introduces a new Specific Controls Overlay to replace Clause 52.03 Specific Sites and Exclusions
- Deletes outdated particular provisions
- Deletes permit requirements for low-impact uses in industrial zones
- Reduces car parking requirements for uses in commercial areas and for land within walking distance of high-quality public transport.

While the Amendment is 'generally' policy neutral, some policy that may have formerly been local or regional policy has been introduced as state policy. For instance, the changes to car parking requirements only apply to the Principal Public Transport Network (PPTN) which is concentrated in metropolitan Melbourne and extends into some outer suburbs but does not impact Mount Alexander Shire.

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

Transform

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

3.5 VicSmart

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

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

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

- Realign a boundary between two lots
- Subdivide land into lots each containing an existing building or car parking space
- Subdivide land with an approved development into two lots
- Construct a front fence in a residential zone
- Construct a building or works in a zone (other than rural zone)
- Construct buildings or works in an overlay
- Remove, destroy or lop one tree
- Minor subdivision, minor buildings and works, painting or tree lopping in a Heritage Overlay
- Minor subdivision or buildings and works within a Special Building Overlay
- Display a sign in a commercial, industrial zone or special purpose zone
- Reduce a car parking requirement
- Two lot subdivision in a rural zone
- Construct a building or works in a rural zone

- Extension to one dwelling on a lot in a residential zone

Amendment V084

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

Amendment VC135

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

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

Amendment VC137

This Amendment further extends new VicSmart classes:

A single storey extension to a single dwelling where specific design criteria are met

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

Amendment VC142

This Amendment further modified VicSmart by:

Deleting the 'Loading and unloading of vehicles' class of application

Including additional classes of development under the Heritage Overlay, including an electric vehicle charging station and services normal to a building (other than a dwelling).

Amendment VC148

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

3.6 Infrastructure Contributions

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

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

3.7 Climate Change

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

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

There are a number of hazards to consider in Mount Alexander Shire, including:

- Heat waves;

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

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

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

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

The Local Policy at Clause 21.05 (Environmental Risks) considers the changing climate and provides objectives to improve the municipality's resilience against environmental hazards. Clause 21.05-1 considers climate change, stating that there will be an overall increase experience in temperatures across Victoria and reduced average rainfall. This clause also states that more work needs to be undertaken by the Shire to better mitigate the impacts of climate change in the future.

Other themes in Clause 21.05 that are affected by climate change include Floodplains (Clause 21.05-2) and Bushfire (Clause 21.05-5). The Shire faces significant bushfire risk at the fringes of main townships such as Castlemaine, Maldon, Newstead and Harcourt, as well as smaller townships such as Chewton, Fryerstown and Taradale. This is exacerbated by the area's topography and vegetation, and will become more frequent as average temperatures increase in the future. There are areas around the Shire that are also prone to flooding, particularly around the Loddon River and associated creeks. Significant flood events occurred in the municipality in 2010, 2011, 2012 and 2016. These major flood events are predicted to increase in the future as a result of climate change, with fewer but heavier rainfall days predicted.

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

3.8 Bushfire Hazard

There have been several Amendments to the VPPs since 2014 which implement bushfire policy.

Amendment VC108

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

Amendment VC109

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

Amendment VC119

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

Amendment VC131

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

Amendment VC140

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

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

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

3.9 Wind Energy

There have been several Amendments to the VPPs since 2014 which implement wind energy policy.

Amendment VC107

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

Amendment VC113

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

Amendment VC125

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

3.10 Sustainable Animal Industries

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

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

Amendment VC150

Amendment VC150 introduced these changes in September 2018.

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

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

'Agriculture, Forestry and Fishing' represents a relatively small proportion of Mount Alexander Shire's economy (4.4%) which is unusual for a regional Shire.

3.11 Planning Practice Notes

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

There are a total of 59 Planning Practice Notes (PPNs) listed on DELWP's website, with all except two (2) being updated since January 2014, and a large number having been reviewed in 2015 and 2018. Of these 57 PPNS, 39

were found to be potentially relevant to Mount Alexander Shire and the planning scheme review process, 22 of which have been updated during this review period. These are discussed in the table below.

Table 3: Summary of Planning Practice Notes

PPN No.	PPN Name	Summary
PPN1	Applying the Heritage Overlay	PPN1 was reviewed in August 2018 and provides guidance on what should and should not be included in the Heritage Overlay Map and corresponding Schedule. Any strategic work undertaken relating to an updated Heritage Study should comply with the requirements of PPN1.
PPN2	Public Land Zones	PPN2 was reviewed in January 2018 and provides guidance about the appropriate use of the Public Land Zones (Crown Land, land vested in or owned by a Minister, government department, public authority or municipal Council, or land otherwise used for a public purpose). This PPN should be considered by Council in the future planning of public land.
PPN4	Writing a Municipal Strategic Statement	PPN4 was reviewed in June 2015 and provides guidelines for the compilation of the Municipal Strategic Statement (MSS). It is noted that there has been significant reform to the SPPF since January 2014 and these changes need to be reflected in the MSS. A key point taken from this PPN is to avoid including statistics that will change frequently in the MSS as they will quickly become outdated. These statistics are used in Mount Alexander's MSS, to show statistics of the economy and forecast population growth and the inclusion of these statistics should be reviewed.
PPN8	Writing a Local Planning Policy	PPN8 was reviewed in June 2015 and provides guidelines for the role of the Local Planning Policy Framework (LPPF) and how it should be structured and expressed. Council should review the structure of the LPPF having regard to PPN8 and the Ministerial Direction: The Form and Content of Planning Schemes.
PPN12	Applying the Flood Provisions in Planning Schemes	PPN12 was reviewed in June 2015 and provides guidance for applying flood provisions to the Planning Scheme. Council will work in conjunction with the relevant catchment management authority to provide revised flood mapping.
PPN13	Incorporated and Reference documents	PPN13 was reviewed in September 2018 and explains the role of external documents in planning schemes, and the differences between incorporated and reference documents. It also provides guidance on when a document should be either an incorporated or background document. Council should review the current list of incorporated and reference documents to ensure they are still relevant and have not become outdated.
PPN17	Urban Design Frameworks	PPN17 was reviewed in July 2015 and provides guidance for the preparation and use of Urban Design Frameworks in urban areas.
PPN18	Planning Considerations for Horticultural Structures	PPN18 was reviewed in April 2017 and provides guidance for Councils about the planning considerations related to horticultural structures to improve the quality of design and environmental outcomes.
PPN22	Using the Car Parking Provisions	PPN22 was reviewed in June 2015 and provides guidance about the use of car parking provisions in Clause 52.06 and how these rates are calculated.
PPN32	Review of Planning Schemes	PPN32 was reviewed in June 2015 and suggests a process for conducting and reporting a planning scheme review. This review is being conducted in line with the revised PPN32.

PPN No.	PPN Name	Summary
PPN37	Rural Residential Development	PPN37 was reviewed in June 2015 and provides guidance when planning for rural residential uses and development. Mount Alexander does not have a current Housing and Settlement Strategy (or equivalent), which would help to guide future rural development.
PPN43	Understanding Neighbourhood Character	PPN43 was released in January 2018 and defines what neighbourhood character is (and is not), and provides guidance for preparing or assessing a permit to meet the neighbourhood character objectives and standards. The Mount Alexander Planning Scheme relies on clauses 54 and 55 (ResCode) for the assessment of neighbourhood character, but does not capture what makes different residential areas throughout the municipality unique or special.
PPN63	Applying for a Planning Permit to Farm Chickens	PPN63 was reviewed in June 2015 and provides guidance on the preparation and assessment of use and development associated with farming chickens, including Environmental Managements Plan (EMP) and audit requirements. While this PPN is very specific, it raises potential conflict in reinforcing chicken farming as a preferred use in the Farming Zone.
PPN64	Local Planning for Bushfire Protection	PPN64 was reviewed in September 2015 and most notably provides guidance to assist Council in tailoring their Local Planning Policy framework to include response to bushfire matters. There has been significant reform to bushfire objectives and strategies in the SPPF through at least six (6) VC amendments since January 2014. It is imperative that local policy is provided where the relevant issues have not already been addressed under State and Regional policy in the PPF.
PPN70	Open Space Strategies	PPN70 was reviewed in June 2015 and provides guidance for the preparation of Open Space Strategies, why they are prepared and the potential inputs and outputs.
PPN83	Assessing External Noise Impacts for Apartments	PPN83 was reviewed in August 2017 and gives guidance for the application of Clause 55.07-6 (noise impacts) and Clause 58.04-3 (Noise impacts) in relations to apartment developments. While apartments are not necessarily a prevailing land use in Mount Alexander, the noise and amenity impacts between residential uses and commercial or industrial uses at sensitive interfaces is an ongoing consideration.
PPN84	Applying the minimum garden area requirement	PPN84 was reviewed in May 2018 gives guidance about the operation of minimum garden area requirement in the Neighbourhood Residential Zone and General Residential Zone.
PPN85	Applying the Commercial 3 Zone	PPN85 was published September 2018, to provide guidance on the application and operation of Commercial 3 Zone.
PPN86	Applying for a planning permit for a pig farm	PPN86 was published in September 2018, and provides guidance for applicants and responsible authorities about the preparation and assessment of planning permit applications for pig farms. As an area that has agricultural value, this PPN is relevant in decision making for applications for this use within Mount Alexander Shire.
PPN87	Preparing a planning permit application for animal production	PPN87 was published in September 2018, and provides guidance for applicants about preparing a planning permit application to use and develop land for animal production. As an area that has agricultural value, this PPN is relevant in decision making for applications for this use within Mount Alexander Shire.
PPN88	Planning considerations for existing residential	PPN88 was published in October 2018, and provides information and guidance about planning permit applications for development that may

PPN No.	PPN Name	Summary
	rooftop solar energy facilities	overshadow an existing residential rooftop solar energy facility and explains how an application will be assessed.
PPN89	Extractive industry and resources	PPN89 was published in February 2019, and provides information and guidance about the current extractive industry approval process and protective extractive operations and resources.

3.12 Ministerial Direction

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

The Form and Content of Planning Schemes

The Ministerial Direction for the form and content of planning schemes was gazetted under Section 7(5) of the Act and has been amended three times in the last year, most recently in October 2018 following the adoption of Amendment VC148 which significantly restructure the Victoria Planning Provisions (VPP). The Ministerial Direction gives twenty-six (26) directions regarding the correct format, layout and content required in all Victorian planning schemes.

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

Amendment VC141

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

3.13 State Planning Amendments

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

Since January 2014, there has been one (1) ‘V’ amendment and thirty-six (36) ‘VC’ amendments (relevant to Mount Alexander).



4.0 Local Policy Context

Council has undertaken more than 20 Local Amendments since the previous review and several strategic projects are currently underway. Significant reform to the local content of the Planning Scheme through these amendments was largely to implement the intent of strategic projects completed since the last review.

4.1 Council Plan

The Council Plan 2017-2021 sets out the strategic direction and priorities for Council and the community over a four-year period and should provide a core input into the review of the Mt Alexander Planning Scheme. Council is required to review its planning scheme within one year of the adoption of its Council Plan. The Council Plan identifies a number of strategic objectives and strategies, including:

Our people

- Socially connected, safe and inclusive communities
 - Support the building of social connections in each of our towns.
 - Recognise, support and celebrate our local indigenous culture past and present.
 - Implement initiatives to change the behaviours and attitudes that contribute to family violence in our community.
- Local services that support the needs of our community
 - Improve access to mental health services for our community.
 - Encourage and support health providers to meet the needs of our community.
 - Facilitate an accessible range of services for all including children, young people and families.
- Improved health and wellbeing
 - Improve health through use of our public spaces and trails.
 - Implement strategies to support changes to the Aged and Disability reforms (including National Disability Insurance Scheme).
 - Build the capacity of our community to manage the impact of climate change and changing weather patterns.
 - Provide and promote a safe, healthy and engaging environment for volunteers.
- A welcoming place for all
 - Encourage and support innovative housing solutions that meet the needs of our community.
 - Partner with service providers to support improved social and health outcomes for indigenous and Culturally and Linguistically Diverse (CALD) communities.
 - Build community resilience by working together with the community and key stakeholders to prevent, prepare, respond and recover from emergencies and manage risk.
 - Implement initiatives to create acceptance of diversity.

Our place

- Well managed assets for now and into the future
 - Improve streetscapes and town entrances.
 - Review, maintain, renew and expand the assets of our community.
 - Encourage and invest in multi-use facilities.
 - Improve access to a range of convenient, safe, accessible and sustainable travel choices.
- A clean and green community

- Protect and enhance the natural environment.
- Reduce carbon emissions and manage impact of climate change.
- Ensure effective waste management and resource recovery.
- Well planned for growth
 - Ensure there is sufficient residential land and protect commercial, farming and industrial land.
 - Manage and protect our heritage.
 - Manage and protect our indigenous heritage.

Our economy

- A creative and innovative economy
 - Support business growth and local employment.
 - Help to grow tourism to the shire.
 - Support and promote the cultural and artistic communities.
- Great opportunities for education and technology
 - Support and advocate for high quality education for people of all ages.
 - Our community has access to high quality technology.
- An innovative and sustainable organisation
 - Facilitate and support a transparent and innovative culture.
 - Maintain financial sustainability to deliver the Council Plan
 - Advocate and identify government funding opportunities
 - Community engagement strategies and methods are accessible to all community members.

The strategic objectives and strategies should be reflected throughout the Municipal Strategic Statement (MSS). The current MSS refers to the vision of the previous Council Plan 2013-2017 in Clause 21.02 (Vision and Framework Plan), and the remainder of the MSS is also based on the objectives and strategies from the previous Council Plan. While it is not expected that there has been a significant shift in Council's vision and strategic focus since the last review, it is important to ensure the Council Plan 2017-2021 is accurately reflected in the MSS.

The current MSS does not reflect the content or strategic directions within the Council Plan, and this should be addressed in a future planning scheme amendment, possibly as part of the transition to the new, integrated PPF.

4.2 Diamond Gully Structure Plan

The Diamond Gully Structure Plan (DGSP) covers approximately 182ha of land in the southwestern edge of Castlemaine and guides development in the primary urban growth area of the municipality. It consists of a vision for the area and a plan which identifies environmental conservation areas, access and movement areas and use and development designations. Environmental constraints, land use risk areas, access and linkages and land use and development precincts are also considered.

Amendment C56 rezones land and applies an ESO to implement the DGSP. The Amendment was subject to review by Panel, and the Panel Report made several detailed recommendations which resulted in the application of the ESO (rather than an EAO).

Amendment C85 further implemented the DGSP by rezoning land in the Southern Greenfields Precinct, as designated by the Plan, from Rural Land Zone and Township Zone to General Residential Zone, and applying the newly-created Schedule 11 to the Development Plan Overlay to the land.

4.3 Forest Street to Forest Creek Heritage Assessment Report

Forest Creek to Forest Street in Castlemaine is a post-industrial urban landscape of leftover structures and abandoned spaces which comprises 36 primary buildings and associated outbuildings. This report analysed the urbanisation of Forest Creek and its role in Castlemaine, describing how the human-nature relations have changed or remained constant over time while providing an explanation of the themes and activities that have been important in shaping Forest Creek. The report makes recommendations that identify heritage places of cultural significance to be protected by planning management and heritage controls through an amendment to the Planning Scheme.

Amendment C60 has since implemented the intent of the report via the Schedule to the Heritage Overlay. The associated Panel Report recommended further work be undertaken to protect heritage values in Castlemaine.

4.4 Public Open Space Strategy

This Strategy provides a strategic vision and policy directions to guide the future planning, provision, and management of open space across the entire Shire over the next 15 years (2016-2031). It considers existing open space, population and participation changes, open space management and consultation feedback. A key finding of the report is that open space is dominated by waterways throughout the municipality.

Recommendations were made for more open space in the municipality, and further strategic work in the development of masterplans and asset management plans was recommended. Specific growth areas were identified for additional open space. At this stage, no local amendment has incorporated this strategy into the Planning Scheme as a reference document.

4.5 Thematic Heritage Study (Volumes 1 & 2)

This study provides a basis for the selection and assessment of the culturally significant places, objects, and events in the Shire in a mostly post-contact historical context. It culminates in a Statement of Significance and makes recommendations for further investigation of places that have potential for significance. The study makes several further recommendations, including:

- Undertake a review of the places included in the early Castlemaine and Maldon studies and prepare citations;
- Review the schedule to identify individual places (particularly farms) with additional significant or contributory elements such as outbuildings, trees/gardens, fences and drystone walls, and update the schedule accordingly;
- Review the schedule to identify precinct listings with additional significant or contributory components including items such as plantings, outbuildings and fences, and update the schedule accordingly;
- Review the naming of sites where limited identifying detail is provided. For example, list under the original occupant's name, the type (e.g. 'Miner's Cottage'), construction materials (timber, stone etc.), or the period of construction (19th century/Victorian, Federation period etc.);
- Identify areas where there are major gaps in the listing of heritage places, and commission gap heritage studies as required; and
- Investigate the north-east corner of the Shire for potential heritage places (HO maps 8 and 9).

The study has not yet been incorporated into the Planning Scheme.

4.6 Domestic Wastewater Management Action Plan

This action plan documents Council's approach to protect public health, the environment, and local amenity from the risks posed by domestic wastewater. It outlines a new, risk-based approach to water management. All seweraged and unseweraged townships in the Shire are classified as Risk rating 2 (Moderate), except for Baringhup, which is classified as Risk rating 1 (Low). Full reticulated sewerage is to be investigated in the Newstead, Campbells Creek, and Maldon Townships.

The intent of this action plan is yet to be incorporated into the Planning Scheme.

4.7 Local Planning Amendments

There has been a total of 26 local planning amendments since the previous planning scheme review (2014). This includes 21 'C' Amendments, which apply only to the Mount Alexander Planning Scheme and five (5) 'GC' Amendments which apply to a group of Councils including Mount Alexander.

The extent of Local Amendments is limited in comparison to the number of recommendations for further strategic work identified in Council's Municipal Strategic Statement (MSS) and in the previous Review of the Mount Alexander Planning Scheme Final Report, undertaken by Centrum Town Planning in June 2014.



CASTLEMAINE

5.0 Panel Reports

There have been seven (7) Panel Reports associated with local planning amendments. The majority of these applied to individual sites or relatively small areas of land, and in many cases the Panel did not make significant recommendations to change the proposal or for Council to undertake further strategic work. Issues that arose from consideration of these Panel Reports are discussed below.

5.1 Revision of the LPPF

Amendment C61 implemented the findings and intent of the previous Planning Scheme Review in 2014. While this amendment made policy-neutral changes to the MSS and LPP, the associated Panel Report noted there was a need to further refine these sections to improve readability, clarity and navigability in accordance with PPN4 (Writing a Municipal Strategic Statement) and PPN8 (Writing a Local Planning Policy).

The Panel also noted that, in general, the current MSS is based on dated strategic work, and that further strategic work should be undertaken especially regarding local areas (Clause 21.12), new residential areas and urban design guidelines. Further strategic work listed in the MSS (particularly in relation to Castlemaine) should also be consolidated.

5.2 Bushfire Risk in Rural Residential Development

Amendment C36 related to the rezoning of approximately 125 hectares of land near Maldon be rezoned from the Farming Zone (FZ) to the Rural Living Zone (RLZ) to facilitate a rural living development with a minimum lot size provision of 1 hectare.

A planning panel and a standing advisory committee recommended that the amendment be adopted subject to changes, however the Minister exercised his discretion and refused the amendment as the risk to human life by the presence of the bushfire hazard was deemed too great to justify development.

5.3 Recommendations

- Amend the MSS and LPP in accordance with PPN4 and PPN8 respectively to improve clarity
- Consolidate the list(s) of further strategic work throughout the MSS, particularly in relation to Castlemaine
- Undertake further (or review) strategic work where the existing strategic work is outdated
- Ensure any further strategic work considers bushfire hazard.



6.0 VCAT Decisions

The previous Planning Scheme Review in Mount Alexander was completed in 2014. Sixteen (16) VCAT cases have been provided for consideration as part of the Mount Alexander Planning Scheme Review, along with an additional case containing six (6) separate hearings.

Eight (8) of these cases were to review Council's refusal to grant a permit pursuant to Section 77 of the Planning and Environment Act 1987. The Tribunal affirmed Council's decision not to grant a permit in six (6) of these cases (75%) and otherwise set aside Council's decision and issued a permit subject to conditions (25%).

Five (5) cases were to review Council's decision to grant a permit (generally through objector appeal) pursuant to Section 82 of the Act. The Tribunal affirmed Council's decision and the permit was granted in two (2) of these cases (40%); varied Council's decision and a permit was issued with amended conditions in one (1) case (20%) and otherwise set aside Council's decision and no permit was granted (40%).

Two (2) cases were to review the conditions contained in the permit pursuant to Section 80 of the Act. The Tribunal varied Council's decision in both cases (100%) and a permit was granted with amended conditions.

One (1) case was to review the failure to grant a permit within the prescribed time pursuant to Section 79 of the Act. The parties reached a settlement pursuant to Section 93 of the Act following a compulsory conference and in consideration of a revised set of permit conditions. The permit conditions were refined during the scheduled VCAT hearing until they were found generally acceptable to VCAT.

At least six (6) hearings occurred from 2015 – 2016 involving the ongoing case of Vukadinovic v Mt Alexander SC, including a preliminary hearing, red dot decision and two practice day hearings. The matter was then appealed to the Supreme Court and has since settled on the side of the community, with all outstanding permit applications cancelled by the ruling of VCAT.

Given the limited number of cases over this time period, it is difficult to qualify emerging trends from a review of these cases. They do, however, provide insight into some of the key issues identified by Council to form part of the Planning Scheme Review, discussed in this chapter. The overall themes drawn from the VCAT cases from this review period are summarised below.

6.1 Rural Development and Subdivision

Twelve out of seventeen of the VCAT cases analysed between 2014 to 2018 related to rural development and subdivision. This could be due to the related provisions and local policy being convoluted and difficult to understand.

It is worth noting that three VCAT cases refer to the map (Figure 6) in Clause 21.06-1 from the Mount Alexander Rural Land Study (2014) as a main reason why the applicant has taken their application to VCAT. This map shows Agricultural Land Quality throughout the shire, ranking areas from Class 3 (Moderate) to Class 5 (very low). Although there is a note that states the map is a strategic level indicator of agricultural land quality and does not cover individual property levels, the map is referred to frequently as a reason why development or subdivision can take place in an area such as the Farming Zone, with the argument that the FZ aims to protect productive agricultural land. This map could be misleading, as areas with low or very low agricultural quality, are only in comparison to Mount Alexander Shire, and not across the region or state.

6.2 Assessment of Applications

Several VCAT Cases in the current review period were in relation to the same application and included a Red Dot Decision (Vukadinovic v Mt Alexander SC (No 3) (Includes Summary) (Red Dot) [2015] VCAT 1164). The application was for three (3) broiler farms, each containing 400,000 birds. The Victorian Code for Broiler Farms (2009) provides for separation distances between broiler farms and existing or potential sensitive uses (including dwellings) in order to avoid adverse amenity impacts.

It is noted during the hearings for this development that, at the time the planning permit application was lodged, the broiler farms were designed and located with these separation distances and the need to avoid adverse amenity impacts in mind. Council refused the proposal and the applicant appealed this decision under Section 77 of the Act.

At the hearing, a preliminary issue was raised that a prefab-style house had been erected on a neighbouring property and within the separation distance of the proposed broiler farms.

The Red Dot Decision (*Vukadinovic v Mt Alexander SC (No 3) (Includes Summary) (Red Dot) [2015] VCAT 1164*) determined that the separation distance should be measured at the time of application, not at the time of decision, and therefore the new dwelling within the separation distance does not need to be considered. This decision was appealed to the Supreme Court (*Forbes & Ors v Vukadinovic & Ors [2018] VSCA 138*) which determined that all considerations should be made at the time of decision, not the time of application, and therefore the new dwelling does need to be considered. It was determined in May 2019, that VCAT has ruled to cancel the remaining permit applications by the proponent.

6.3 Recommendations

- Review Schedule to the Heritage Overlay and mapping to ensure consistency (especially HO444, HO445 and HO319) (*Lang v Mount Alexander CS [2018] VCAT 1493*).
- Review the relationship between preferred land uses in the Farming Zone and the map in Clause 21.06-1 that identifies areas of 'very low quality agricultural land', as this may be used as justification for incompatible or otherwise contentious land uses (*Noonan v Mount Alexander SC [2017] VCAT 412*; *Russell Smith Town Planning Services v Mount Alexander SC [2018] VCAT 58*).
- Review inconsistencies between the definition of 'Camping and Caravan Parks' in the Residential Tenancies Act 1997 and the Mount Alexander Planning Scheme (*Gardner v Mount Alexander SC [2017] VCAT 258*).
- Clarify local policy objectives for large scale events supported by tourism policy, but not supported by farming / agricultural policy (*Tisdall v Mount Alexander SC [2017] VCAT 267*).



7.0 Consultation

Consultation for this project has comprised an internal workshop with Council Officers on 26 February to determine and refine the key issues, and targeted consultation with State Government agencies and frequent users of the Mount Alexander Planning Scheme. During the consultation period, three (3) submissions were received.

This consultation was key in identifying inefficiencies and gaps in current policy and has been included in the audit of the Planning Scheme. Themes from the feedback of Council officers and stakeholders are summarised below.

7.1 Clear Strategic Direction

Different land uses within the municipality require a clear strategic direction to ensure that there is less confusion for applicants and residents, including updating many local strategic documents which are now out of date. Council is in the process of developing individual framework plans for specific areas that need clear direction.

- MSS and LPP: The Panel Report associated with Amendment C61 (which implemented the intent of the previous Planning Scheme Review) generally identifies that Council's Municipal Strategic Statement (MSS) is based on dated strategic work (including the Council Plan), and further work should be undertaken for the local areas of Mount Alexander (Clause 21.12), especially regarding new residential areas and urban design guidelines.
- Demographics & Residential Demand
 - There is an ongoing trend of people migrating from the city to the municipality, and some areas are experiencing housing affordability issues.
 - Council does not receive many medium density housing applications and lacks policy to guide its development.
- Urban Growth Strategy: An urban growth strategy commenced in 2015 but has been put on hold. Council is planning to provide a further update in 2019/2020 on how settlement planning is to be undertaken over the next few years.

In the absence of a new, adopted Urban Growth Strategy, the 2004 Urban Living Strategy is providing the strategic direction for settlement within the municipality.

- Housing Strategy: Council currently does not have an adopted housing strategy or any analysis of housing need within the municipality, nor any strategic basis for the types and locations for new dwellings.
- Economic Development:
 - Council's Economic Development Strategy expired in 2016. There are no plans to update this. The Council Plan is now regarded as an overarching economic development strategy for the Shire.
 - The industrial land supply is limited, and Council does not have an Industrial Land Strategy or Study to determine if more is needed, although there are Industrial Land Design Guidelines which focus on built form and appearance.
 - There is no retail analysis or strategy for the municipality.
 - There are two high quality areas of agricultural land at either end of the municipality, with much of the land in the 'middle' degraded through past gold mining activities. Horticultural land uses in Harcourt may require additional protections through the use of buffer zones.
- Vegetation Protection: In general, the ESO in Mount Alexander is not applied to protect significant vegetation for flora and fauna, and there is no underlying environmental study which would strategically justify its application in this way. In effect, Clause 52.17 is the default environment protection for significant native vegetation under the Mount Alexander Planning Scheme.
- Character and Design: There is little guidance within the planning scheme about preferred future character and design across the municipality.

7.2 Heritage Investigation and Reform

The intent of Heritage in Mount Alexander Shire is unclear, both within the community and the Planning Scheme. Council's Heritage Strategy has expired, and there is some confusion around there being two different heritage policies in the Local Planning Policy Framework in the Planning Scheme.

- **Strategy:** Council's current Heritage Strategy has expired. The Thematic Environmental History is complete, and some of the actions within that document should be given effect, with the document itself to become a reference document within the Scheme.
- **Policy:** There are two heritage policies currently within the Mt Alexander Planning Scheme, Clause 22.01 'Heritage' and Clause 22.02 'Maldon'. Council is of the position that Clause 22.01 is the better Clause in which to incorporate all heritage matters, combining both policies. This Clause should also include reference to the Thematic Environmental History.
- **Community groups:** There are a number of highly active heritage groups within the municipality. There is no longer a heritage advisory committee. There is a Registered Aboriginal Party (RAP) for the local area, the Dja Dja Wurrung Clans Aboriginal Corporation (DDWCAC). There is ongoing engagement with the Maldon heritage community groups about future heritage protection and strategic work.
- **Heritage Overlay:** There are range of issues with the schedule to the Heritage Overlay, but the principal one concerns mapping of sites (GIS issues), with the HO applied to the wrong places. The inconsistencies between the Schedule to the Heritage Overlay and Heritage Overlay mapping are also noted in a number of VCAT cases.
- **Maldon:** Maldon is a nationally heritage-listed township. There is a need for a modern, new heritage study for the township as a necessary step in managing its growth. Current heritage studies date as far back as the 1970s. Council officers are maintaining a list of sites in Maldon and other areas where the Heritage Overlay requires a review. In addition, the application of the Maldon heritage policy (Clause 22.02) is problematic, and open to interpretation, as it applies to a specified area (... *the township of Maldon as defined on Plan 4: Maldon Framework Plan*), yet its application could potentially be wider.
- **Castlemaine:** This is another township with a special character defined by its heritage buildings. There is an existing heritage study, dating from some time ago, with the standard of citations varying greatly. There may be a need for an urban character study, which in combination with an updated heritage study could provide a comprehensive built form framework for the town.

7.3 Responding to State Planning Policy Reform

There have been significant changes in State Planning Policy reform since the last planning scheme review was completed in 2010. The Mount Alexander Planning Scheme needs to be updated to reflect new structures and policies. Specifically, this means the inclusion of VicSmart and new bushfire and vegetation policies.

- **VicSmart:** Council is receiving applications which lack the information required under the VicSmart provisions. This may be due in part to VicSmart being a relatively new process. Council should aim to provide applicants with more materials and advice regarding the VicSmart process.
- **Bushfire and Vegetation Protection:** Council officers highlighted the series of amendments to the planning scheme initiated by the Victorian Government concerning protection from bushfire. Discussion highlighted the impact of these amendments on vegetation protection. There are several areas throughout the municipality where the application of BMO and bushfire provisions is likely to render some existing (vacant) properties difficult to develop.
 - **Bushfire Risk:** The Panel Report associated with Amendment C36 sought to rezone 125 hectares of land in the Farming Zone to the Rural Living Zone near Maldon, with a minimum lot size of 1 hectare. A planning panel and a standing advisory committee recommended that the amendment be adopted subject to changes, however the Minister exercised his discretion and refused the amendment as the risk to human life by the presence of the bushfire hazard was deemed too great to justify development.

7.4 Growth Area Planning

Strategic and statutory provisions that apply in growth areas have changes and these will need to be reviewed to achieve the correct vision for these areas within the municipality. For example, the possible incorrect use of the DPO in Taradale and Happy Valley.

- **Settlement and Growth:**
 - A current urban character study is needed to facilitate infill development through greater guidance regarding preferred built form in townships.

- Growth (predominantly residential) is occurring in Castlemaine, Mackenzie Hill, Campbells Creek, Harcourt and Newstead.
 - Harcourt has been flagged for the reopening of the train service, which is a significant piece of infrastructure that will influence the growth of the town.
 - The old Urban Living Strategy has flagged Taradale and Elphinstone as potential areas for residential growth and there are zones and overlays to support this outcome. However, there is a contradiction between this strategic direction and the lack of infrastructure in these townships (particularly reticulated sewerage).
- **DPO2 (Taradale):** The manner in which the DPO has been applied in Taradale (and other areas) may not be achieving its intended purpose and creating redundant planning provisions. In part, the purpose of the DPO is to require the preparation of a development plan to coordinate the development of an area designated for growth, typically following rezoning, particularly across multiple properties.

At present, each individual application for subdivision received by Council requires the preparation of a development plan for that application. Consequently, Council has received a high volume of individual development plans which may or may not be consistent. The example in Taradale points to a potentially larger issue with the application of the DPO through the municipality, which may effectively be a redundant provision requiring unnecessary small-scale strategic work and assessment.

- **Equitable funding of infrastructure:** There are currently no Development Contribution Plans in the Mt Alexander Planning Scheme. As a longer-term objective Council hopes to develop DCPs, particularly in Harcourt and other areas designated for growth.
- **Happy Valley:** There is an area of LDRZ land between Castlemaine and Chewton, which has a range of issues related to bushfire, significant flora and fauna, access, and servicing. Clause 22.08 addresses the development of this area. The DPO that applies to this area is confusing; some of the outcomes specified don't seem to be supported by strategic investigations. This is also another area where Council is approving individual development plans.
- **Chewton:** Whole sections of Chewton are not covered by local policy, possibly as a consequence of Amendment C61, which restructured the Mt Alexander Planning Scheme. Previously there had been a local policy at Clause 22, which has not been translated into the new Clause 21.12 'Local Areas' policy. Consequently, an Urban Design Framework (circa 2005) has not been translated into local policy and is not being given effect.

7.5 Specific Statutory Reforms

This includes changes to the local policy in accordance with Planning Practice Notes and changes and additions to specific zones and overlays, such as text changes or the additions of schedules.

- **Local policy:** The MSS and Local Planning Policies (LPPs) are generally not adequately consistent with Planning Practice Note 4: Writing a Municipal Strategic Statement (PPN4) and Planning Practice Note 8: Writing a Local Planning Policy (PPN8), and policy-neutral changes may be required to improve the readability, clarity and navigability.
- **ESQ2:** The schedule is meant to say that a permit is not required; but isn't worded correctly. Under 3.0, a sentence needs to be separated with an extra dot point:

"A permit is not required for:

- *routine maintenance works on land managed by Department of Environment and Primary Industries."*

Instead should read instead as:

"A permit is not required for any of the following:

- *Routine maintenance works on land managed by Department of Environment and Primary Industries.*
- *A pergola, verandah, patio, carport or decking associated with an existing dwelling.*
- *Buildings and works to construct an outbuilding associated with an existing dwelling on the land or for the use of agriculture provided:*
 - *(etc)"*

- **Substandard lots:** There are a number of potentially inappropriate subdivisions throughout the municipality, which have been created through historic circumstances. Development of these lots for dwellings could be of concern due to bushfire safety, wastewater disposal and/or vegetation removal. A cluster of small parcels of land in Yapeen within the Township Zone was given as a priority example, as it is a matter of time before someone tries to sell them off. This may be a broader issue across the municipality.
- **Dwellings on rural land:** Greater guidance is needed to mitigate residential and urban activities in rural areas. The planning scheme currently discourages it, but this could be stronger in Clause 22.04.
- **Rural Living Zone Schedule:** The RLZ applies to four (4) different areas throughout the municipality, each with a different minimum subdivision size (ranging from 1ha to 4ha). There is only a single schedule to the RLZ in the Mt Alexander Planning Scheme, which then includes reference to hand-drawn maps later in the schedule, none of which denote nearby roads or locations. Consequently, the boundaries for these locations are difficult to identify, and members of the public are often unable to determine which area they are located in and which minimum subdivision area applies to their property.

In other municipalities, differing minimum subdivision sizes would be applied by creating multiple schedules to each zone (say RLZ1, RLZ2, RLZ3 and RLZ4). Each of these schedules are then demarcated clearly in the planning scheme maps, making it easier for members of the public to locate their property and determine the applicable subdivision and other requirements pertaining to their property.

In addition, there are some inconsistencies in minimum subdivision policy. The Diamond Gully Structure Plan notes an area where the minimum subdivision area is 2ha, but the schedule to the RLZ allows subdivision down to 1ha.

- **Open Space Contribution:** There is no content included in the schedule to Clause 53.01 'Public Open Space Contribution and Subdivision'. Council has the strategic basis to vary the schedule and specify a rate, as its Open Space Strategy was adopted in the last 3 years. There are some VCAT decisions about the issue of application of different rates of provision for different areas, and more strategic justification may be needed to effectively implement this.
- **Protection of Water Catchments:** In some areas the ESO has been applied for the protection of water catchments. Goulburn Murray Water would like to see this expanded to all potable water catchments.
- **Setbacks in ESO5:** In the ESO5, a permit is required for any development within 200 metres of a centre point of a watercourse. But the extent (mapping) of the Overlay only extends 5 to 10 metres from the watercourse. Consequently, as currently mapped, this wording in the ESO5 is redundant.
- **Vegetation Protection:** In general, the ESO in Mt Alexander is not applied to protect significant vegetation for flora and fauna, and there is no underlying environmental study which would strategically justify its application in this way. In effect, Clause 52.17 is the default environment protection for significant native vegetation under the Mt Alexander Planning Scheme.
- **Domestic Wastewater:** Council has now adopted a Domestic Waste Water Plan, which has implications (particularly for Taradale) and should be translated into the planning scheme. Its preparation is also flagged as potential future work (Clause 21.06-3) and this reference should be removed.
- **Erosion Management Overlay:** There a number of areas within the municipality where the only trigger for a planning permit is the EMO, the objective of which is *"to protect areas prone to erosion, landslip or other land degradation processes, by minimising land disturbance and inappropriate development"*. A permit is required for any buildings or works, unless otherwise specified within the schedule to the zone. This Overlay may be unnecessarily triggering applications which are relatively minor and creating redundancies. The strategic basis for the application of the EMO may have been the Rural Land Study, but it is unclear the extent to which this study investigated the erosion and landslip risks within the municipality.

7.6 Separation Distances

Further strategic work is needed to properly establish separation distances for industry, residential and agricultural uses, and should be implemented through the planning scheme.

- **Residential and agricultural uses:** One submission was received from a member of Council staff regarding the interface of agricultural and residential uses. It notes that Council has received a number of noise and/or dust complaints from residents of the Farming Zone and suggests that greater separation distances should be

implemented between smaller lifestyle lots and agricultural/horticultural uses. This submission also noted that the Township Zone in Yapeen does not trigger development contributions and may require more provisions to ensure sustainable development.

- **Industry:** A submission was made by the Environmental Protection Authority (EPA) Victoria regarding separation distances (buffer zones) from sensitive sites, including:
 - Animal industry
 - Extractive resource sites
 - Contaminated land
 - Materials recycling
 - Landfills

The EPA suggests that Clause 21.05 (Environmental Risk) be strengthened to better consider buffer zones, and the relevant EPA guidelines be included as a reference document. Council must consider the various guidelines on separation distances from the aforementioned uses and should apply the 'agent of change' principle to proponents seeking to reduce separation distances.

The EPA identifies three industry sites in the Shire as licensed sites which require consideration in regards to this issue. An additional site was identified as containing contaminated soil and undergoing clean-up and ongoing management.

7.7 Other Issues

- **ESO notice requirements:** Statutory planners wish to remove or modify the notice requirements under the ESO so that third parties don't have to be notified about applications, which are essentially concerned with protecting waterways. This would require changes to the ESO header provisions (State Government).
- **Flooding:** A submission was made by the North Central Catchment Management Authority (NCCMA) regarding flood management in the Shire. The NCCMA recommends that the updated Regional Floodplain Management Strategy (2018-2028) be included as a reference document at Clause 21.05-2 (Floodplains). The NCCMA is currently undertaking rapid flood risk mapping for townships in the Shire and will seek to incorporate these into the Scheme as was done with the Castlemaine, Campbells Creek, and Chewton Flood Management Plan.

In addition, the authority suggests that there is currently a lack of flood-related overlays in the Shire and that the mapping for Schedule 5 of the Environmental Significance Overlay is not consistent with the Schedule provisions.

- **Solar Panels:** An exemption in the Mt Alexander Planning Scheme could be created for solar panels visible from roads, as Council almost always approves their installation.
- **Uses in the Farming Zone:** Several VCAT cases relate to requests for dwellings within the Farming Zone on small lots (defined as being less than 40 hectares). These do not comply with state and local policy that encourage agricultural uses and consolidation of smaller lots and are generally not supported by VCAT.
- **Agricultural Land Map:** The Agricultural Land Quality Units Map at Clause 21.06 (Natural Resource Management) is often interpreted by applicants as potential grounds for the development of alternative uses in the Farming Zone where the agricultural quality of the land is low or very low, on the basis that it is not necessarily appropriate for agricultural uses.



VACANCY
* 0403316606

ACCOMMODATION
Self-catered
Reasonable
Rates
Eat in shop

BEEHIVE
OLD WARES
&
COLLECTABLES
OPEN

DANBRO
BEEHIVE
OLD WARES
&
COLLECTABLES

ACCOUNTING

8.0 Planning Policy Framework

8.1 Integrated Planning Policy Framework

Following Amendment VC148, the former State Planning Policy Framework (SPPF) has been restructured into the integrated Planning Policy Framework (PPF). In time, DELWP will assist Council's in transitioning the Local Planning Policy Framework (LPPF) which includes the Municipal Strategic Statement (MSS) and Local Planning Policies (LPP) into the Municipal Planning Strategy (MPS) and PPF.

8.2 Municipal Strategic Statement

The format of the current MSS under the LPPF will require restructuring to form the Municipal Planning Strategy (MPS) and the local content to the integrated Planning Policy Framework following the implementation of Amendment VC148.

The Ministerial Direction for the Form and Content of Planning Schemes was updated in October 2018 following Amendment VC148. This document sets out the maximum word count (not including maps) for the MPS at 5,000 words and provides the formatting for local content to the integrated PPF. The process of introducing the MPS and reformatting the LPPF into the integrated PPF is set out in Planning Advisory Note 71 (Amendment VC148), which notes:

- Local content has not yet been introduced to the PPF;
- DELWP will work closely with local councils on the future integration of the LPPF into the integrated PPF;
- The MPS will be a succinct expression of the overarching strategic policy directions of a municipality, comparable to a condensed version of the current MSS in most planning schemes; and
- DELWP will provide further information and assistance in due course.

A Practitioner's Guide to Victorian Planning Schemes notes that while planning schemes are in transition to the integrated PPF, any changes to the existing MSS should follow the advice in Planning Practice Note 4 (PPN4): Writing a Municipal Strategic Statement. This was further emphasised in feedback from the Panel in the Panel Report to Amendment C61, which made changes to the Planning Scheme based on the two previous planning scheme reviews. The Panel recommended that further consideration to simplify the MSS in accordance with PPN4 needed to be made. This section provides an overview.

8.2.1 Overview of the Mount Alexander Shire

It is possible that Clause 21.02 (Vision and Framework Plan) will be the starting point for developing Council's Municipal Planning Strategy as part of the future Planning Policy Framework.

This Clause is relatively concise, having approximately 750 words, and considers the major themes of the Shire. There are a number of specific references to statistics, forecasts and documents that are now outdated, and should either be updated to reflect current information available at the time of amendment, or written in such a way to avoid the need to refer to statistics, forecasts and documents that are likely to change.

8.2.2 Vision and Framework Plan

Clause 21.02 is structured differently from other MSS Clauses, and is an overall vision for the Shire. The four goals are:

- *A vibrant healthy community*
- *Better community facilities*
- *A thriving local economy*
- *Building sustainable communities*

This Clause does not have a corresponding state policy Clause in the PPF, and the only strategic document referenced by Clause 21.02 is the MASC Council Plan 2013-2017, which has now been superseded by the 2017-2021 Council Plan. Consequently, the content does not reflect the current vision of Council from the 2017-2021 Council Plan.

The form and content of the Clause are consistent with the recommendations in the Ministerial Direction; the Clause contains a vision statement and a framework plan which depicts the 'big picture'. This is supported by strategic statements which identify the current role and classification of each settlement.

During this review period, two VCAT cases that were somewhat relevant to Clause 21.02 (Vision and Framework Plan) took place. In both of these, Clause 21.02 was ancillary to the main issues in the case.

Feedback from Council officers did not note any additional issues at this Clause. Amendment C61 updated this Clause to reflect newer policy, but this is no longer current. Clause 21.02 would benefit from a new or revised vision, given that it is currently based in an outdated Council Plan.

8.2.3 Settlement

Clause 21.03 (Settlement) of the MSS is based on a large suite of strategic work that is potentially outdated and requires review. It is understood that Council is undertaking further strategic work regarding housing and settlement, which is essential in updating the context of the MSS.

Council officers discussed the many interrelated issues to settlement in the municipality that will need to be addressed as part strategic work relating to housing and settlement, or town-based plans. Based on issues raised by Council officers, this strategic work should include discussion and policy guidance for affordable housing, short-term accommodation, ageing-in-place, areas where growth is supported by existing infrastructure and where investment should be made into improving infrastructure.

Newstead is continuing to experience growth and change, and without a Structure Plan or Urban Design Framework, there is potential for this growth to be somewhat ad-hoc. It is recommended that Council continue to pursue this piece of strategic work. In a similar vein, the Planning Scheme lacks guidance on Neighbourhood Character, which is especially important in urban areas. The existing and ongoing strategy to protect areas of heritage throughout the municipality are a related and important element, but it is recommended that Council continue to pursue strategic work that will provide more neighbourhood character guidance.

8.2.4 Environmental and Landscape Values

This clause provides local content to support Clause 12 (Environmental and Landscape Values) of the PPF. A number of strategies and plans are cited throughout the Clause as reference documents. The Mount Alexander Shire Council Rural Land Study is the only reference document cited in this Clause that has been implemented in the current review period. The majority of the reference documents are outdated and should be considered for review.

The content of Clause 21.04 (Environmental and Landscape Values) is generally consistent with the PPF, however contains content that could be further simplified. This is particularly relevant regarding the summary of Clause 21.04-1 (Biodiversity), and the wording of the strategies for Clauses 21.04-1, 21.04-2 and 21.04-3.

Clause 21.04 appears to have been mostly effective, where the VCAT cases that relate to this clause are more relevant to use of land in rural or farming Zones or other issues suggesting issues arising from other Clauses. Clause 21.04 (Environmental and Landscape Values) would generally benefit from new or revised strategic work, given the older and potentially outdated nature of many reference documents.

The previous Planning Scheme Review 2014 contained a number of recommendations for further strategic work which are not yet completed or underway, including:

- Implementation of the new Environment Strategy 2015-2025
- Prepare a Scenic Landscapes Strategy
- Prepare a local planning policy on 'environmental sustainability' to address energy, waste and water efficiency issues.

The Environment Strategy has been revised and updated for the 2015-2025 period, the MSS should be updated to reflect the intent this document.

In *Adams v Mount Alexander SC* [2015] VCAT 1882, the Tribunal affirmed Council's decision which was based partly on achieving the objectives of the SLO. It was noted that it is not clear which landscapes / views or other elements were significant and therefore required protection. It may be beneficial to review the SLO provisions to ensure the significant elements are described in a way that will give applicants more certainty. Although this VCAT case was more focused on the SLO, the preparation of a Scenic Landscapes Strategy could provide clarity as to which landscapes and views are significant, and it is recommended that Council continue to pursue this action.

The Mount Alexander Planning Scheme still lacks clear local guidance for environmental sustainability. There has not been significant planning permit and VCAT activity to suggest that this is a significant issue, and it has not been raised during consultation. Despite this, it is recommended that Council proactively implement policy regarding sustainability and mitigation of the potential impacts of climate change.

8.2.5 Environmental Risks

This Clause provides local content to support Clauses 13 (Environmental Risks) of the PPF. A number of strategies and plans are cited throughout the Clause as reference documents. The Mount Alexander Shire Council Rural Land Study (2014) and the Castlemaine, Campbells Creek and Chewton Flood Management Plan (2015) are the only reference documents cited in this Clause that have been implemented in the current review period. The majority of these documents may be outdated and should be considered for review.

The content of Clause 21.05 (Environmental Risks) is generally consistent with the PPF.

All objectives are localised and do not contain any repetition relating to Clause 13 (Environmental Risks).

Clause 21.05 (Environmental Risks) would generally benefit from new or revised content, given the older and potentially outdated nature of many reference documents, and the inclusion of any relevant recent local policy. It should also be updated to reflect the most recent Council Plan actions and objectives as well as other local environmental policies.

There is little evidence of this policy being ineffective in recent VCAT cases, and while there are 3 cases since the last review period that are related to this schedule, it is not usually the subject of the case and is only ancillary in decision making.

The previous Planning Scheme Review 2014 contained a number of recommendations for further strategic work which are not yet completed or underway, including:

- Request advice from DEPI and NCCMA about whether the reference documents in the MSS should be retained or removed.
- Monitor native vegetation cover and habitat quality in the Shire through regular updates to the Environment Strategy 2015-2025.
- Update overlay provisions for Newstead and Baringhup, in conjunction with the NCCMA.
- Prepare a Land Management Study to investigate salinity and erosion management issues.

Feedback from the Panel on Amendment C61 highlighted that there was a need for Council to refine and consolidate these Clauses, therefore it is recommended that Council seek advice from DELWP (formerly DEPI) and NCCMA as to which reference documents may no longer be required.

The Environment Strategy has been revised and updated for the 2015-2025 period; the MSS should be updated to reflect the intent this document.

Amendment C82 implemented the findings of the Castlemaine, Campbells Creek and Chewton Flood Management Plan 2015, however flood overlay provisions for Newstead and Baringhup have not been updated. Given the nature of hazard overlays communicating potential risk and mitigation measures to the community, this work should be completed with high priority. Similarly, erosion and salinity present issues and hazards that should be addressed by local provisions where appropriate, and Council should continue to pursue this action.

The Council Plan lists a number of actions that have not yet been incorporated into the Scheme, as the Scheme has not been amended to include the current Council Plan as a reference document.

The Council Plan lists a number of actions that have not yet been incorporated into the Scheme, as the Scheme hasn't been amended to include the Council Plan as a reference document.

8.2.6 Natural Resource Management

This Clause provides local content to support Clause 14 of the State Planning Policy. The content of the Clause appears consistent with State policy. However, there are a number of sub-clauses in the State planning policy at Clause 14 that are not included in the local policy for natural resource management, including:

- Forestry and timber production
- Earth and energy resources
- Resource exploration and extraction

This may simply be because these issues are not relevant to Mount Alexander Shire.

Regarding referenced documents, the Mount Alexander Shire Council Rural Land Study, 2014 is the only document that has been implemented at this Clause since the last planning scheme review. The majority of referenced documents are out of date and should be considered for review. Feedback from Council officers noted that the recent Domestic Waste Water Plan should be translated into the Scheme.

The Clause is written in plain English and is generally easily to interpret, with the exception of the map and rating scale in 21.06-1, which was raised in VCAT cases.

Issues arose in *Noonan v Mount Alexander SC [2017] VCAT 412* regarding the relationship between zoning of FZ land and areas of "very low agricultural quality land" within Clause 21.06-1. This also came up in *Russell Smith Town Planning Services v Mount Alexander SC [2018]*. In each of these, the Council decision was affirmed, but it may not be clear what the Map and its corresponding quality rating in 21.06-1 allows for in regards to development in the Farming Zone.

Council's decision was also affirmed in *Estate of FW Jordan v Mount Alexander SC [2018] VCAT 181*, in which the site for a proposed dwelling and outbuilding were deemed high risk in regards to wastewater treatment and disposal.

The previous Planning Scheme Review 2014 contained a number of recommendations for further strategic work which are not yet completed or underway, including:

- Consider preparing strategic investigations into wastewater issues for the townships of Guildford and Elphinstone, similar to the 'Taradale Residential Options Paper'.
- Undertake a preliminary investigation into the location of the nine former landfills in the Shire to determine:
 - whether these meet the recommended buffer distances specified in EPA's Best Practice Guidelines for the siting and design of landfills (2010)
 - whether they conflict with an existing residential or sensitive zones, or areas for potential urban expansion;
 - identify means by which they can be better identified in the Planning Scheme such as through the application of the Public Use Zone or the Environmental Significance Overlay.

Investigations into wastewater issues have not yet been undertaken for the townships of Guildford and Elphinstone. These issues have not been evident in planning permit application data, VCAT cases or Panel Reports since the previous review and may no longer be relevant. If wastewater issues are persisting in these townships, it is recommended that Council continue to pursue this action.

Feedback from consultation with Council and key stakeholders identified that greater separation distances should be implemented between smaller lifestyle lots and agricultural/horticultural uses. The EPA identified three industry sites in the Shire as licensed sites which require consideration in regard to this issue. An additional site was identified as containing contaminated soil and undergoing clean-up and ongoing management. It is therefore evident that there is still a need for Council to investigate former landfill sites and other land that is potentially contaminated in terms of their rehabilitation and separation distances.

8.2.7 Built Environment and Heritage

This Clause provides local content to support Clauses 15 (Built environment and heritage) the PPF. The content of Clause 21.07 (Built Environment and Heritage) is generally consistent with the PPF.

A number of strategies and plans are cited throughout the Clause as reference documents. Of these, only the Forest Street to Forest Creek Heritage Assessment Report was implemented in the current review period. Many of the reference documents are outdated and should be considered for review or removal from this list. Volumes 1 and 2 of the Thematic Heritage Study have been completed, but this document has not yet been incorporated.

Feedback from Council officers noted a range of issues relevant to heritage. These are discussed in detail in the previous section. More generally, Clause 21.07 (Built Environment and Heritage) would benefit from new or revised local policy, given the older and potentially outdated nature of many reference documents.

The previous Planning Scheme Review 2014 contained the following recommendations for further strategic work which are not yet completed or underway:

- Prepare an urban design plan for the Castlemaine Central Area based on the recommendations of the Castlemaine Urban Design Framework, with a view to including this in the MSS.
- Review statements of significance for Castlemaine as a priority unless the Thematic Environmental History determines otherwise.

The Thematic Environmental History is complete and there have been a number of local Amendments applying the Heritage Overlay (HO) throughout the municipality. The Thematic Environmental History makes a number of recommendations to review entries in the Schedule to the Heritage Overlay and the type and location or theme of further strategic work required.

Heritage is still a prominent issue highlighted by feedback from Council officers and stakeholders, and a common consideration as part of planning permit applications and VCAT cases. These recommendations should be reviewed for consistency with the recommendations of ongoing strategic work and Council should continue to pursue actions relating to improving heritage policy and refining the Schedule to the Heritage Overlay.

8.2.8 Housing

This Clause considers housing affordability, location, and diversity, providing support to Clause 16 of State Policy. State policy at Clause 16.01 encourages the location of housing development in designated locations that offer good access to jobs, services, and transport. There is no language to this effect in the local policy, despite the fact that 21.08-1 is titled 'housing location and diversity'. With this exception, the strategies for the two objectives at this Clause (21.08) are consistent with state strategies for housing.

There are a number of sub-clauses in the State planning policy at Clause 16 that are not included in the local policy for housing, including:

- *Integrated housing*
- *Rural residential development*
- *Community care accommodation*
- *Residential aged care facilities*

The Council Plan identifies a number of actions related to housing, including participation in the Australian Research Council Linkage Project, development of a retirement village, and to support innovative community solutions. Clause 21.08 does not explicitly discuss these actions and does not make any mention of retirement accommodation.

The Clause is written in plain English and is generally easy to interpret but is perhaps too brief and should be expanded and updated to better reflect current state and local policy.

The Clause only references one document:

- Castlemaine Residential Strategy, 2004

Consequently, the policy lacks a strategic basis, with a single reference document which is only applicable to one township and is approximately 15 years old.

No issues have arisen directly from the content of this Clause in any VCAT case or panel report for the period of this review. In Council feedback it was noted that Council does not have a current housing strategy or analysis of housing need within the municipality, thus lacking strategic basis for the types and locations of new dwellings. This is despite changing demographics and rising residential demand in the municipality.

The Clause would generally benefit from new or revised local policy, given the older and potentially outdated nature of many reference documents. It may also be improved with the inclusion of language that identifies locations or types of locations most appropriate for housing development.

The previous Planning Scheme Review 2014 recommended that Council undertake a review of the Castlemaine Residential Strategy to identify preferred locations for medium density housing and aged care accommodation, develop methods to manage and encourage urban consolidation, perhaps informed by a housing strategy or neighbourhood character strategy.

Council has not completed strategic work relating to housing and settlement and rural living since the previous review. The use and development of land for a dwelling is one of the most common types of planning permit applications in the municipality, and feedback has highlighted there are ongoing land use conflicts between rural residential style development and agricultural uses. The strategic work required may need to incorporate more than a review of the Residential Strategy, and while this action is still relevant, it is recommended that Council consider the key themes of settlement throughout the region and develop a strategic document (or documents) that provide the appropriate guidance.

8.2.9 Economic Development

This Clause provides local content to support Clause 17 (Economic development) of the PPF. The content of Clause 21.09 (Economic Development) is generally consistent with the PPF. Strategies are localised and do not repeat content from Clause 17 (Economic Development). Objectives also align well with the objectives found within the Council Plan, however further objectives could be added to specify other objectives that are part of the Council Plan.

Some strategies could be simplified for ease of understanding and use.

There are three VCAT cases that relate to Clause 21.09 (Economic Development), two of which the decision of the Responsible Authority was affirmed. One case in which the decision of the Responsible Authority was set aside, was in regards to Heritage more than economic development, with Clause 21.09 being ancillary to the final decision. Policies and objectives seem relevant and up to date and reflect the broader objectives for the Council. However, some strategies can be further simplified and updated, and further strategic work should be identified if applicable.

Council officers have noted that there is a lack of economic strategic policy.

The previous Planning Scheme Review 2014 contained a number of recommendations for further strategic work which are not yet completed or underway, including:

- Implement the Maldon Retail Strategy in the Planning Scheme.
- Prepare an Industrial Land Strategy for the Shire
- Investigate the preferred location and extent of commercial uses as part of the future structure planning work for smaller townships such as Harcourt and Campbells Creek.

The Maldon Retail Strategy was prepared in 2011, and the Castlemaine Commercial Centre Study in 2012. These strategies were relatively recent at the time of the previous Planning Scheme Review in 2014, however they are now reaching the end of their applicable period and may require review.

An Industrial Land Strategy would provide the strategic basis for local content to the Schedules to the Industrial Zones, however there is little planning permit activity relating to industry and no issues have been raised in VCAT Cases, Panel Reports or feedback from key stakeholders.

The preferred location of commercial uses in Harcourt is being partly undertaken as part of Plan Harcourt, however this is not being undertaken in Campbells Creek. Only a small proportion of development in the municipality relates to commercial land uses, however existing strategic work is outdated and may require review. It is recommended that Council continue to pursue this action broadly and as part of other strategic work such as a Retail Strategy or Plan Harcourt.

Moreover, Clause 21.09 (Economic Development) would generally benefit from new or revised local policy, given the older and potentially outdated nature of many reference documents.

8.2.10 Transport

This Clause provides local content to support Clauses 18 (Transport) of the PPF. Clause 21.10 is generally consistent with state policy in that it encourages the expansion of the public transport network and sustainable personal transport through walking and cycling infrastructure.

The Clause is also consistent with the Council Plan, which promotes and invests in footpaths and trails, and advocates for improvement to the rail network and services.

There are no reference documents cited in this Clause that have been implemented in the current review period. One of the reference documents is still in effect, the Mount Alexander Shire Walking and Cycling Strategy, 2010-2020, but will soon be outdated, and another (Calder Freeway Studies) has no date. These are in need of review.

The Clause is written in plain English and is generally easy to interpret.

This Clause has not come up in any VCAT cases or panel reports for the period of this review. Council did not provide any feedback regarding this Clause.

Clause 21.10 (Transport) would generally benefit from new or revised local policy, given the older and potentially outdated nature of the reference documents. It may also be improved by creating sub-themes within the Clause relevant to different transport objectives, as in other MSS clauses.

The previous Planning Scheme Review 2014 did not provide any recommendations for this Clause, and there have been no new local transport strategies for this review period.

8.2.11 Infrastructure

This Clause provides local content to support Clauses 19 (Infrastructure) of the PPF. The content of Clause 21.11 (Infrastructure) is generally consistent with the PPF. The objectives may require to be updated to better align with the use and development objectives of the Council Plan.

Two strategies and plans are cited in the Clause as reference documents, listed below:

- Mount Alexander Urban Stormwater Management Plan, 2002
- Car Parking Study, 1997

Both of these are outdated and should be considered for review as further strategic work.

There were no relevant VCAT cases from the review period. Panel report C61 recommended further strategic work relating to Clause 21.11.

Feedback from Council officers noted that Council intends to develop Development Contributions Plans to implement in Harcourt and other growth areas.

Clause 21.11 (Infrastructure) would generally benefit from new or revised local policy, given the older and potentially outdated nature of many reference documents.

The previous Planning Scheme Review 2014 contained one recommendation for further strategic work which is not yet completed or underway:

- A preliminary investigation into the location of the nine former landfills in the Shire, and how they can be better identified via the application of the PUZ or ESO.

8.2.12 Local Areas

This clause focuses on local area implementation to support Clause 11 of State Planning Policy. State policy at Clause 11.01-1S supports the sustainable development of the regional centre of Castlemaine. Settlement boundaries are encouraged, as is development along transit corridors and around compact existing centres to limit urban sprawl and create settlements with a sense of place and sustainability. For regional and local place, state policy aims to facilitate and integrate localised, place-based planning.

Clause 21.12-6 acknowledges that Harcourt has been identified as a sustainable growth area by the Loddon Mallee South Regional Growth Plan, consistent with State policy at Clause 11.01-R. The State policy also identifies Castlemaine as an 'employment and service hub' where policy should 'manage and support growth'. This is not explicitly acknowledged at Cl. 21.12, but policy is generally consistent in supporting residential growth and Castlemaine as a commercial centre.

The Council Plan identifies the following actions related to local areas:

- Guide the revitalisation of Harcourt
- Review of the Maldon Design Guidelines

The Council Plan stated that a framework for the growth of Harcourt would be prepared, and a 15-year residential land supply would be maintained. This project is currently underway.

Overall, the Clause is written in plain English and is generally easy to interpret, however, some further clarification should be provided for some of the townships regarding the policy directions and objectives.

At this Clause, the Diamond Gully Structure Plan and the Castlemaine Landfill Odour and Buffer assessment are the only documents that have been implemented in the review period. The majority of referenced documents are more than 10 years old and should be considered for review. In addition, there is no strategic incorporated policy to support this Clause for the following local areas:

- Newstead
- Harcourt
- Taradale
- Elphinstone
- Guildford

Regarding effectiveness, there are three VCAT cases from the review period that relate to Clause 21.12 (Local Areas), two of which the decision of Council was affirmed. One case in which the decision of the Responsible Authority was set aside Clause 21.12 was ancillary to the final decision. No issues have arisen directly from the content of this Clause in any VCAT case or panel report for the period of this review, as this was an issue more in regards to design guidelines and sign controls.

Policies and objectives seem relevant and up to date and reflect the broader objectives for the Council. However, some strategies can be further simplified and updated, and further strategic work should be identified if applicable.

Feedback from Council officers noted a number of issues relevant to this Clause, which are discussed in the previous section.

Clause 21.12 would benefit from a review of the incorporated documents, many of which are dated. There is also further strategic work noted in the policy that has not yet been undertaken.

Each of the themes should contain at least one objective with at least one supporting strategy that is consistent with state policy, and an implementation policy which explains the 'why' behind the policy and should be supported by specific actions or strategic policy.

The previous Planning Scheme Review 2014 contained a number of recommendations for further strategic work which are not yet completed or underway, including:

- Continue with the implementation of current settlement projects.
- Prepare a comprehensive structure plan for Harcourt
- Prepare a structure plan or urban design framework for Newstead
- Undertake a review of the Castlemaine Residential Strategy
- Prepare DDOs for Castlemaine Town Centre
- Prepare a Neighbourhood Character Strategy for Castlemaine
- Review the local planning policy framework for Maldon (this is primarily relevant to Cl. 22.02)

The Diamond Gully Structure Plan has been completed and implemented into the Planning Scheme. Strategic work relating to settlement and rural living has not yet been completed. The nature of this strategic work may include a review of the Castlemaine Residential Strategy, a Neighbourhood Character Strategy and provide guidance for the preparation of Structure Plans. Given the high proportion of planning permit applications and VCAT cases related to residential land uses in the municipality, it is imperative that these strategies are formed to address the key issues and implemented into the Planning Scheme to provide certainty for residents and developers.

8.3 Local Planning Policies

A Practitioner's Guide to Victorian Planning Schemes notes that while planning schemes are in transition to the integrated PPF, any changes to the existing LPP should follow the advice in Planning Practice Note 8 (PPN8): Writing a Local Planning Policy. This was further emphasised in feedback from the Panel in the Panel Report to Amendment C61, which made changes to the Planning Scheme based on the two previous planning scheme reviews. The Panel recommended that further consideration to simplify the LPP in accordance with PPN8 needed to be made. This section provides an overview.

8.3.1 Heritage

The Heritage Local Policy at Clause 22.01 applies to all land within the Heritage Overlay (HO) other than in Maldon, which is considered separately. The local policy contains ten (10) objectives, which is more than the maximum of five (5) objectives permitted in an LPP. There is an opportunity to consolidate the objectives by combining those with similar themes.

The policy is generally quite long and includes content that is superfluous following recent State Planning Amendments, such as the inclusion of policy for Statements of Significance which is now part of the HO, and content which unnecessarily repeats existing provisions in the Planning Scheme.

There are opportunities to simplify the layout and language used throughout and to reword and relocate somewhat repetitive policies that relate to individual entries to the Schedule to the Heritage Overlay as Statements of Significance. Application Requirements should also be relocated to the Schedule to the Heritage Overlay as they are ineffective as part of the policy. There is also an opportunity to number subheadings throughout the policy. These changes will simplify the form and content of the LPP and in turn improve the consistency and clarity of the policy.

In the absence of VCAT cases where either an objector or the Tribunal has contested the effectiveness of this local policy, Council officers provided feedback that there is opportunity to improve the local policy by:

- Consolidating this local policy with Clause 21.02 (Maldon) to deal with heritage issues more holistically.
- Providing greater representation of indigenous local heritage, especially given that there is a Registered Aboriginal Party (RAP) for the local area.
- Updating the strategic work that drives these local policies as it is significantly out of date. Recent strategic work (Thematic Heritage Study Vol 1 & 2) has not yet been implemented in the planning scheme.

8.3.2 Maldon

The Maldon Local Policy at Clause 22.02 applies to land within the Heritage Overlay (HO) in Maldon. The local policy is similar to Clause 21.01 (Heritage). The policy includes content that is superfluous following recent State Planning Amendments, such as the inclusion of policy for Statements of Significance which is now part of the HO.

A number of policies do not appear to be derived from the stated objectives from Clause 21.07 (Built Environment and Heritage) of the MSS or the Policy Basis for this local policy and may be misplaced. There is also an opportunity to number subheadings throughout the policy. These changes will simplify the form and content of the LPP and in turn improve the consistency and clarity of the policy.

Feedback from Council Officers raised concerns that the application of the LPP is open to interpretation, and while it applies to a specific area (on Map 4) there is potential for its application to be wider. In the absence of VCAT cases where either an objector or the Tribunal has contested the effectiveness of this local policy, Council officers provided feedback that there is opportunity to improve the local policy by:

- Consolidating this local policy with Clause 21.01 (Heritage) to deal with heritage issues more holistically.
- Providing greater representation of indigenous local heritage, especially given that there is a Registered Aboriginal Party (RAP) for the local area.
- Updating the strategic work that drives these local policies as it is significantly out of date. Recent strategic work (Thematic Heritage Study Vol 1 & 2) has not yet been implemented in the planning scheme.

8.3.3 Decision Guidelines for Industrial Development

The Decision Guidelines for Industrial Development Local Policy at Clause 22.03 applies to applications to use and develop land in an industrial zone (excluding DDO10). Of immediate concern, this LPP contains policy for 'industrial development in rural areas' which creates uncertainty as to if and how this LPP is triggered outside industrial zones. The name of the LPP suggests that it also applies to industrial land uses, but this is unclear in the policy itself.

The objectives of this local policy either directly repeat the MSS, repeat the intent of the PPF at Clause 17.03-2S (Industrial development siting) or are broad strategic objectives that may need to be further refined to be suitable for the LPP. There is also an opportunity to number subheadings throughout the policy. These changes will simplify the form and content of the LPP and in turn improve the consistency and clarity of the policy.

The policies relate to built form elements that are already defined elsewhere in the planning scheme, such as advertising signs and car parking requirements, and a Schedule to the Design and Development Overlay (DDO) is able to measurably vary these requirements.

8.3.4 Use and Development of Land in the Farming Zone and Rural Conservation Zone

The Use and Development of Land in the Farming Zone and Rural Living Zone Local Policy at Clause 22.04 applies to the use, development and subdivision of all land in the Farming Zone and Rural Living Zone.

The Policy Basis of this LPP may be derived from additional objectives in Clause 21.06 (Natural Resource Management) of the MSS rather than those quoted. There is some opportunity for relatively minor refinements to the policies in this LPP to provide more structure and clarity. One of the policies relating to road construction is a requirement that cannot be enforced by the LPP and may be better located elsewhere in the Planning Scheme.

The inclusion of Section 173 Agreements for subdivision in the LPP may not be appropriate given the LPP cannot enforce these requirements, and further emphasised by the fact that Section 173 Agreement requirements were removed from the rural zones by Amendment VC103 in September 2013. There is also an opportunity to number subheadings throughout the policy. These changes will simplify the form and content of the LPP and in turn improve the consistency and clarity of the policy.

There have been a significant number of VCAT cases relating to this LPP since the previous review in 2014. In each case, Council's decision was affirmed by the Tribunal, which suggests that the policy is effective in achieving the desired objectives. There may be some concern, however, that these applications are reaching VCAT due to a lack of certainty of how Council will exercise discretion for these uses. This is also reflected by feedback from Council Officers that there may be an opportunity to provide more guidance in this LPP by providing stronger discouragement of unsuitable land uses and development.

8.3.5 Spray Drift

The Spray Drift Local Policy at Clause 22.05 applies to the use and development of land for accommodation or any other sensitive use in the Rural Living Zone and Farming Zone.

There is opportunity to refine the policies of this LPP by removing the reference for notice requirements as this is replicating Clause 67.02 (Notice requirements) and rearranging the second (and wordiest) policy to be a list of discouraged uses, followed by a statement about how Council will exercise discretion. The third policy is setting out a requirement for minimum separation distances which cannot be enforced by the LPP and may be better suited elsewhere in the Planning Scheme. There is also an opportunity to number subheadings throughout the policy. These changes will simplify the form and content of the LPP and in turn improve the consistency and clarity of the policy.

8.3.6 Animal Keeping and Racing Dog Training

The Animal Keeping and Racing Dog Training Local Policy at Clause 22.06 applies to the use and development of land for animal keeping and racing dog training.

There is some opportunity to refine the objectives to be more specific to the LPP, although it is considered that they generally build upon the relevant objective of the MSS. The policies could be refined to ensure they are not overly vague or describing requirements which cannot be enforced by the LPP and could be relocated elsewhere in the Planning Scheme.

A recent State Planning Amendment introduced a Particular Provision for Racing dog keeping and training to the VPP at Clause 53.12. This Particular Provision states that applications must comply with *Planning requirements for racing dog keeping and training* (DELWP). This document contains objectives for the facility scale, setbacks, visual amenity, landscaping, fencing and gates, screening, site management and noise. A number of these are now duplicated by the LPP. The requirements of the Particular Provision will prevail over guidance of the LPP, making it somewhat obsolete and a candidate for removal from the Planning Scheme.

The effectiveness of this LPP is untested as there have not been any relevant VCAT cases or feedback from Council officers and stakeholders.

8.3.7 Dams

The Dams Local Policy at Clause 22.07 applies to the use and development of dams in the Rural Living Zone (RLZ) and Low Density Residential Zone (LDRZ). The local policy contains six (6) objectives, which is more than the maximum of five (5) objectives permitted in an LPP. There is opportunity for these objectives to be consolidated and potentially reworded to provide clearer guidance.

There is also an opportunity for the policies in this LPP to be refined, to expand on how Council will exercise discretion in decision making (noting that the strategies associated with the relevant objective in the MSS that this policy is derived from actively discourage the development of dams to maintain environmental flows to waterways). Some policies also describe requirements which cannot be enforced by the LPP and may be better suited elsewhere in the planning scheme or require rewording. There is also an opportunity to number subheadings throughout the policy. These changes will simplify the form and content of the LPP and in turn improve the consistency and clarity of the policy.

The effectiveness of this LPP is somewhat untested as there have not been any relevant VCAT cases or feedback from Council officers and stakeholders.

8.3.8 Happy Valley / Moonlight Flat Structure Plan

The Happy Valley / Moonlight Flat Structure Plan Local Policy at Clause 22.08 applies to land identified as a Local Policy Area on the Happy Valley / Moonlight Flat Structure Plan. There is no clear link as to which objective(s) of the MSS this LPP is derived from, and the Policy Basis does not explain why this LPP is provided.

This LPP contains thirteen (13) objectives under six (6) subheadings. The Ministerial Direction for the Form and Content of Planning Schemes stipulates that an LPP should contain a maximum of five (5) objectives. A number of these objectives are relatively broad and reflected elsewhere in the Planning Scheme, which could be removed to aid in consolidating the objectives to a total of 5.

A number of policies begin with the word 'require' which cannot be enforced by the LPP and may be more suitable elsewhere in the Planning Scheme. There is also an opportunity to number subheadings throughout the policy. These changes will simplify the form and content of the LPP and in turn improve the consistency and clarity of the policy.

Council officers highlighted an issue with some land in the LDRZ between Castlemaine and Chewton that is subject to assessment under this LPP. The land has a range of issues related to bushfire; significant flora and fauna, access and servicing. This highlights a potential need for further strategic work to determine the outcomes sought for this location and amending policy guidance to accurately reflect this.

8.3.9 Gaming

The Gaming Local Policy at Clause 22.09 was recently introduced to the Mount Alexander Planning Scheme by Amendment C71 and applies to all applications to install or to use land for gaming machines under Clause 52.28 or to use land for a Gaming premises.

The subheadings used in this local policy replicate the headings used in the Schedule to Clause 52.28 (Gaming) as defined by the Ministerial Direction for the Form and Content of Planning Schemes. The local policy should be relocated to the Schedule to Clause 52.28 (Gaming) as the current requirements listed in the LPP are not providing guidance and not able to be enforced.

INFORMATION

TOILETS

MT TARRENGOWER LOOKOUT

ANGLICAN CHURCH

HISTORIC RAILWAY

EST. 1857
UPTON & SON BUTCHERS

EXPLORE
MALDON



WOMEN-GO-BA



9.0 Zones

This audit has considered zoning provisions where the Ministerial Direction for the Form and Content of Planning Schemes identifies that local provisions may be included by the relevant authority in a Schedule to that zone. Any zone that is purely guided by the VPP and does not allow Council to specify local provisions has not been audited.

9.1 Residential Zones

9.1.1 Low Density Residential Zone

The Low Density Residential Zone (LDRZ) has not been applied extensively throughout the municipality. The Schedule to the LDRZ does not contain any local content, and there has not been significant reform to the VPP during this review period. Feedback from Council officers noted that there may be issues with the subdivision layout, bushfire hazard, vegetation and services of some land in this zone.

A lack of strategic work to justify the application of this zone in some areas is noted. As part of strategic work relating to housing and settlement, Council should appropriate the provision of this zone to land that is not constrained by the issues identified above.

9.1.2 Township Zone

In Mount Alexander, the TZ is applied extensively to a number of townships throughout the Shire, including but not limited to Campbells Creek, Chewton, Harcourt, Newstead, Yapeen, Guildford, Vaughan, Fryerstown, Elphinstone, Taradale and Metcalfe.

The layout of the blank Schedule is not consistent with the Ministerial Direction for the Form and Content of Planning Schemes, as it lacks the headings for “Neighbourhood character objectives” and “Permit requirements for the construction or extension of one dwelling or a fence associated with a dwelling on a lot”.

In the absence of VCAT cases, Panel Reports or feedback from Council officers and stakeholders, the TZ appears to be effectively functioning within the Mount Alexander Planning Scheme. There are no local provisions specified in the Schedule to the TZ. Strategic work relating to housing and settlement should provide the justification needed to tailor the provisions for different townships in the Shire.

9.1.3 General Residential Zone

The GRZ applies extensively to land in the urban residential areas of Castlemaine and Maldon. There is also a somewhat isolated and smaller area of land in the GRZ in Campbells Creek.

The land use conflict in the GRZ described in *Adams v Mount Alexander SC [2015] VCAT 1882* showed that there is not a clear expectation of how the GRZ should be used and developed in Mount Alexander. With a lack of local provisions in the Schedule to the GRZ, the zone relies on the VPPs. Feedback from Council officers identified that there are historic subdivisions in the GRZ that may be subject to a number of hazardous overlays and may be difficult to develop.

Undertaking strategic work in relation to housing and settlement assist in appropriating the provision of the GRZ throughout the municipality. In conjunction with the housing strategy, a Neighbourhood Character Study may assist in ensuring development respects the existing or preferred character for the area, and avoid further land use conflicts.

9.2 Industrial Zones

9.2.1 Industrial 1 Zone

The IN1Z applies to land in the urban areas of Castlemaine and Maldon. A Schedule to the IN1Z may specify the maximum leasable floor area requirements for an Office. The Mount Alexander Planning Scheme contains a single Schedule to the IN1Z which does not contain any local provisions.

There have not been any VCAT cases of feedback from Council Officers or stakeholders to indicate that land currently in the IN1Z is not functioning effectively. There has not been a new or reviewed Industrial Land Use Study in the current review period, nor have there been any local amendments to the blank Schedule to the IN3Z.

9.2.2 Industrial 3 Zone

The IN3Z applies to relatively small areas of land on the fringe of the urban area of Castlemaine and between Castlemaine and Chewton. There is also a somewhat isolated area of land in the IN3Z in Harcourt. A Schedule to the IN3Z may specify the maximum leasable floor area requirements for an Office. The Mount Alexander Planning Scheme contains a single Schedule to the IN3Z which does not contain any local provisions.

There have not been any VCAT cases of feedback from Council Officers or stakeholders to indicate that land currently in the IN3Z is not functioning effectively. There has not been a new or reviewed Industrial Land Use Study in the current review period, nor have there been any local amendments to the blank Schedule to the IN3Z.

9.3 Commercial Zones

9.3.1 Commercial 1 Zone

The C1Z applies to land in the town centres of Castlemaine and Maldon. A Schedule to the C1Z may specify the maximum leasable floor area requirements for an Office and/or a Shop. The Mount Alexander Planning Scheme contains a single Schedule to the C1Z which does not contain any local provisions.

In *Total Outdoor Media Pty Ltd v Mount Alexander SC* [2018] VCAT 1502, Council refused to grant a permit for a major promotional sign. This decision was set aside by the Tribunal as it found the proposal was appropriate for the mixed character of the area and a permit was granted. This has implications for the C1Z, as this 'mixed' character may be a result of a lack of settlement, design and layout guidance. Other than the Castlemaine Commercial Centre Study, there has not been a recent retail or commercial strategy to consider if additional land in the C1Z is required within the municipality, nor any local amendments to implement any such strategic work.

9.4 Rural Zones

9.4.1 Rural Living Zone

The RLZ applies to relatively large areas of land on the fringes of urban areas and townships, to the north, west and south-east of Castlemaine and is not found elsewhere in the municipality.

The Mount Alexander Planning Scheme contains one Schedule to the RLZ which does specify local content. There are only very minor inconsistencies between the Schedule to the RLZ and the Ministerial Direction for the Form and Content of Planning Schemes.

The Schedule to the RLZ contains local provisions that specify the minimum subdivision area, minimum area for which no permit is required to use land for a Dwelling and minimum setback from a boundary for four (4) areas (named Area A, B, C and D). The requirements vary between 1 to 4 hectares.

The 'Areas' are identified on maps that have been marked up by hand which make up the rest of the Schedule. These maps do not contain many street names or other spatial references.

Council officer feedback has identified that the maps in this Schedule may not be user friendly, as the community often relies on Council to interpret the maps and determine which 'Area' their property is in. By including all four

'Areas' in the same Schedule, the layout may be unnecessarily complex. Other Planning Schemes (including Macedon Ranges, East Gippsland and Wangaratta) commonly use multiple Schedules to define these areas, and in turn the planning scheme zoning maps provide clear boundaries between these areas in a simple, user-friendly format.

Council officer feedback also identified that there is an inconsistency between the Diamond Gully Structure Plan, which provides a minimum subdivision area of 1 hectare, and the Schedule to the RLZ which provides a minimum subdivision area of 2 hectares for the same area of land.

The previous Planning Scheme Review identified that the strategic work related to rural living should be updated and potentially include investigation into the provision of additional land in the RLZ.

9.4.2 Rural Conservation Zone

The RCZ applies to land to the east and north-east of Castlemaine's urban area.

The Mount Alexander Planning Scheme contains one (1) Schedule to the RCZ which does contain local provisions. The current layout of the Schedule does not comply with the Ministerial Direction for the Form and Content of Planning Schemes, as it contains ten (10) conservation values (more than the maximum of 5). The Schedule to the RCZ outlines ten (10) conservation values as follows:

- *Adjacent Castlemaine Diggings National Heritage Park.*
- *Statewide heritage significance of Pennyweight Flat Cemetery.*
- *Cultural heritage and landscape significance of the setting and environs of Pennyweight Flat Cemetery.*
- *Goldfields heritage and cultural landscape significance of Pennyweight Flat, Forest Creek and Moonlight Creek.*
- *Open rural and scenic landscape of Pennyweight Flat.*
- *Remnant native vegetation in Pennyweight Flat, Moonlight Flat and Lady's Gully.*
- *Wildlife habitat and corridors for movement of wildlife in Pennyweight Flat, Moonlight Flat and Lady's Gully*
- *Lombardy Poplar trees in Pennyweight Flat.*
- *Archaeological remains situated in Lady's Gully.*
- *Water resource and creek reserves of Forest Creek and Moonlight Creek.*

PPN42: Applying the Rural Zones notes: The Rural Conservation Zone is primarily concerned with protecting and conserving rural land for its environmental features or attributes. The conservation values of the land must be identified in the schedule to the zone and could be historic, archaeological, landscape, ecological, cultural or scientific values.

Other municipalities (such as Yarra Ranges and Macedon Ranges) have incorporated multiple Schedules to the RCZ, however they are usually geographically separated, which is not the case in Mount Alexander. It may be possible to consolidate the conservation values by the themes outlined in PPN42: historical, archaeological, landscape, ecological, cultural or scientific.

The Schedule to the RCZ specifies the minimum subdivision area for land in the Lady Gully area east of Colles Road and south of Stronels Road as 2 hectares, and 4 hectares in all other areas. There has not been any VCAT cases or feedback from Council Officers and stakeholders to indicate that the RCZ is not functioning effectively.

The previous Planning Scheme Review identified that strategic work relating to rural living should be updated and potentially include investigation into the provision of additional land in the RCZ.

9.4.3 Farming Zone

The FZ applies extensively to rural land in the municipality. The Mount Alexander Planning Scheme contains one (1) Schedule to the FZ which does contain local provisions. The current layout of the Schedule complies with the Ministerial Direction for the Form and Content of Planning Schemes.

The Schedule to the FZ provides for a minimum subdivision area of 40 hectares for all land in the FZ. This is linked to the minimum area for which no permit is required to use land for a dwelling, which is also 40 hectares. Minimum setbacks from a road are provided between 20 – 100 metres depending on the type of road; from any other boundaries as 5 metres and from any dwelling not in the same ownership 100 metres.

A permit is required for earthworks which change the rate of flow or the discharge point of water across a property boundary or which increase the discharge of saline groundwater on all land, except land contained within the Public Acquisition Overlay or impacted by construction for the new Calder Highway/Freeway and associated works.

PPN42 notes that the FZ is primarily concerned with keeping land in agricultural production and avoiding land uses that could limit future farming or constrain agricultural activities.

There have been a significant number of VCAT cases involving land in the FZ since the previous review in 2014. In almost all instances, Council refused to grant a permit based on the use and/or development being incompatible with the objectives of the FZ, and in all instances Council's decision was affirmed by the Tribunal. This demonstrates that the FZ is effective in achieving the objectives of the FZ, however there may be an issue regarding the community understanding of what use and development is appropriate in the FZ. The large quantity of applications reaching VCAT could also indicate an oversupply of land in the FZ or an undersupply of land in other zones where these incompatible uses and development would be better suited.

The previous review in 2014 recommended that as part of strategic work relating to rural living, Council consider the provision of the FZ in light of (then) recent changes to the Rural Zones by Amendment VC103. The quantity and variety of VCAT cases suggests there is a need for the Rural Living Strategy to appropriate the provision of the FZ throughout the municipality.

9.5 Public Land Zones

9.5.1 Public Use Zone

The PUZ applies to relatively small and scattered areas of land and the public railway stations and network. There have not been any VCAT cases nor any feedback from Council Officers or stakeholders to suggest that the PUZ is not functioning effectively. No gaps have been identified.

9.5.2 Public Park and Recreation Zone

The PPRZ applies to relatively small and scattered areas of land throughout the municipality. There have not been any VCAT cases nor any feedback from Council Officers or stakeholders to suggest that the PPRZ is not functioning effectively. No gaps have been identified.

9.5.3 Public Conservation and Resource Zone

The PCRZ applies to relatively small and scattered areas of land throughout the municipality. There have not been any VCAT cases nor any feedback from Council Officers or stakeholders to suggest that the PCRZ is not functioning effectively. No gaps have been identified.



10.0 Overlays

This audit has considered overlay provisions where the Ministerial Direction for the Form and Content of Planning Schemes identifies that local provisions may be included by the relevant authority in a Schedule to that overlay. Any overlay that is purely guided by the VPP and does not allow Council to specify local provisions has not been audited.

10.1 Environmental and Landscape Overlays

10.1.1 Environmental Significance Overlay

There is a significant amount of ESO near the Macedon Ranges and along rivers and the Cairn Curran Reservoir. Clause 42.01 requires a schedule to contain the environmental objectives to be achieved, with a maximum of 1 objective.

The Mount Alexander Planning Scheme contains seven (7) schedules to the ESO, which does contain local provisions. The current layout of the Schedules does not comply with the Ministerial Direction for the Form and Content of Planning Schemes, as three (3) of the schedules contain multiple objectives for each schedule.

ESO1 – Lake Eppalock Catchment

Schedule 1 covers the catchment of Lake Eppalock, which is a major water storage and recreational facility located within the Campaspe River catchment. ESO1 ensures the protection and maintenance of water quality and yield within the Eppalock Water Catchment Area.

ESO2 – Lake Cairn Curran Catchment

Schedule 2 covers the catchment of Lake Cairn Curran, which is a major water storage for the Loddon River system, supplying water for irrigation and stock and domestic purposes. ESO2 ensures the protection and maintenance of water quality and yield within the Cairn Curran Water Supply Catchment Area.

ESO3 – Barfold Gorge

Schedule 3 covers Barfold Gorge, which has a number of environmentally significant flora and fauna within the area. ESO3 is to provide for the conservation, maintenance and enhancement of significant environmental features which are of scientific importance, natural beauty, environmental interest, importance of heritage value, as well as protecting the natural environmental processes and biodiversity found in the area.

ESO4 – Mount Alexander and surrounds

Schedule 4 covers Mount Alexander and its surrounds, which is of Regional Significance, with many important types of flora and fauna. ESO4 aims to recognise and protect the landscape, and importance of Mount Alexander and its surroundings from visual intrusion, and inappropriate development and maintain the passive recreation value.

ESO5 – Watercourse Protection

Schedule 5 is located in the headwaters of the Loddon-Campaspe catchment, the fourth most degraded catchment in the Murray Darling Basin. ESO5 aims to maintain the quality and quantity of water within the water course, including all associated streams and waterways. Also includes the protection of flora and fauna and associated habitats in the area.

ESO6 – Land South of Diamond Gully Road and East of Sluicers Road

Schedule 6 is in an area where an environmental audit has taken place, to assess the areas for residential development as part of the Diamond Gully Structure Plan (July 2016), and areas which may be at risk from potential migration of landfill gas from the Castlemaine Landfill. ESO5 aims to reduce the risk to any future residential development from potential landfill gas migration from the Castlemaine Landfill cells. A further site specific audit is required to be undertaken in this area to ensure there is not an unacceptable risk of landfill gas migration.

ESO7 – Calder Buffer Zone, Remnant Vegetation and Wildlife Corridor Protection

Schedule 7 covers the native vegetation in the area that has been identified as of State significant, as it provides important habitat for the State threatened Bush-tailed Phascogale. There is also regionally significant remnant

native vegetation to be protected. ESO7 aims to protect remnant habitat for the Brush-tailed Phascogale and populations of threatened flora species and other ecological communities of significance found in the area.

Clause 42.01 was only mentioned in one recent VCAT case, where the clause was ancillary to the main dispute in the case. Council Officer feedback included many specific parts of the schedules to the Environmental Significance Overlay. This includes ESO2, where under 3.0 the requirement needs to be re-worded for clarity to say that a permit is not required. Goulburn Murray Water would like to see some areas covered by the ESO to be expanded to include all potable water catchments. In ESO5, a permit is required for any development within 200 metres of a centre point of a watercourse, however the (mapping) extent of the Overlay only extends to 5 to 10 metres from a watercourse.

Gaps include the inconsistent formatting of the Schedules to Clause 42.01, such as multiple environmental objectives, and the subheading 4.0 “application requirements” missing from all schedules in the ESO. It is also noted that despite the objectives in the schedules to the ESO, this Overlay in Mount Alexander is not applied to protect significant vegetation for flora and fauna, and there is no underlying environmental study which would strategically justify its application in this way. In effect, Clause 52.17 is the default environmental protection for significant native vegetation in the Mount Alexander Planning Scheme.

10.1.2 Vegetation Protection Overlay

There are only very small areas of Mount Alexander Shire where the VPO is applied. The Ministerial Direction requires that a schedule to Clause 42.02 needs to contain a statement of the nature and significance of the vegetation to be protected, with a maximum of 5 objectives to be listed under sub-heading 2.0 “Vegetation protection objectives to be achieved”.

There are two (2) schedules to the VPO in Mount Alexander Shire. The structure of the schedules generally comply with the requirements of the Ministerial Direction; however all schedules are missing sub-heading 4.0 relating to “application requirements”

VPO1 – Bulkeleys Road, McKenzie Hill

Schedule 1 relates specifically to seven Large Old Indigenous Trees and one Very Large Old Indigenous Trees locates between Bulkeleys Road and Ireland Street in McKenzie Hill, which are rarely found in the Castlemaine area due to its mining and farming history. This schedule ensures the protection of these trees recognises their significance.

VPO2 – Captain Day Road Significant Trees

Schedule 2 relates to yellow Gum and Grey Box trees in this area, including works within 20 metres of each tree. These large trees are rare in the Castlemaine area due to its farming and mining history. All trees to be protected have a diameter at breast height of at least 70cm. This schedule ensures the protection of these trees by encouraging site responsive design, such as locating them on future public open space or road reserves.

Clause 42.02 was only mentioned in one recent VCAT case, where the clause was ancillary to the main dispute in the case. There is very little VPO throughout the municipality, and the use of this overlay could be further reviewed to ensure the protection of vegetation in Mount Alexander Shire, as well as the use of the overlay currently. Both schedules to the VPO are missing the sub-heading 4.0 “application requirements”. Further investigation also needs to be undertaken into where the VPO can also be applied.

10.1.3 Significant Landscape Overlay

There are large patches scattered throughout the municipality where the SLO apply. According to the Ministerial Direction, schedules to Clause 42.03 must contain both a statement of the nature and key elements of the landscape, and landscape character objectives, where there must be maximum of five (5) in each schedule.

There are four (4) schedules to the SLO in Mount Alexander Shire. Schedules 2 and 3 to the VPO do not comply with the Ministerial Direction, as each of these schedules gives six (6) objectives where the maximum is five (5) objectives. It is also noted none of the schedules contain the correct sub-heading at 4.0, which according to the Ministerial Direction should be “Application requirements, and “decision guidelines” to fall under sub-heading 5.0.

SLO1 - Maldon Landscape Area

The Maldon Landscape is listed as significant by the National Trust, as it includes Mount Tarrengower and the surrounding environs, as well as showing unique mining landscapes. The SLO is used to prevent the destruction of the significant landscapes and associated environs, as well as encourage development which does not detract from the landscapes in the surroundings.

SLO2 – Castlemaine Landscape Significance Area

These include a range of heritage buildings located between significant landscapes and trees. SLO2 is used to ensure that there is no destruction to the existing landscapes in this area, while also ensuring new development harmonises with the character that is protected.

SLO3 – Scenic Landscape Area (Approaches to Maldon)

SLO3 is similar in its description to SLO1 in that it includes Mount Tarrengower and the surrounding environs, as well as showing unique mining landscapes. Objectives include to maintain the heritage nature of Maldon and as you approach the town, as well as ensuring that any future development or mining does not impact the landscapes visually.

SLO4 – Vaughan and Glenluce Mineral Springs Reserve

SLO4 covers the area of natural mineral springs and mining relics which are to be protected. Objectives include protecting the significant features of the natural environment so as not to detract from the value of the landscape, and preserve its character as much as possible, while also encouraging development that does not detract from the landscape and its value.

The previous review in 2014 made a recommendation to prepare a planning scheme amendment to make key technical updates to the schedules to the Significant Landscape Overlay (SLO1-SLO4), as per the recommendations of the 2010 review. In *Adams v Mount Alexander SC* [2015] VCAT 1882, the Tribunal affirmed Council's decision which was based partly on achieving the objectives of the SLO. It was noted that it is not clear which landscapes / views or other elements were significant and therefore required protection. It may be beneficial to review the SLO provisions to ensure the significant elements are described in a way that will give applicants more certainty. No gaps have been identified.

10.2 Heritage and Built Form Overlays

10.2.1 Heritage Overlay

The Heritage Overlay applies extensively throughout the municipality, including the majority of Maldon and large areas in and surrounding Castlemaine. The Mount Alexander Planning Scheme contains one Schedule to the HO which contains a large number of individual heritage place entries. The Schedule does not comply with the Ministerial Direction for the Form and Content of Planning Schemes as the headings in the Heritage places table do not contain the correct headings.

None of the entries for heritage places in the Clause contain a statement of significance, however it is noted that Clause 22.01 (Heritage) and 22.02 (Maldon) contain statements of significance that could be transferred to the Schedule to the HO. A very small number of entries are Aboriginal heritage places which suggests that Aboriginal cultural heritage was underrepresented in previous Heritage Studies.

A significant issue with the HO was noted in *Lang v Mount Alexander SC* [2018] VCAT 1493, where the applicability of the HO was contested due to an error between the Schedule to the HO and the HO Map. In *Willoughby v Mount Alexander SC* [2015] VCAT 994, Council determined that alterations to an existing structure were appropriate, however the Tribunal set aside Council's decision and no permit was granted. This highlights there may be a need for design guidelines or more detailed and refined heritage controls in certain areas where further strategic work identifies it is needed.

Feedback from Council Officers noted:

- The Heritage Overlay Map contains several errors which require review and correction
- The Schedule to the Heritage Overlay requires:
 - Statements of significance, which could be aided by further strategic work such as Heritage Studies for Maldon and Castlemaine;
 - Paint controls for HO444 and HO445;
 - Tree controls for several properties, including in Maldon where trees have not been mapped or have been mapped incorrectly and are therefore not covered.

Table 1 in Section 4.3 of the Thematic Heritage Study (Volume 1) identifies gaps in the Heritage Overlay, providing guidance as to areas where further work should be prioritised.

There is a Registered Aboriginal Party (RAP) for the local area, the Dja Dja Wurrung Clans Aboriginal Corporation (DDWCAC). Aboriginal cultural heritage is currently underrepresented in the Schedule to the Heritage Overlay.

10.2.2 Design and Development Overlay

The DDO applies to a corridor either side of the Calder Freeway and a number of relatively small areas of land concentrated in Castlemaine Moonlight Flat and Chewton (along Duke Street).

The Mount Alexander Planning Scheme contains fourteen (14) Schedules to the DDO which all contain local provisions. The Schedules do not comply with the Ministerial Direction for the Form and Content of Planning Schemes as headings are excluded rather than being included with no content specified, and / or more than five (5) design objectives are specified. A number of Schedules to the DDO have not been amended since they were introduced up to and more than 10 years ago.

DDO1: Noise Attenuation Measures along the Calder Freeway / Highway between Kyneton and Ravenswood

DDO1 specifies a number of land uses where noise attenuation measures are required and decision guidelines ensure the proposed use complies with the relevant Australian Standards and uses natural noise attenuation features where possible.

DDO2: Hundredweight Hill / Moonlight Flat – Low Density Residential Zone

The Ministerial Direction for the Form and Content of Planning Schemes requires that a Schedule to the DDO contain a maximum of five (5) design objectives. DDO2 contains nine (9) design objectives which will require consolidation.

The decision guidelines rely heavily on a proposal's compliance with Happy Valley / Moonlight Flat Structure Plans, Development Plan, Landscape Plan and the Local Policy at Clause 22.08 (Happy Valley / Moonlight Flat Structure Plan).

DDO3: Happy Valley Road (South)

The Ministerial Direction for the Form and Content of Planning Schemes requires that a Schedule to the DDO contain a maximum of five (5) design objectives. DDO3 contains eight (8) design objectives which will require consolidation.

The decision guidelines rely heavily on a proposal's compliance with Happy Valley / Moonlight Flat Structure Plans, Development Plan, Landscape Plan and the Local Policy at Clause 22.08 (Happy Valley / Moonlight Flat Structure Plan).

DDO4: Pennyweight Flat – Rural Conservation Zone

Decision guidelines seek to ensure development is in keeping with the landscape and cultural heritage and rely on the input from various State agencies, including Heritage Victoria, DSE (now DELWP) and the CFA.

DDO5: Lady Gully – Area 4 – (Rural Conservation Zone)

Decision guidelines seek to minimise native vegetation removal, ensure development is in keeping with the landscape and cultural heritage and rely on the input from various State agencies, including Heritage Victoria, DSE (now DELWP) and the CFA.

DDO6: Maldon Supermarket

This DDO applies to an individual site in Maldon where Council may have anticipated a supermarket would be developed. DDO6 provides detailed requirements largely relating to the urban design of any proposed built form and ensuring its sensitivity to the highly valued heritage of the township of Maldon.

DDO7: Forest Street, Castlemaine

The focus of DDO7 is to provide for a discrete built form that does not appear bulky in accordance with the prevailing low-rise character in this area. Decision guidelines focus on the siting, setbacks, height and design of proposed buildings.

DDO8: Pyrenees Highway / Duke Street, Castlemaine

DDO8 deals largely with the impact of development on visual amenity of neighbouring properties, and views from the public realm (the street and nearby Heritage Park).

DDO9: Elizabeth Street, Castlemaine

DDO9 deals largely with the impact of development on visual amenity of neighbouring properties, and views from the street.

DDO10: Wesley Hill Business Park

The Ministerial Direction for the Form and Content of Planning Schemes requires that a Schedule to the DDO contain a maximum of five (5) design objectives. DDO10 contains nine (9) design objectives which will require consolidation.

DDO10 provides a great deal of requirements relating to the built form that cannot be varied, again relating mostly to the appearance of any proposed structure from the street in the context of the surrounding character.

DDO11: Pyrenees Highway, Chewton

The Ministerial Direction for the Form and Content of Planning Schemes requires that a Schedule to the DDO contain a maximum of five (5) design objectives. DDO11 contains fourteen (14) design objectives which will require consolidation.

DDO11 appears to be similar to the concept of neighbourhood character, containing what would be similar to a preferred character statement and design guidelines that relate to the siting, scale and design of surrounding buildings.

The large number of design objectives does not appear to be accurately reflected by the very limited requirements and decision guidelines which largely relate to ensuring the built form is consistent with the surrounding character. A neighbourhood character study or a Schedule to a residential zone may be better at achieving this.

DDO13: Corner of Parker and Kennedy Streets, Castlemaine

DDO13 applies to a number of lots in the GRZ adjacent to the IN1Z and the 'Yarella' House at 8 Parker Street, subject to the Heritage Overlay. DDO13 seeks a number of outcomes for these sites, including housing diversity that blends with the adjacent heritage character and to provide a transition between the GRZ and IN1Z to soften the interface between these two zones.

DDO14: 44-50 Lyttleton Street, Castlemaine

Similar to DDO11 and DDO13, DDO14 contains built form provisions that relate largely to respect for the landscape, character and heritage of the immediate locality.

DDO15: Castlemaine Township Gateway

Similar to DDO11, DDO13 and DDO14, DDO15 contains built form provisions that relate largely to respect for the landscape, character and heritage of the immediate locality.

There are no relevant VCAT cases or feedback from Council Officers or stakeholders that suggests the DDO is not functioning effectively. There are however, a number of administrative issues with the Schedules to the DDO that do not comply with the Ministerial Direction for the Form and Content of Planning Schemes. Improving the form and content of the Schedules would also improve their effectiveness as current provisions.

10.2.3 Development Plan Overlay

The DPO applies to both smaller and larger areas of land predominantly in Castlemaine.

The Mount Alexander Planning Scheme contains ten (10) Schedules to the DPO which all contain local provisions. The Schedules do not comply with the Ministerial Direction for the Form and Content of Planning Schemes as headings are excluded rather than being included with no content specified. A number of Schedules to the DPO have not been amended since they were introduced up to and more than 10 years ago.

DPO1: General Residential Zone Development Plan – McKenzie Hill & West Castlemaine

This DPO deals primarily with the layout and development of a residential estate and how the necessary infrastructure and services will link the development to the existing urban areas while minimising the impact on the environment, especially native vegetation.

DPO2: Township Zone Development Plan

This DPO is similar to DPO1, dealing with the layout and development of a residential township estate. A Soil and Water Report is required to accompany all applications.

DPO3: Rural Living Zone Development Plan – McKenzie Hill

This DPO requires detailed consideration of subdivision layout and building envelopes to ensure suitable access is provided and removal of native vegetation is avoided.

DPO5: Hundredweight Hill (Low Density Residential Zone)

This DPO contains a large number of requirements for a development plan, including subdivision layout, setbacks to Crown Land, drainage and water quality and be generally in accordance with the Happy Valley / Moonlight Flat Strategic Plan.

DPO6: Happy Valley Road (South)

This DPO, along with DPO5, forms part of the land subject to the Happy Valley / Moonlight Flat Strategic Plan, which is where the extensive requirements for a development plan are drawn from.

DPO7: Martin & Ireland Streets Castlemaine

This DPO requires all residential development to be serviced with reticulated water, sewerage and underground electricity infrastructure and all subdivision with sealed roads and underground stormwater drainage. The

requirements for a development plan include, but are not limited to, the need to show the subdivision layout, building envelopes, location of access and other infrastructure and interaction with trees and vegetation.

DPO8: Corner of Parker and Kennedy Streets, Castlemaine

This DPO requires all residential development to be serviced with reticulated water, sewerage and underground electricity infrastructure. Development is not permitted to commence until the existing electrical sub-station has been removed and a Soil Management Plan has been implemented.

The requirements for a development plan must show the urban pattern of a minimum of 24 dwellings / lots and safe and convenient road network and infrastructure provision. A landscaping plan with 'low maintenance' planting is also required.

DPO9: Residential Development Plan – Bulkeleys Road and Ireland Street, McKenzie Hill

Aside from infrastructure, this DPO requires all development to be constructed in accordance with an Erosion Management Plan and a Detailed Transport Impact Assessment Report for the intersection of Ireland Street and Bulkeleys Road with the Pyrenees Highway. Setbacks to identified bushfire hazard and retention of native vegetation are also highlighted in the requirements for a development plan.

DPO10: Residential Development Plans – Captain Day Road

This DPO requires all residential development to be serviced with reticulated water, sewerage and underground electricity infrastructure. The requirements for a development plan include the need to include a percentage of smaller lots to provide for affordable housing and

DPO11: Diamond Gully (Southern Residential Greenfields Area)

This DPO requires a development plan that is generally in accordance with the requirements of the Diamond Gully Structure Plan as it relates to lot layout, lot sizes, infrastructure provision and landscaping.

In part, the purpose of the DPO is to require the preparation of a development plan to coordinate the development of an area designated for growth, typically following rezoning and particularly across multiple properties. It appears that the way the DPO has been applied in multiple areas is actually creating redundant planning provisions. Council's current practice is to require the preparation of a development plan for each individual application for subdivision submitted. Consequently, Council has a large number of development plans which may or may not be consistent.

Many of the Schedules to the DPO are outdated, based on outdated strategic work or both. It is possible that some of these areas have been developed and the DPO is no longer required, or changes to the VPPs (particularly in terms of infrastructure provision and vegetation removal) may make a number of the older and more basic DPO Schedules redundant.

The previous review in 2014 recommended that Council should undertake a review of the Castlemaine Residential Strategy, and undertake strategic work in relation to housing, settlement and neighbourhood character.

Moreover, Amendment C36 was refused by the Panel on the basis that it was seeking to create a growth area and apply the DPO to land that was not suitable for urban growth. Further strategic work relating to settlement and housing will provide much needed guidance as to the location of future growth areas.

10.3 Land Management Overlays

10.3.1 Erosion Management Overlay

The EMO applies to very large areas of predominantly rural land to the north and west of Castlemaine, including Walmer, Walmer South, Muckleford, Porcupine Flat and Maldon. The Mount Alexander Planning Scheme contains a Schedule to the EMO that contains local provisions. The Schedule does not comply with the Ministerial Direction for the Form and Content of Planning Schemes as it only contains a section for the permit requirement which also includes the application requirements.

The Schedule to the EMO only contains three (3) permit requirements, of which one is an application requirement. A permit is not required for the use and development of an outbuilding less than 120 square metres or works undertaken by VicRoads (subject to certain circumstances). The application requirement specifies the need to minimise earthworks and removal of native vegetation and suggests a landscaping plan may be appropriate in some situations to manage erosion.

The Schedule to the EMO states that 'where appropriate, applications should include a landscaping plan to address erosion' however there is no indication of how this is applied and does not give applicants any certainty.

Council Officer feedback highlighted that in many areas the EMO is the only trigger for a permit application, and assessment under the EMO is often a very brief 'tick and flick'. There is a need to review the extent of the EMO mapping and potentially review the strategic work it is based on to ensure the provision and its content are still relevant. The Schedule to the EMO contains very little content. The previous planning scheme review in 2014 recommended that Council engage with the DELWP to develop standard policies for the consideration of applications under the EMO.

10.3.2 Floodway Overlay

The FO applies to a buffer area around waterways that travel north, south and east from where they intersect in Castlemaine. This transects both urban and rural areas of the Shire. The Mount Alexander Planning Scheme contains one (1) Schedule to the FO which contains local provisions. The Schedule complies with the Ministerial Direction for the Form and Content of Planning Schemes.

FO1: Flooding from Waterways

FO1 provides a significant number of exemptions from a permit to construct or carry out buildings and works which generally relate to there being no or very little change to the ground level floor area (via extensions, alterations, replacement, etc.) and minimising the possibility of habitable rooms being located in an area of risk.

Other development (non-habitable) may be exempt if it can be demonstrated that it will not obstruct the flow path of flood waters. Application requirements only include a note that Council may require evidence of the existing building envelope and no decision guidelines are specified.

There have not been any relevant VCAT cases or feedback from Council Officers or stakeholders to suggest that the FO is not functioning effectively. The previous review in 2014 recommended that Council engage with NCCMA to prepare updated flood mapping for Bells Swamp and Muckleford Creek. Feedback from the North Central Catchment Management Authority (NCCMA) noted that there has been recent strategic work to prepare a Flood Management Plan for Castlemaine, Campbells Creek and Chewton (Amendment C82 implemented this into the scheme). There is a need to prepare Flood Management Plans for other townships throughout the Shire. The previous review in 2014 recommended that Council engage with NCCMA to prepare updated flood mapping for Bells Swamp and Muckleford Creek as a priority. NCCMA also noted that the 'township rapid flood risk mapping' and associated studies should be incorporated into the planning scheme upon completion.

10.3.3 Land Subject to Inundation Overlay

The LSIO applies to a buffer area around a network of waterways predominantly in Castlemaine, Moonlight Flat, Wesley Hill, Golden Point and Campbells Creek. A relatively large corridor of land affected by the LSIO travels north-south between Muckleford and Walmer. The Mount Alexander Planning Scheme contains three (3) Schedules to the LSIO which does contain local provisions. Schedules 1 and 2 to the LSIO comply with the Ministerial Direction

for the Form and Content of Planning Schemes, while the remaining, unnumbered Schedule does not comply as it only contains a single permit requirement that replicates LSIO2 and no further provisions.

Schedule to the LSIO

The unnamed and unnumbered Schedule to the LSIO contains a single permit requirement: that a permit is not required for the use and development of an outbuilding less than 120m². This replicates the permit requirement contained in LSIO2.

LSIO1: Flooding from Waterways

LSIO1 provides a significant number of exemptions from a permit to construct or carry out buildings and works which generally relate to there being no or very little change to the ground level floor area (via extensions, alterations, replacement, etc.) and minimising the possibility of habitable rooms being located in an area of risk.

Other development (non-habitable) may be exempt if it can be demonstrated that it will not obstruct the flow path of flood waters. Application requirements only include a note that Council may require evidence of the existing building envelope and no decision guidelines are specified.

LSIO2: Flooding from Waterways

LSIO2 contains only a single exemption for the use and development of an outbuilding less than 120m² and an application requirement that notes Council may require evidence of the existing building envelope.

There have not been any relevant VCAT cases or feedback from Council Officers or stakeholders to suggest that the LSIO is not functioning effectively. The previous review in 2014 recommended that Council engage with NCCMA to prepare updated flood mapping for Bells Swamp and Muckleford Creek. Feedback from the North Central Catchment Management Authority (NCCMA) noted that there has been recent strategic work to prepare a Flood Management Plan for Castlemaine, Campbells Creek and Chewton (Amendment C82 implemented this into the scheme). There is a need to prepare Flood Management Plans for other townships throughout the Shire. The previous review in 2014 recommended that Council engage with NCCMA to prepare updated flood mapping for Bells Swamp and Muckleford Creek as a priority. NCCMA also noted that the 'township rapid flood risk mapping' and associated studies should be incorporated into the planning scheme upon completion.

10.3.4 Bushfire Management Overlay

The BMO applies very extensively to the majority of rural areas in the Shire and affects some townships or localities (such as Green Gully). The Mount Alexander Planning Scheme contains one (1) Schedule to the BMO. The Schedule complies with the Ministerial Direction for the Form and Content of Planning Schemes.

BMO1: Castlemaine, Campbells Creek, Maldon BAL-12.5 Areas

BMO1 identifies areas with a certain level of risk whereby a dwelling must be constructed to the BAL-12.5 standard, have a cleared area and safe and reliable water and vehicle access.

There have been a significant number of VCAT cases that dealt with the BMO, however both Council and the Tribunal's decisions did not hinge on the objectives of the BMO. Council Officer feedback noted that the changes to bushfire provisions at the State level have resulted in a loss of native vegetation. While a balance should be struck between native vegetation removal and bushfire hazard, it is of clear importance that bushfire hazards should be minimised to protect life and property and this is not considered to warrant the BMO ineffective. The previous review in 2014 recommended Council investigate additional areas for potential Schedules to the BMO. This has largely been undertaken as part of VC140 by DELWP, but there may still be merit in investigating the township of Newstead.

10.4 Other Overlays

10.4.1 Public Acquisition Overlay

The PAO applies to the Calder Freeway / Highway and a relatively small area of land between Kalimna Tourist Road and Colles Road in Moonlight Flat. The Mount Alexander Planning Scheme contains one (1) Schedule to the PAO. The Schedule complies with the Ministerial Direction for the Form and Content of Planning Schemes.

The Schedule to the PAO contains two entries that correspond with the two areas described above. The area along the Calder Freeway / Highway was for proposed road alignment. The PAO now covers land that is now part of the Calder Freeway and is now redundant. The area in Moonlight Flat is for the purpose of a public park. There have not been any relevant VCAT cases or feedback from Council officers or other stakeholders that suggest the PAO is not functioning effectively. No gaps have been identified.

10.4.2 Restructure Overlay

The RO applies relatively small areas of land spread throughout the Shire, with the exception of a very large area of land in and to the south of Ravenswood along the Calder Highway. The Mount Alexander Planning Scheme contains one (1) Schedule to the RO that does contain local provisions. The Schedule complies with the Ministerial Direction for the Form and Content of Planning Schemes.

The Schedule to the RO specifies nine (9) areas where the RO is applied throughout the municipality. As described above, the majority of these areas are relatively small, with the exception of RO4 at Ravenswood South which covers a relatively large area of land either side of the Calder Highway. The majority of the restructure plans were prepared in 2013 with the only exception being RO1 (Pennyweight Flat) which was prepared in 2009. In *Estate of FW Jordan v Mount Alexander SC [2018] VCAT 181*, the Tribunal affirmed Council's decision to refuse a permit application for a dwelling and outbuilding which was based partially on the grounds that the proposal was not in accordance with RO6. This demonstrates that the RO is functioning effectively. No gaps have been identified.



11.0 Particular Provisions

This audit has considered particular provisions where the Ministerial Direction for the Form and Content of Planning Schemes identifies that local provisions may be included by the relevant authority in a Schedule to that particular provision. Any particular provision that is purely guided by the VPP and does not allow Council to specify local provisions has not been audited.

11.1 Provisions that Apply only to a Specified Area

11.1.1 Specific Sites and Exclusions

A Schedule to the Specific Sites and Exclusions Particular Provision may specify specific sites and exclusions (detailing the address of the land and the title of the incorporated document). The Schedule to the Specific Sites and Exclusions Particular Provision contains five (5) entries with corresponding incorporated documents ranging from June 2001 to December 2013. There have not been any VCAT cases nor any feedback from Council Officers or stakeholders to suggest that the Particular Provision is not functioning effectively. No gaps have been identified.

11.2 Provisions that Require, Enable or Exempt a Permit

11.2.1 Easements, Restrictions and Reserves

A Schedule to the Clause may specify easements, restrictions, and reserves. The Mount Alexander Planning Scheme contains one Schedule to this Clause, the format of which complies with the Ministerial Direction for the Form and Content of Planning Schemes.

The Schedule to the Easements, Restrictions, and Reserves Particular Provision contains no entries; no easements, restrictions, or reserves are specified.

There have not been any VCAT cases nor any feedback from Council Officers or stakeholders to suggest that the Particular Provision is not functioning effectively. No gaps have been identified.

11.2.2 Advertising Signs

A Schedule to the Clause may specify sign controls using different sign classifications. The Schedule to the Advertising Signs Particular Provision contains no entries. The Mount Alexander Planning Scheme contains one Schedule to this Clause, the format of which does not comply with the Ministerial Direction for the Form and Content of Planning Schemes.

The Schedule should be titled 'Signs' rather than 'Advertising Signs' and should have a subsection: '1.0 Exemption from notice and review'. The Table contained in the Schedule, which states 'None specified', complies with the Ministerial Direction.

As the Schedule does not specify sign controls for certain areas to achieve the stated objectives, there is no opportunity for local context of Mount Alexander to influence signage policy. This could cause issue for Council if it wishes to refuse or impose conditions on applications for signs in certain areas but is unable to do so without the local policy. Council may wish to create local content at this schedule to more effectively regulate signage in the Shire.

11.2.3 Bushfire Protection: Exemptions

A Schedule to the Clause may specify land exempted for vegetation removal for the purposes of bushfire protection.

The Mount Alexander Planning Scheme contains one Schedule to this Clause, the format of which complies with the Ministerial Direction for the Form and Content of Planning Schemes. No exemptions are specified.

The Schedule to the Bushfire Protections: Exemptions Particular Provision contains no entries. This Clause is relevant to one VCAT case, *Tisdall v Mount Alexander SC* [2017]. Though bushfire risk was a consideration of this

case, which was related to an application for use of land as Place of Assembly for a three day music festival, there is nothing in the case to suggest that this Clause is not functioning as it should. No gaps have been identified.

11.2.4 Native Vegetation Precinct Plan

A Schedule to the Clause incorporate precinct plans for the protection or management of native vegetation. The Schedule to the Native Vegetation Precinct Plan Particular Provision contains no entries. The Mount Alexander Planning Scheme contains one Schedule to this Clause, the format of which complies with the Ministerial Direction for the Form and Content of Planning Schemes. No precinct plans are incorporated.

As have not been any VCAT cases nor any feedback from Council Officers or stakeholders to suggest that the Particular Provision is not functioning effectively. Council may wish to create local content if there is an area which merits its own Native Vegetation Precinct Plan.

11.2.5 Native Vegetation

A Schedule to the Clause may identify weeds or native vegetation for which no permit is required to remove, destroy, or lop.

The Mount Alexander Planning Scheme contains one Schedule to this Clause, the format of which partially complies with the Ministerial Direction for the Form and Content of Planning Schemes. The Schedule contains an additional subsection not included in the Ministerial Direction: 'Utility installation code of practice'. However, no codes of practice are specified in the table within this section. This section should have been removed by Amendment VC138; this is likely an oversight.

The Schedule to the Native Vegetation Particular Provision contains two entries under 'Scheduled area'. Each of these identifies native vegetation for which no permit is required to remove, destroy, or lop. There have not been any VCAT cases nor any feedback from Council Officers or stakeholders to suggest that the Particular Provision is not functioning effectively. No major gaps in the local provisions have been identified.

11.2.6 Licensed Premises

A Schedule to the Clause may make additional provisions to ensure that licensed premises are appropriately located and avoid negatively impacting amenity in their surrounding areas.

The Mount Alexander Planning Scheme contains one Schedule to this Provision, the format of which complies with the Ministerial Direction. However, the title of the Clause, 'Licensed Premises' is omitted from the title line of the schedule. The Schedule to the Licensed Premises Particular Provision contains no entries.

There have not been any VCAT cases nor any feedback from Council Officers or stakeholders to suggest that the Particular Provision is not functioning effectively. Council may wish to create local content for this Schedule, if deemed necessary.

11.2.7 Gaming

A Schedule to the Clause may make additional provisions to regulate the location of gaming facilities.

The Mount Alexander Planning Scheme contains one Schedule to this Provision, the format of which does not comply with the Ministerial Direction. The Schedule should contain seven subsections:

1. Objectives
2. Prohibition of a gaming machine in a shopping complex
3. Prohibition of a gaming machine in a strip shopping centre
4. Locations for gaming machines
5. Venues for gaming machines
6. Application requirements

7. Decision guidelines

The current Schedule to this provision is missing a number of these sections. In addition, the Mount Alexander Planning Scheme currently has a separate gaming policy at Clause 22.09.

The Schedule to the Gaming Particular Provision contains two entries for the prohibition of a gaming machine in a strip shopping centre. There have not been any VCAT cases nor any feedback from Council Officers or stakeholders to suggest that the Particular Provision is not functioning effectively. The policy lacks much of the necessary content, likely because it is located at Clause 22.09 instead of within this Particular Provision. This should be remedied by incorporating the policy from 22.09 at 52.28 and rewriting it to follow the Ministerial Direction.

11.2.8 Post Boxes and Dry Stone Walls

A Schedule to the Clause may identify land for which the permit requirement for dry stone walls applies. However, the Schedule to this Provision in the Mount Alexander Planning Scheme simply identifies 'All' land as subject to the permit requirements, which is likely a misuse (overapplication) of this provision.

Aside from this, the form and content comply with the Ministerial Direction for 52.33. The Particular Provision applies the permit requirements to all land within the Shire.

There have not been any VCAT cases nor any feedback from Council Officers or stakeholders to suggest that the Particular Provision is not functioning effectively. No gaps have been identified.

11.3 General Requirements and Performance Standards

11.3.1 Public Open Space Contribution and Subdivision

A Schedule to the Clause may identify amounts of contribution of public open space for types or specific subdivisions.

The Mount Alexander Planning Scheme contains one Schedule to this Clause, the format of which complies with the Ministerial Direction for the Form and Content of Planning Schemes. No open space contributions are specified. The Schedule to the Provision contains no entries.

This Clause is relevant to one VCAT case, *Schnaedelbach v Mount Alexander SC (2017)*, in which Council was unable to require a 5% open space contribution because it lacked strategic justification. Council have noted that the lack of local policy at this clause is an issue. The Open Space Strategy should be incorporated into the Scheme at this Provision. Currently, the Clause has no content and Council is unable to implement their Open Space objectives.

11.3.2 Live Music and Entertainment Noise

A Schedule to the Clause may identify areas to which the provision does not apply, or specific venues to which it does apply.

The Mount Alexander Planning Scheme contains one Schedule to this Clause, the format of which complies with the Ministerial Direction for the Form and Content of Planning Schemes. No areas or venues are specified. The Schedule to the Provision contains no entries.

There have not been any VCAT cases nor any feedback from Council Officers or stakeholders to suggest that the Particular Provision is not functioning effectively. Council may create local content for this provision if deemed necessary.

11.3.3 Statement of Underlying Provisions

A Schedule to the Clause may incorporate statements with planning provisions related to land reserved for a public purpose if the land had not been reserved for that purpose. The Schedule to the Provision contains no entries.

There have not been any VCAT cases nor any feedback from Council Officers or stakeholders to suggest that the Particular Provision is not functioning effectively. Council may create local content for this provision if deemed necessary.

11.4 VicSmart Applications and Requirements

11.4.1 Local VicSmart Applications

A Schedule to the Clause may specify classes of application that are VicSmart applications to which Clause 71.06 applies. A class of application specified must not be a class of VicSmart application specified in another provision of this planning scheme.

The format of Clause 59.15 complies with the Ministerial Direction for the Form and Content of Planning Schemes. No local content has been created at this Schedule.

There have not been any VCAT cases from this review period to suggest that the Particular Provision is not functioning effectively. However, Council officers have noted that there is a lack of local content in schedules in relation to VicSmart. They have found that applicants are not supplying the required information required under VicSmart as part of their initial application. This could be solved by providing more materials and advice regarding VicSmart processes to applicants.

This could be a major area for adding content to reflect Council's policies and better provide information to residents to guide them in making VicSmart applications.

11.4.2 Information Requirements and Decision Guidelines for Local VicSmart Applications

A Schedule to the Clause may set out information requirements and decision guidelines for a class of VicSmart application specified in the Schedule to Clause 59.15.

The format of Clause 59.16 complies with the Ministerial Direction for the Form and Content of Planning Schemes. No local content has been created at this Schedule. There have not been any VCAT cases to suggest that the Particular Provision is not functioning effectively. However, as noted with the previous Clause, the lack of content has resulted in the receipt of applications which lack the required information under VicSmart. Council may wish to address this by creating content at this Clause.



TOWN HALL

50

12.0 General Provisions

This audit has considered general provisions where the Ministerial Direction for the Form and Content of Planning Schemes identifies that local provisions may be included by the relevant authority in a Schedule to that general provision. Any general provision that is purely guided by the VPP and does not allow Council to specify local provisions has not been audited.

12.1 Referral and Notice Provisions

12.1.1 Referral of Permit Applications Under Local Provisions

An application of the kind listed in the schedule to this clause must be referred to the referral authority specified in the schedule.

The format and content of Clause 66.04 complies with the Ministerial Direction for the Form and Content of Planning Schemes.

The Schedule to the Provision contains six entries which specify referral authorities as determining or recommending authority for different types of applications.

There have not been any VCAT cases to suggest that the Particular Provision is not functioning effectively, and Council feedback did not identify any gaps in the content at this Clause.

12.1.2 Notice of Permit Applications Under Local Provisions

In addition to the notice requirements of Clause 66.05 (Referral of permit applications under local provisions), notice of an application of the kind specified in the schedule to this clause must be given to the person or body specified in the schedule.

The format and content of this Clause complies with the Ministerial Direction for the Form and Content of Planning Schemes.

There have not been any VCAT cases to suggest that the Particular Provision is not functioning effectively, and Council officers have not noted any gaps in its content.



13.0 Recommendations

13.1 Implementation Plan

The Implementation Plan draws on all recommended actions in the audit to provide a consolidated set of recommendations for further strategic work to be undertaken over the next review period and their priority.

Table 4: Implementation Plan

No.	Recommendation	Relevant Clause(s)	Relevant Section(s)	Priority
01	In conjunction with DELWP, restructure the current LPPF into the new Municipal Planning Strategy (MPS) and integrated Planning Policy Framework (PPF) following Amendment VC148.	21, 22	8.1	High
02	Undertake a policy neutral Planning Scheme Amendment that consolidates all the Small Administrative Change (SAC) actions recommended by the audit.	Various	8.0, 9.0, 10.0, 11.0	High
03	Undertake further strategic work relating to rural living, and ensure this strategy updates and appropriates the provision of Rural Zones throughout the Shire. <ul style="list-style-type: none"> Amend Clause 22.04 to provide more guidance on how Council exercises discretion Consider PPN42, PPN37, PPN18 Consider V073 Ensure appropriate application of the DPO 	35, 22.04	9.4.1, 10.2.3	High
04	Update the MSS based on the current local strategies, in particular the Council Plan. <ul style="list-style-type: none"> Undertake a review of reference documents with relevant stakeholders 	21	8.2	High
05	Undertake strategic work in relation to housing and settlement to update town framework plans to incorporate into the Scheme <ul style="list-style-type: none"> Consider housing affordability, short-term accommodation, and ageing-in-place as part of this strategic work Ensure the strategy is clear in directing areas for planned, rural living areas and urban development and update the MSS to reflect this Consider PPN37 Appropriate the provision of residential zones Develop housing change areas Review the content of the Castlemaine Residential Strategy 	21.03, 21.08, 32	8.2, 9.1	High
06	Consolidate the list of further strategic work in the MSS, particularly as it relates to Castlemaine	21	8.2	High
07	Remove, relocate, or reword objectives and requirements in the LPP to better demonstrate how Council will exercise discretion	21.08, 21.09	8.3	High
08	Consolidate local heritage policy at Clause 21.07, 22.01, and 22.02	21.07, 22.01, 22.02	8.2, 8.3, 10.2	High
09	Prepare a planning scheme amendment to make key technical updates to the schedules to the Significant Landscape Overlay (SLO1-SLO4), as per the recommendations of the 2010 review, and clarify which landscapes/views are to be protected	42	10.1.3	High
10	Review and update the Heritage Overlay	43	10.2.1	High

No.	Recommendation	Relevant Clause(s)	Relevant Section(s)	Priority
	<ul style="list-style-type: none"> Consider PPN1 Rectify mapping anomalies 			
11	Implement Flood Management Plans for townships and update overlays	21.05	8.0, 10.3	High
12	Engage with NCCMA to prepare updated flood mapping for Bells Swamp and Muckleford Creek.	44.03	10.3	High
13	In conjunction with DELWP and CFA, undertake further strategic work to appropriate the BMO <ul style="list-style-type: none"> Prioritise Newstead Consider PPN64 	44.06	10.3	High
14	Adopt the Planning Scheme Review 2019 at Council Meeting and forward to the Minister for Planning.	-	-	High
15	Develop local policy for Chewton	21.12	8.2.12	High
16	Council to monitor and review its internal process in assessing permit applications and development plans on land subject to a DPO.	43.04	10.2.3	High
17	Undertake a Neighbourhood Character Study <ul style="list-style-type: none"> Prioritise Castlemaine 	21.08, 43	8.0, 9.1	Moderate
18	Prepare Structure Plans for Harcourt and Newstead	21.03, 21.12	8.2.12	Moderate
19	Investigate the identified former landfill sites and the potential application of the ESO or PUZ	21.06	10.1.1, 9.5.1	Moderate
20	Review statements of significance for Castlemaine in accordance with the Thematic Environmental History	21.07	8.2.7, 10.2	Moderate
21	Undertake a Heritage Study in consultation with existing heritage groups and the local Aboriginal party <ul style="list-style-type: none"> Review Maldon Design Guidelines 	21.07, 22.01, 43	8.3, 10.2	Moderate
22	Undertake a review of existing planning provisions that apply to the LDRZ in this area (DPO and Clause 22.08) to ensure policy guidance in the LPP is assisting Council to achieve their desired outcome(s).	22.08	8.0, 9.4, 10.2	Moderate
23	Undertake the development of a retail analysis <ul style="list-style-type: none"> Consider the inclusion of design guidelines for commercial areas Consider PPN85 Consider inclusion of land in the C3Z 	21.09, 34	8.2.9, 9.3	Moderate
24	Undertake further strategic work and potentially update the Schedules to the ESO	42	10.1.1	Moderate
25	Implement the Environment Strategy 2015-2025	21.04, 21.05	8.2.4	Moderate
26	Review the map at 21.06-1 for legibility	21.06	8.2.6	Moderate
27	Investigate location and extent of potential commercial uses in smaller townships (e.g. Harcourt and Campbells Creek)	21.03	8.2.3	Moderate
28	Prepare a Scenic Landscapes Strategy	21.04	8.2.4	Moderate

No.	Recommendation	Relevant Clause(s)	Relevant Section(s)	Priority
29	Prepare a local planning policy on 'Environmental Sustainability' to address energy, waste, and water efficiency issues.	21.04	8.2.4	Moderate
30	Prepare a Land Management Study	21.05	8.2.5	Moderate
31	Investigate wastewater considerations for Elphinstone and Guildford	21.06	8.2.6	Moderate
32	Prepare an urban design plan for Castlemaine and incorporate this into the MSS	21.07	8.2.7	Moderate
33	Rewrite the content of Clause 21.07 to provide greater guidance in regards to preferred character and design	21.07	8.2.7	Moderate
34	Prepare an industrial land strategy for the Shire	21.09	9.2	Moderate
35	Redraft the provisions into four (4) separate Schedules to the RLZ which are reflected on the planning scheme maps and remove the hand drawn maps.	35	9.4.1	Moderate
36	Investigate the need to protect existing agriculture activities through the use of separation distances	21.09	9.4, 10.1	Moderate
37	Identify potential infrastructure projects to be funded by DCPs in future as well as sites for the potential application of DCPs	21.10	7.1.4, 10.3	Moderate
38	Strengthen clause 22.05 to include other considerations in the MSS for the objective the LPP is derived from: noise, dust, odour, hours of operation.	22.05	8.3	Moderate
39	Undertake further investigations into applying the Vegetation Protection Overlay to the roadsides of 'high' conservation value, as per Figure 9 in the State of the Environment Report (2010, 22).	42	10.1.2	Moderate
40	Prepare Design and Development Overlays for Castlemaine Town Centre to manage built form and design issues.	43.02	10.2.2	Moderate
41	Engage with DEPI (now DELWP) to develop standard policies for the consideration of applications under the Erosion Management Overlay.	44.01	10.3.1	Moderate
42	Review the extent of the EMO and undertake further strategic work to appropriate the provision of this overlay throughout the municipality.	44.01	10.3.1	Moderate
43	Create local advice and information materials for the VicSmart provisions to assist the public with VicSmart applications	59.15, 59.16	11.4	Low
44	Clarify local policy objectives for large scale events supported by tourism policy, but not supported by farming/agricultural policy.	22.04	9.4	Low
45	Review inconsistencies of "Caravan and Camping Parks" definitions between the Residential Tenancies Act 1997, and the planning scheme.	22.04	-	Low
46	Investigate the need to create local content at 52.05s	52.05	11.2	Low
47	Undertake a Canopy Tree Study to determine the best way to protect and enhance canopy tree coverage.	21.05	3.7	Low

13.2 Small Administrative Changes

The following table includes all the small administrative changes that were identified as part of the audit, which include simple recommendations that do not require permission in order to be completed.

Input	Evaluation	Recommendation(s)	Clause
PPN4: Writing a Municipal Strategic Statement	<ul style="list-style-type: none"> Avoid using frequently changing statistics. Strategies should describe 'what how and why' 	<ul style="list-style-type: none"> Update or remove statistics in the MSS that will change frequently. Refine strategies to ensure they include a 'why' component 	21.03,
Amendment C61	<ul style="list-style-type: none"> Identified a need to consolidate the list of further strategic work in the MSS Review the MSS and LPP for consistency with PPN4 and PPN8 respectively 	<ul style="list-style-type: none"> Review and update the list of further strategic work in the MSS Refer to the PPNs 	21.02, 21.04, 21.06, 21.07, 21.08, 21.09, 21.10, 21.11, 21.12,
Council Officer Feedback	<ul style="list-style-type: none"> There are two heritage policies currently within the Mt Alexander Planning Scheme Clause 22.01 'Heritage' and Clause 22.02 'Maldon'. It is felt that Clause 22.01 is the better policy, and there is an opportunity to combine both policies, and include reference to the thematic environmental history. The application of the Maldon heritage policy (Clause 22.02) is problematic, and open to interpretation, as it applies to a specified area (... the township of Maldon as defined on Plan 4: Maldon Framework Plan). Yet its application could be potentially wider. There is a Registered Aboriginal Party (RAP) for the local area, the Dja Dja Wurrung Clans Aboriginal Corporation (DDWCAC). There is no longer a heritage advisory committee. 	<ul style="list-style-type: none"> Consolidate local heritage policy at this Clause to remove Clause 22.01 	21.07
PPN8: Writing a Local Planning Policy	<ul style="list-style-type: none"> Definitions of technical terms are listed at the beginning of the schedule 	<ul style="list-style-type: none"> Simplify the definitions by reformatting to use columns or a table 	22.01
	<ul style="list-style-type: none"> LPP should provide guidance as to how Council will exercise discretion and not contain any requirement. 	<ul style="list-style-type: none"> Add reference to additional objectives in the MSS if appropriate 	22.04
	<ul style="list-style-type: none"> Objectives of the LPP may also be derived from other objectives in the MSS 	<ul style="list-style-type: none"> Relocate or remove requirements (Section 173 Agreements and standards for road construction) from the LPP 	
Gardner v Mount Alexander SC [2017] VCAT 258	<ul style="list-style-type: none"> Provision of accommodation with 15 "eco tents" and 5 casual camping sites together with a permanent amenity block and temporary shared kitchen facilities. Council refused the permit application on the basis that this location is within the Farming zone and is deemed not appropriate for this use. Council's decision affirmed and no permit granted. 	<ul style="list-style-type: none"> Review inconsistencies of "Caravan and Camping Parks" definitions between the Residential Tenancies Act 1997, and the planning scheme. 	22.04
Ministerial Direction:	<ul style="list-style-type: none"> Schedule to the LDRZ is blank and was last amended by VC37 in 2006. 	<ul style="list-style-type: none"> Minor administrative changes to the layout of the blank schedule 	32.03

Input	Evaluation	Recommendation(s)	Clause
Form and Content of Planning Schemes	<ul style="list-style-type: none"> Schedule to the TZ is blank and was last amended by VC100 in 2013. 		32.05
	<ul style="list-style-type: none"> Schedule to the GRZ is blank and was last amended by GC8 in 2014. 		32.08
	<ul style="list-style-type: none"> Schedule to the IN1Z is blank and was last amended by VC100 in 2013. 		33.01
	<ul style="list-style-type: none"> Schedule to the IN3Z is blank and was last amended by VC100 in 2013. 		33.03
	<ul style="list-style-type: none"> Schedule to the C1Z is blank and was last amended by VC100 in 2013. 		34.01
	<ul style="list-style-type: none"> Schedule to the TZ is blank and was last amended by VC100 in 2013. 		35.03
	<ul style="list-style-type: none"> Schedule to the FZ is blank and was last amended by VC100 in 2013. 		35.07
	<ul style="list-style-type: none"> Schedule to the PUZ is blank and was last amended by VC37 in 2006. 		36.01
	<ul style="list-style-type: none"> Schedule to the PPRZ is blank and was last amended by VC37 in 2006. 		36.02
	<ul style="list-style-type: none"> Schedule to the PCRZ is blank and was last amended by VC37 in 2006. 		36.03
	<ul style="list-style-type: none"> The C3Z does not contain a Schedule, however there is a template provided in the VPP. 	<ul style="list-style-type: none"> Add the blank Schedule to the C3Z. 	34.03
	<ul style="list-style-type: none"> Schedule to the RCZ was last amended by VC103 in 2013 and contains too many conservation values. 	<ul style="list-style-type: none"> Consolidate the conservation values by theme (see below) to a maximum of five. 	35.06
	<ul style="list-style-type: none"> There are a total of 7 schedules to the ESO. 	<ul style="list-style-type: none"> Ensure only one environmental objective is provided to ESO3, ESO4, ESO5 and ESO7 The application requirements heading should be included in ESO1, ESO2, ESO3, ESO4, ESO5, ESO6, ESO7 Wording of each section needs to comply with those recommended in the Ministerial Direction 	42.01
	<ul style="list-style-type: none"> There are a total of 2 schedules to the VPO 	<ul style="list-style-type: none"> VPO1 and VPO2 require subheading 4.0 relating to "application requirements". 	42.02
<ul style="list-style-type: none"> There are a total of 4 schedules to the SLO 	<ul style="list-style-type: none"> All Schedules to the SLO require sub-heading 4.0 "application requirements" to be included SLO2 and SLO3 require a maximum of 5 objectives. 	42.03	
<ul style="list-style-type: none"> Schedule to the HO contains local provisions and was last updated by Amendment GC117 in 2019. 	<ul style="list-style-type: none"> Minor administrative changes to the headings of the Heritage places table. 	43.01	

Input	Evaluation	Recommendation(s)	Clause
	<ul style="list-style-type: none"> Schedules to the DDO are outdated and many have not been updated for up to 10 or more years. 	<ul style="list-style-type: none"> Update Schedules to the DDO to ensure they comply with the Ministerial Direction 	43.02
	<ul style="list-style-type: none"> Schedules to the DPO are outdated and many have not been updated for up to 10 or more years. 	<ul style="list-style-type: none"> Update Schedules to the DPO to ensure they comply with the Ministerial Direction 	43.04
	<ul style="list-style-type: none"> Schedule to the EMO is not consistent with the Ministerial Direction 	<ul style="list-style-type: none"> Update Schedule to ensure they comply with the Ministerial Direction 	44.01
	<ul style="list-style-type: none"> The unnumbered Schedule to the LSIO only contains a permit requirement that replicates LSIO2 	<ul style="list-style-type: none"> Remove the unnumbered Schedule to the LSIO and replace it with LSIO2 (if applicable). 	44.04
	<ul style="list-style-type: none"> The Schedule to Clause 52.05 was last updated by Amendment VC113 in 2017. The format is not entirely consistent with the Ministerial Direction. 	<ul style="list-style-type: none"> Make minor changes to the structure and content of the schedule to comply with the ministerial direction. 	52.05
	<ul style="list-style-type: none"> The Schedule to Clause 52.17 was last updated by Amendment VC138 in 2017. The format is not entirely consistent with the Ministerial Direction. 	<ul style="list-style-type: none"> Make changes to the clause as discussed below 	52.17
	<ul style="list-style-type: none"> The Schedule to Clause 52.27 was last updated by Amendment VC37 in 2006. The format is not entirely consistent with the Ministerial Direction. 	<ul style="list-style-type: none"> Include the Name of the Particular Provision in the Schedule. 	52.27
	<ul style="list-style-type: none"> The Schedule to Clause 52.28 was last updated by Amendment VC37 in 2006. The format is not entirely consistent with the Ministerial Direction. 	<ul style="list-style-type: none"> Rewrite this particular provision to the format laid out in the Ministerial Direction. 	52.28
Council Feedback on Key Issues	<ul style="list-style-type: none"> Schedule to the RLZ allows for subdivision down to 1 hectare in areas where the Diamond Gully Structure Plan provide a minimum subdivision area of 2 hectares. 	<ul style="list-style-type: none"> Rectify the error in the Schedule in the RLZ by bringing it in line with the Diamond Gully Structure Plan. 	35.03
Lang v Mount Alexander SC [2018] VCAT 1493	<ul style="list-style-type: none"> Use and development of three dwellings and three-lot subdivision of the subject land. Application for a review of the MASC decision to grant a planning permit for three dwellings and a three-lot subdivision. The heritage overlays that affected the site were disputed. Council's decision affirmed and a permit granted. 	<ul style="list-style-type: none"> Review the Schedule to the Heritage Overlay and Map to rectify inconsistencies 	43.01
Amendment VC138	<ul style="list-style-type: none"> This amendment made changes to the state policy in regards to native vegetation. It should have removed section 3.0 Utility installation code of practice, from the schedule. 	<ul style="list-style-type: none"> Remove this section from the Schedule. 	52.17
Amendment C72	<ul style="list-style-type: none"> This implemented the Mount Alexander gaming policy, placing it within a policy framework clause at 22.09 rather than in this Particular Provision. 	<ul style="list-style-type: none"> Consolidate the local gaming policy at Clause 52.28 	52.28

