

Planning and Environment Act 1987

Panel Report

**Swan Hill Planning Scheme Amendment C73swan
Implementation of Planning Scheme Review and Planning
Policy Framework**

16 December 2019

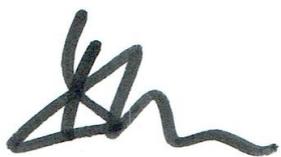
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Panel Report pursuant to section 25 of the Act

Swan Hill Planning Scheme Amendment C73swan

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David Merrett, Chair

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Glossary and abbreviations

the Amendment	Swan Hill Planning Scheme Amendment C73swan
CHMP	Cultural Heritage Management Plan
Council	Swan Hill Rural City Council
DELWP	Department of Environment, Land, Water and Planning
EPA	Environment Protection Authority
ESO	Environmental Significance Overlay
FZ	Farming Zone
LDRZ	Low Density Residential Zone
LPPF	Local Planning Policy Framework
LSIO	Land Subject to Inundation Overlay
MPS	Municipal Planning Strategy
NCCMA	North Central Catchment Management Authority
PO	Parking Overlay
PPF	Planning Policy Framework
RDZ1	Road Zone Category 1
RLUS	Swan Hill Rural Land Use Strategy 2015
RLZ	Rural Living Zone

Overview

Amendment summary	
The Amendment	Swan Hill Planning Scheme Amendment C73swan
Common name	Implementation of Planning Scheme Review and Planning Policy Framework
Brief description	<p>The Amendment implements a new Municipal Planning Strategy and updated Planning Policy Framework based on:</p> <ul style="list-style-type: none"> • Swan Hill Planning Scheme Review Report (2015) • Swan Hill Council Plan (2017-2020) • Swan Hill Health and Wellbeing Plan (2017-2020) • Swan Hill Riverfront Precinct Master Plan (2013) • Swan Hill Car Parking Strategy (2016) • Swan Hill Rural Land Use Strategy (2016) • Swan Hill Health Precinct Study (2017).
Subject land	All land in the municipality
The Proponent and Planning Authority	Swan Hill Rural City Council
Authorisation	Conditional authorisation dated 1 August 2018
Exhibition	14 February to 6 April 2019
Submissions	Number of Submissions: 15 (8 from agencies and 7 landowners) Refer to Appendix A
Panel process	
The Panel	David Merrett
Directions Hearing	16 September 2019, Swan Hill Region Information Centre
Panel Hearing	19 November 2019, Swan Hill Region Information Centre
Site inspections	18 November 2019, unaccompanied of the Lake Boga sites
Appearances	<p>Swan Hill Rural City Council represented by John Keaney, planning consultant, and assisted by Stefan Louw, Council planner</p> <p>Kilter Rural Pty Ltd represented by Cameron Gray of St Quentin Consulting</p> <p>Les McPhee</p>
Citation	Swan Hill PSA C73swan [2019] PPV
Date of this Report	16 December 2019

Executive summary

Swan Hill Planning Scheme Amendment C73 (the Amendment) seeks to implement the Swan Hill Planning Scheme Review Report (2015) and the outcomes of the following strategic work:

- Swan Hill Council Plan 2017-2020
- Swan Hill Health and Wellbeing Plan 2017-2020
- Swan Hill Health Precinct Study 2017
- Swan Hill Riverfront Precinct Master Plan 2013
- Swan Hill Car Parking Strategy 2016
- Swan Hill Rural Land Use Strategy 2016.

It also seeks to translate the current Local Planning Policy Framework into a new Municipal Planning Strategy and updated Planning Policy Framework, consistent with Amendment VC148.

The role of the Panel is to consider the suitability of the Amendment in line with submissions received rather than to critically evaluate all aspects of the proposed Municipal Planning Strategy and updated policy.

The Amendment received 15 submissions; eight from agencies and seven from landowners (or their representatives). Two of the landowner submissions were withdrawn and one raised issues that were not relevant to the Amendment. Key issues raised in submissions included:

- whether references to the role of Lake Boga in the Municipal Planning Strategy are strong enough
- whether land in Lake Boga should be rezoned for rural residential purposes. If not, how should potential sites be reflected in the policy framework?
- minor issues, edits and corrections.

The current strategic role of Lake Boga is as a commuter town to Swan Hill with a developing recreational and tourism focus. The Panel agreed with the submissions that this has not been translated into the new Municipal Planning Strategy and recommends this occur. Swan Hill Rural City Council (Council) will commence a Settlement Strategy in 2020 to address the Lake Boga-based submissions and more broadly the supply of land for rural residential purposes and other uses.

The Panel did not have the ability to consider the rezoning of land as part of this Amendment as this was not proposed in the exhibited documentation and it is appropriate that Council work towards a Settlement Strategy in 2020, where these can be considered further.

While four years has elapsed since the completion of the planning scheme review, the Panel appreciates that Council sought to introduce its recommendations in 2016 but was delayed because of changes to the drafting of planning schemes in Victoria, principally via Amendment VC148.

Recommendations

Based on the reasons set out in this Report, the Panel recommends that Swan Hill Planning Scheme Amendment C73swan be adopted as exhibited subject to the following:

Municipal Planning Strategy

- 1 Amend Clause 02.03 in the form of Document 5 as contained in Appendix E to:
 - refer to Lake Boga's commuter role to Swan Hill
 - refer to the single Farming Zone schedule
 - provide more accurate references to local waste facilities
 - refer to minimising off site impacts for uses within the Karinie Street industrial estate in Swan Hill
 - update references to the Swan Hill Murray River bridge crossing.
- 2 Amend the Strategic Framework Plan at Clause 02.04 by adding a reference to Lake Boga as follows:
 - *Develop the commuter, recreational and tourism role.*

Planning Policy Framework

- 3 Amend Clause 14.01-1L to refer to the single Farming Zone schedule.
- 4 Amend Clause 17.03-2L in the form of Document 16 as contained in Appendix H.
- 5 Amend Clause 19.01-2L to revise policy statements with the single Farming Zone schedule in the form of Document 10 as contained in Appendix F.
- 6 Amend Clause 19.02-1L by deleting the first strategy.
- 7 Amend the strategy in Clause 19.03-5L to read the following:
 - *Protect the Swan Hill and Robinvale landfill sites and Swan Hill transfer station against encroachment by incompatible uses.*

Zones

- 8 Delete Schedule 2 to the Farming Zone.
- 9 Amend the minimum subdivision area and minimum area for which no permit is required to use land for a dwelling in the schedule to the Farming Zone in the form contained in Document 6 as contained in Appendix D to refer to irrigated farmland in the following manner:
 - *Irrigated farmland as defined by Lower Murray Water or Goulburn Murray Water.*

Overlays

- 10 Amend the references to the exemption for ground level extensions to existing dwellings and reference to the 1% AEP flood event in the schedule to the Land Subject to Inundation Overlay in the form of Document 7 as contained in Appendix G.
- 11 Amend Clause 42.01-1 in the form of Document 17 as contained in Appendix H.

Mapping

- 12 Amend the relevant zone maps to reflect the merging of Schedules 1 and 2 to the Farming Zone.
- 13 Amend Zone Maps 38 and 40 to ensure the Parking Overlay is not applied to land in the General Residential Zone.

General provisions

- 14 Amend the schedule to Clause 66.04 to make the North Central Catchment Management Authority a recommending referral authority for all applications in Schedules 1 and 3 of the Environmental Significance Overlay.**

Operational provisions

- 15 Amend the schedule to Clause 72.08 by inserting the Loddon Mallee Waste and Resource Recovery Implementation Plan, 2017 as a Background Document.**
- 16 Amend Clause 74.01 to refer to a single Farming Zone schedule.**
- 17 Amend the schedule to Clause 74.02 in the form contained in Document 15 and contained in Appendix C to:**

“develop and implement a Settlement Strategy, including investigating opportunities that many arise for land around Lake Boga”

and deleting:

- Investigate candidate areas for rural living as identified in the Rural Land Use Strategy***
- Investigate the potential for low density residential growth north of Lakeside Drive, Lake Boga outside the Land Subject to Inundation Overlay.***

1 Introduction

1.1 The Amendment

(i) Amendment description

The purpose of the Amendment is to implement the Swan Hill Planning Scheme Review Report (2015) and the outcomes of the following strategic work:

- Swan Hill Council Plan 2017-2020
- Swan Hill Health and Wellbeing Plan 2017-2020
- Swan Hill Health Precinct Study 2017
- Swan Hill Riverfront Precinct Master Plan 2013
- Swan Hill Car Parking Strategy 2016
- Swan Hill Rural Land Use Strategy 2016 (RLUS).

Specifically, the exhibited Amendment proposes to:

Planning Policy Framework

1. Replace the existing Local Planning Policy Framework with a new Municipal Planning Strategy (MPS) at Clause 02 and a modified Planning Policy Framework (PPF) at Clauses 11 to 19 (inclusive) to include policy directions arising from the above reports

Maps

2. Insert the Mixed Use Zone (and schedule) to a site at the entrance to Lake Boga (11 Lakeside Drive)
3. Replace the existing Farming Zone with a new Farming Zone 1 and Farming Zone 2
4. Replace Environmental Significance Overlay 1 (ESO1) mapping with an expanded area along the Murray River consistent with neighbouring Councils
5. Delete Design and Development Overlay 6 from land near Lake Boga as it is no longer required
6. Delete Development Plan Overlay 2 from some land zoned Low Density Residential near Swan Hill where it is no longer required
7. Delete Development Plan Overlay 4 from land at North Park in Swan Hill as it is fully developed
8. Apply the Parking Overlay (PO) in central Swan Hill Township to reflect the outcomes of the Swan Hill Parking Strategy 2016
9. Update Planning Scheme Map Nos. 1-47 (inclusive)

Schedules

10. Replace the existing schedule to the Low Density Residential Zone (LDRZ) to introduce a permit trigger of 200 square metres for an outbuilding
11. Replace the existing schedule to the Rural Living Zone (RLZ) and specify a minimum lot size of 2 hectares to manage subdivision and development

12. Replace the existing schedule to the Farming Zone (FZ) with two new schedules (FZ1 and FZ2) to manage subdivision and development in line with the recommendations of the RLUS
13. Make modifications to the schedules to the General Residential Zone, Industrial 1 Zone and Commercial 1 Zone to make them consistent with the Ministerial Direction on the Form and Content of Planning Schemes
14. Make modifications to Schedules 1, 2, 3 and 4 of the Special Use Zone to make them more consistent with the Ministerial Direction on the Form and Content of Planning Schemes
15. Insert a new Schedule 1 to the Environmental Significance Overlay (ESO1) to specifically deal with the Murray River corridor consistent with neighbouring municipalities and consistent with the Ministerial Direction on the Form and Content of Planning Schemes
16. Insert a new Schedule 3 to the Environmental Significance Overlay (ESO3) to specifically deal with Waterways, Wetlands and Lake Environs (other than affected by ESO1) consistent with the Ministerial Direction on the Form and Content of Planning Schemes
17. Make modifications to Schedule 1 to the Vegetation Protection Overlay to update references to current regulations and to be consistent with the Ministerial Direction on the Form and Content of Planning Schemes
18. Make modifications to Schedule 1 to the Design and Development Overlay to clarify referral and notice requirements and to be consistent with the Ministerial Direction on the Form and Content of Planning Schemes
19. Make modifications to Schedule 2 to the Design and Development Overlay to modify design objectives and include references to the Swan Hill Riverfront Precinct Master Plan (2013) and to be consistent with the Ministerial Direction on the Form and Content of Planning Schemes
20. Make modifications to Schedules 1, 2, 3 and 5 to the Development Plan Overlay to restructure the schedule consistent with the Ministerial Direction on the Form and Content of Planning Schemes and to include reference to the Infrastructure Design Manual
21. Insert a new Schedule to the Land Subject to Inundation Overlay (LSIO) to reflect the approach adopted to flood risk in other municipalities and to be consistent with the Ministerial Direction on the Form and Content of Planning Schemes
22. Insert a new PO Schedule to reflect the outcomes of the Swan Hill Parking Strategy (2016)

Particular provisions

23. Modify the schedule to Clause 61.03 to update map references

24. Modify the schedule to Clause 66.04 to include ESO1 and ESO3 and to introduce a generic reference to Water authorities

Operational provisions

25. Amend the Schedule to Clause 72.03 to update the list of maps in the planning scheme
26. Amend the Schedule to Clause 72.08 to insert the names of Background documents.

The Amendment retains the following Clause 22 local policies without change:

- 22.01 Flooding
- 22.02 Car parking.

(ii) Council’s proposed changes to the Amendment

Following Council’s consideration of submissions and issues discussed at the Hearing, it recommended various changes to the Amendment. These were outlined in Council’s Part B submission and in Documents 5 to 19 (inclusive) at the Hearing.

The key change was to revert back to the single FZ schedule, with new text, to recognise that tradable water rights results in a “*blurring*” of the line between dryland and irrigated agricultural land.

The Panel has reviewed the changes sought by Council and supports them, unless otherwise recommended in this Report.

1.2 Background

The following is a summary and status of the various strategic reports that form the basis of this Amendment.

(i) Swan Hill Planning Scheme Review 2015

The review report was adopted by Council in October 2015. An outcome of the 2015 Review was the need for a more contemporary LPPF in terms of its content and (to a lesser extent) its structure and that most of the zones, overlays and schedules in the Planning Scheme required some level of review and modification.

Overall, the 2015 Review confirmed that the strategic basis of the Swan Hill Planning Scheme was fundamentally sound and was evolving progressively to reflect completed strategic work and changing community needs. It was apparent in the 2015 Review that there were further gaps within the strategic work that needed to be completed and adopted by Council. The adoption of the RLUS, the Swan Hill Car Parking Study and Amendment C58 (among others) has already addressed many of these gaps.

(ii) Swan Hill Council Plan 2017-2020

Council considered that the Amendment was generally consistent with the new Council Plan.

(iii) Swan Hill Public Health and Wellbeing Plan 2017-2020

Existing priorities that relate to the planning scheme that derive from this Plan are:

- inclusion of Healthy by Design Guidelines in developments such as the Swan Hill South West Precinct residential development
- promoting the reduction in usage of private motor vehicles through the implementation of the Active Transport Strategy.

(iv) Swan Hill Health Precinct Study 2017

This Study was adopted by Council in 2018.

The Study involved the development of a precinct plan to increase job density and industry clustering in the health services sector around the Swan Hill Hospital. The preferred area for health facility expansion is included on the Swan Hill Framework Plan at Clause 02.04 as part of the Amendment.

(v) Swan Hill Riverfront Precinct Master Plan 2013

The Master Plan was completed in 2013 and has been adopted by Council. It identifies a long-term plan for the public land between the Milloo Street wetlands in the west and the Pental Island bridge in the east, including the Pioneer Settlement.

The Amendment makes changes to Schedule 2 to the Design and Development Overlay as it applies to the Swan Hill River Precinct.

(vi) Swan Hill Car Parking Strategy 2016

Council adopted the Swan Hill Car Parking Strategy in June 2016.

The outcome of the Strategy has informed the Amendment including a new Schedule to Clause 52.06, a car parking cash in lieu scheme and PO with schedule for the study area.

(vii) Swan Hill Rural Land Use Strategy 2016

Council adopted the Rural Land Use Strategy in September 2016.

The RLUS contained recommendations including two new schedules for the FZ1 and FZ2 broadly based on irrigation land and dryland and three new RLZ areas near Robinvale, Nyah and Swan Hill. In line with the modified PPF, the Amendment limited new housing development in rural areas by introducing new schedules to the FZ and identifying mechanisms to break the nexus between small lots in the FZ and development of those lots for housing which is not used in association with agriculture.

1.3 Minister's authorisation

The RLUS supported the rezoning of some land in Swan Hill, Robinvale and Nyah to the Rural Living Zone to address a lack of land supply. Authorisation was sought from the Minister in January 2018. In accordance with section 9(2) of the *Planning and Environment Act 1987* the Department of Environment, Land, Water and Planning (DELWP) conditionally authorised Council as the Planning Authority to prepare the Amendment on 1 August 2018. Notably, the letter of authorisation included the following condition:

That the rezoning of land to Rural Living Zone (RLZ) at Swan Hill, Robinvale and Nyah be deleted, as it would result in a potential oversupply of land in the RLZ and does not strategically consider the provision of land in the RLZ and Low Density Residential Zone

(LDRZ) within the wider municipal context, as required by Planning Practice Note No. 37 – Rural Residential Development, June 2015. This should be considered for inclusion in a separate, future rural residential amendment, which should include supporting documentation providing the size in hectares of each of the candidate areas for rezoning.

The exhibited Amendment therefore did not include any rural living rezoning of land.

1.4 Summary of issues raised in submissions

(i) Swan Hill Rural City Council

The key issues for Council were:

- implementing the range of strategic work that it has recently undertaken
- implementing the recommendations of the Swan Hill Planning Scheme Review 2015
- translating the current LPPF into the PPF, consistent with Amendment VC148.

(ii) Relevant agencies

The key issues for the North Central Catchment Management Authority (NCCMA) were to simplify the wording for dwelling exemptions in the LSIO and seek to become a recommending referral authority for land affected by the ESO1 (Murray River corridor) and ESO3 (Waterways, wetlands and lake environs).

The key issues for the Country Fire Authority were to seek explicit reference to the protection of life and property in Clause 02 and require an assessment of water pressure and hydrant systems in all future development.

The Loddon Mallee Waste and Resource Recovery Group requested additions to Clauses 02.03 and 19.03-5L (Waste and resource recovery).

The Environment Protection Authority (EPA) sought stronger references to the protection of buffers in the Karinie Street industrial estate in Swan Hill.

VicRoads sought minor changes to Clause 02.03 regarding the Murray River bridge crossing options in Swan Hill, the correction of an error in the FZ2 and opposed the reduction in building setbacks from Road Zone - Category 1 land from 100 metres to 50 metres.

(iii) Individual submitters or groups of submitters

The key issues for submitters were:

- to seek the rezoning of land at Lake Boga for rural residential development
- to seek stronger references in the MPS for Lake Boga.

These issues remain unresolved.

Submissions 1 and 5 were withdrawn and Submission 2 raised issues that were not relevant to the Amendment. This submission requested the refund of planning application fees.

1.5 The Panel's approach

Panel Direction 1c advised that the Panel did not require an extensive cross-referencing exercise of all clauses of the new MPS and PPF, but that an overview would suffice. The Panel

accepts the outline Council provided in its Part A submission. Accordingly, the Panel has restricted its consideration principally to issues raised in submissions and recommended some improvements to the MPS and PPF.

The Panel notes that the drafting of the MPS and PPF was a collaborative effort between Council and DELWP staff. It was subject to a number of delays, principally due to changes to the drafting of planning schemes evolving out of the approval of Amendment VC148. The Panel understands that the delays were out of the Council's control and what has been provided is a new MPS and PPF that is contemporary and succinct and, importantly, compliant with VC148.

The key unresolved issue is how to address land that has potential for rural residential development around Lake Boga. The Panel has taken the opportunity to correct errors in the exhibited documents and endorse the agreed changes between Council and submitters where appropriate.

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Swan Hill Planning Scheme.

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, and submissions and other material presented to it during the Hearing. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Planning context
- Lake Boga
- Minor issues, edits and corrections.

2 Planning context

2.1 Planning policy framework

Council's Part A submission provided a strategic assessment of the Amendment and a discussion of the overarching policy context.

Council advised there are 85 opportunities to provide local content in the new MPS and PPF and it has used 25 of these, including:

- Clause 11.03-1L - Activity centres
- Clause 12.01-1L - Protection of biodiversity
- Clause 12.03-1L - River corridors, waterways, lakes and wetlands
- Clause 13.07-1L - Non-residential uses in residential areas
- Clause 14.01-1L - Protection of agricultural land
- Clause 14.01-2L - Sustainable agricultural land use
- Clause 15.01-1L - Urban design
- Clause 15.03-1L - Heritage conservation
- Clause 16.01-2L - Location of residential development
- Clause 17.02-1L - Business
- Clause 17.02-2L - Out-of-centre development
- Clause 17.03-1L - Industrial land supply
- Clause 17.03-2L - Industrial development siting
- Clause 17.04-1L - Facilitating tourism
- Clause 18.02-3L - Road system
- Clause 19.01-2L - Renewable energy
- Clause 19.02-1L - Health facilities
- Clause 19.03-2L - Infrastructure design and provision
- Clause 19.03-5L - Waste and resource recovery.

Council submitted that the policy directions in the Amendment were consistent with the PPF and highlighted the various Background documents that had been prepared to inform the new PPF more broadly.

2.2 Other relevant planning strategies and policies

(i) Loddon Mallee North Regional Growth Plan 2013

The Loddon Mallee North Regional Growth Plan provides broad direction for land use and development across the Loddon Mallee region, as well as a more detailed planning framework for the key regional centre of Swan Hill.

Council submitted that the Amendment supports the Loddon Mallee Regional Growth Plan as:

- the PPF outlines key directions for the growth and development of regional Victoria, including strategies to maintain its competitive edge. These strategies and objectives include protection of agriculture through identification and protection of strategically significant rural areas and limiting inappropriately dispersed urban activities in rural areas

- the Amendment is consistent with the objectives and strategies of the Planning Policy Framework and the incorporated Loddon Mallee North Regional Growth Plan (2014).

(ii) Municipal Planning Strategy

The Amendment introduces a new Municipal Planning Strategy.

Clause 02.01 outlines the local context. Clause 02.02 outlines the vision as informed by the Council Plan 2017-2020. Clause 02.03 outlines the strategic directions. Clause 02.04 contains the strategic framework plan and town-based framework plans for Swan Hill, Robinvale, Lake Boga and Nyah-Nyah West.

At around 3000 words, the MPS is within the 5000-word cap required by the Ministerial Direction on Form and Content of Planning Schemes.

2.3 Ministerial Directions and Practice Notes

The Explanatory Report and Council's Part A submission discuss how the Amendment meets the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments) and *Planning Practice Note 46: Strategic Assessment Guidelines*, August 2018. That discussion is not repeated here.

2.4 Discussion and conclusion

For the reasons set out in the following chapters, the Panel concludes that the Amendment is supported by, and implements, the relevant sections of the PPF, and is consistent with the relevant Ministerial Directions and Practice Notes. The Amendment is well founded and strategically justified, and the Amendment should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

2.5 Recommendation

The Panel recommends:

The Panel recommends that Amendment C73swan to the Swan Hill Planning Scheme be adopted as exhibited subject to the changes recommended by the Panel.

3 Lake Boga

3.1 The issues

The key issues are:

- what is the strategic role of Lake Boga and how should this be represented?
- whether land should be rezoned for rural residential purposes at Lake Boga as part of this Amendment. If not, then how should potential sites be reflected in the policy framework?
- whether the boundary between the General Residential Zone and the FZ at Haven Estate should be adjusted.

3.2 Submissions

Council advised that the RLUS was completed in 2015 and adopted in 2016. The RLUS found that there were 583 rural residential lots, of which only 35 were vacant. It concluded:

At take up rates of 8 low density lots and 1 rural living lots per annum respectively, there is around 4 years supply of LDRZ and 7 years supply of RLZ. Most of the vacant supply is located around Swan Hill and lake Boga ... and comprises LDRZ lots.

The Amendment submitted for authorisation supported the rezoning of some land and identified some longer term 'investigation areas'. As outlined in Section 1.3 the Minister granted conditional authorisation that required the deletion of all rural living rezonings and for these to be considered under a separate amendment. The Minister did this to ensure there was a municipal-wide understanding of the implications of *Planning Practice Note 37: Rural Residential Development*, June 2015.

Council advised it had committed to a Settlement Strategy that would address this and other issues across the municipality. Council is in discussions with DELWP on the project brief and hopes to appoint consultants in the first half of 2020. Council resolved to refer Submissions 5, 6 and 14 to the Settlement Strategy process.

In its Part C Submission Council concluded it:

...would welcome a recommendation from the Panel that the upcoming 'Settlement Strategy' (whatever it is ultimately called) includes specific reference to exploring the opportunities and constraints for residential development (in whatever form) around Lake Boga in consultation with Goulburn Murray Water and affected landowners.

Mr Gray appeared on behalf of Kilter Rural Pty Ltd, which owns land on the eastern side of Lake Boga. A request to rezone the land was lodged with Council in October 2012 which sought to rezone the land to the LDRZ. The request was placed on hold pending the completion of the RLUS. While rezoning of land was not part of the Amendment, Mr Gray considered the Amendment did "*consider the future provision of rural residential land at lake Boga and, in doing so, seeks to introduce strategic directions regarding the locations, provision and conditions under which rural residential land should be provided in this locality.*"

Mr Gray considered "*the specific land use and development directions that are sought to be introduced unreasonably prejudice and preclude the Subject Land from consideration as a potentially suitable development site under Council's proposed Settlement Strategy.*"

Mr Gray categorised his client's concerns into the following:

Strategic role of Lake Boga

The Amendment proposes to delete Map 1b (Land Use Framework Plan) and the Swan Hill Sub-Regional Framework Plan which refers to Lake Boga as "*develop commuter, recreation and tourism role*" and "*prepare Lake Boga Urban Design Framework*". Mr Gray submitted that none of the supporting strategic documents in the Planning Scheme Review justify changing the strategic role of Lake Boga. Mr Gray requested the Amendment be changed to reinstate the currently articulated strategic role of Lake Boga in the overall Settlement Strategy for Lake Boga and, as appropriate, incorporate the key land use and development directions detailed in the Lake Boga Economic Development, Tourism and Marketing Strategy.

Lake Boga Urban Design Framework

Mr Gray considered the need for an Urban Design Framework should be retained in the Swan Hill Planning Scheme.

Infrastructure provision

Mr Gray submitted that Clause 16.01-2L should be amended to remove the mandate for fully reticulated services for low density residential development and ensure policy distinguishes between residential development and low density residential development.

Investigation areas for low density / rural living development

Mr Gray considered the schedule to Clause 74.02 should not restrict the ambit of the investigation to only rural living candidate areas that were identified in the RLUS. Council accepted this and proposed to delete:

- Investigate candidate areas for rural living as identified in the Rural Land Use Strategy
- Investigate the potential for low density residential growth north of Lakeside Drive, Lake Boga outside the LSIO.

This would be replaced with the renaming of the Small Towns Strategy as the Settlement Strategy:

- Develop and implement a Settlement Strategy.

Mr Pye from Northern Land Solutions (Submitter 12) requested that the boundary between the General Residential Zone and the FZ at the Haven Estate at the southern of Lake Boga be adjusted on the basis the approved Cultural Heritage Management Plan (CHMP) did not exclude this land being in a residential zone.

Council resolved to write to adjoining landowners inviting them to comment on the proposal. Council tabled Document 4 which contained an email from the landowner to the north, Jacqueline Storer in which she does not object provided a seven metre wide tree buffer be developed along the common boundary.

3.3 Discussion and conclusion

The Panel accepts that Council has committed to a Settlement Strategy in 2020 and referred the foreshadowed rural residential submissions from this Amendment to that process.

The Panel has some sympathy for landowners that wanted this issue to be addressed by now and recommends Council work with its community to progress the Settlement Strategy in 2020 as a priority project.

The Panel responds to remaining issues emerging in submissions.

(i) Strategic role of Lake Boga

The Panel agrees with Mr Gray that references to the role of Lake Boga seem to have been lost in the translation to the MPS and PPF. The exhibited strategic framework plan at Clause 02.04 does not refer spatially to Lake Boga and did not carry forward the current reference to Lake Boga from other framework plans. Council agreed that this was an error and welcomed a Panel recommendation to rectify this.

The Panel does not consider there is a need to reinstate the sub-regional framework plan, but there is need to reinstate the reference to Lake Boga and the intent to develop its role as a commuter town to Swan Hill, recreational and tourism role.

The Panel was not provided with a copy of the Lake Boga Economic Development, Tourism and Marketing Strategy so the Panel is unable to make any findings concerning it.

(ii) Lake Boga Urban Design Framework

The Panel understands the intent to prepare an urban design framework has been part of the planning scheme for many years but has not been acted on. While 2015 Review Report did not recommend this requirement be deleted, it is not currently listed as a further work item for Lake Boga, including Clause 21.10-3 that contains the local area policy for Lake Boga.

The Panel doubts whether there is a clear benefit in committing to prepare an urban design framework for Lake Boga. This, together with Council's inaction on this requirement over the years, indicates it is not a high priority and should be deleted. The Settlement Strategy is likely to address issues that an urban design framework for Lake Boga may otherwise address.

(iii) Infrastructure provision

Not all low density residential development will be connected to a reticulated sewerage service. This is recognised in the purpose of the zone and the use of two default minimum subdivision sizes depending on whether reticulated sewerage is provided.

Mr Gray considered the use of "*discourage*" in Clause 16.01-2L would mandate that this development should only occur in areas adjacent to existing development with reticulated services.

The Panel disagrees. Policy does not have the ability to prohibit a certain outcome. One of Council's roles is to develop locally relevant policy and it is doing so in discouraging this type of development. This should not be interpreted as a mandated policy provision or inconsistent with the purpose of the zone, as the zone itself provides for two quite different outcomes depending on infrastructure provision.

On this basis, the Panel does not agree there is a need to distinguish between residential and low density residential development for the provision of infrastructure.

(iv) Investigation areas for low density / rural living development

Council has committed itself to preparing a Settlement Strategy and has referred some submissions to this Amendment to that process. The Panel agrees there is a need to refer directly to the Settlement Strategy as an item of further strategic work instead of the current reference to a Small Towns Strategy and investigating only candidate area from the RLUS.

The Panel also supports Council's request that the further work item for the Settlement Strategy refer more directly to opportunities that may arise for land around Lake Boga.

(v) Haven Estate

The Panel understands Amendment C46 rezoned the Haven Estate land for residential development on 5 December 2013.

The Panel appreciates that:

- the adjustment to the zone boundary is relatively minor that would not result in increased lot yield but just increase depth of lots already approved on a development plan
- is now supported by a CHMP that found there to be no sub-surface areas of cultural significance due to cemented sands and a modified surface from agricultural development
- Council has attempted to advise relevant landowners (the most relevant is conditionally in support).

However, the Panel is reluctant to support this rezoning as it may have implications for the approved CHMP. The submitter did not attend the Hearing and the Panel was not presented with the approved CHMP to demonstrate conclusively that the area has no cultural heritage significance. To do otherwise would rely on assertions in a written submission by the landowner and Council's submission at the Hearing that the area is of negligible cultural heritage significance. It may also raise procedural fairness issues for the relevant Registered Aboriginal Party. This is a matter that should be addressed as part of the implementation of the Settlement Strategy that will have a focus on Lake Boga.

3.4 Recommendations

The Panel recommends:

Amend Clause 02.03 to refer to Lake Boga's commuter role to Swan Hill.

Amend the Strategic Framework Plan at Clause 02.04 by adding a reference to Lake Boga as follows:

Develop the commuter, recreational and tourism role

Amend the schedule to Clause 74.02 in the form contained in Document 15 and contained in Appendix C to "*develop and implement a Settlement Strategy, including investigating opportunities that many arise for land around Lake Boga*" and deleting:

Investigate candidate areas for rural living as identified in the Rural Land Use Strategy

Investigate the potential for low density residential growth north of Lakeside Drive, Lake Boga outside the LSIO.

4 Minor issues, edits and corrections

4.1 The issues

The key issues are:

- whether land in the Farming Zone;
 - should be affected by two schedules to distinguish between dry and irrigated farming land
 - whether the trigger for a permit for land adjacent to land in the Road Zone 1 (RDZ1) should be reduced from 100 metres to 50 metres
- how to refer to the Loddon Mallee Waste and Resource Recovery Implementation Plan 2017
- whether the NCCMA should be a recommending referral authority for all applications in the ESO1 and ESO3 and how the exemption for ground level extensions to existing dwellings in the LSIO should be drafted
- how to refer to buffers for an industrial estate in Karinie Street, Swan Hill
- how the strategic directions should refer to the Swan Hill Murray River bridge crossing issue
- avoiding duplication of state policy.

4.2 Farming Zone

(i) Submissions

Submitter 10 (Northern Land Solutions) opposed the exhibited demarcation between the FZ1 and FZ2 as it does not accurately reflect dryland and irrigated land especially in those areas where water licences have been issued outside gazetted irrigation areas. One of the relevant water authorities, Goulburn Murray Water (Submitter 15), also raised similar concerns.

Council accepted that 'dryland' now has access to water by virtue of purchasing a water licence and 'irrigated land' can now sell off its water. Council agreed that a single schedule should be retained and accepted the Panel's suggested wording in referring to irrigated land:

Irrigated farmland as defined by Lower Murray Water or Goulburn Murray Water.

VicRoads (Submitter 11) considered the reduction in the setback permit trigger had not been justified and was inconsistent with the provision in other planning schemes. Council submitted that:

[it] received numerous applications for minor buildings and works within 100m of a Road Zone and the reduction to 50m will remove some of these applications. So long as there is no new access to the Road Zone, it is unclear on what basis that VicRoads opposes the minor change.

(ii) Discussion and conclusion

The Panel proposed the alternate wording for a single FZ schedule, which was accepted by Council. Submitter 10 did not attend the Hearing however reverting back to the single schedule addresses the concern raised.

Planning scheme reviews provide an opportunity to remove inappropriate permit triggers from the planning scheme, in order to improve its operational efficiency. In this instance the permit trigger is not being removed: but its quantum is being reduced. The Panel agrees with Council that the amended 50 metre setback is appropriate and should not result in adverse outcomes as development within 50 metres of a RDZ1 will still require consent from VicRoads. Council provided Document 6 which contained a revised FZ schedule that addressed the above issues.

(iii) Recommendations

The Panel recommends:

Delete Schedule 2 to the Farming Zone.

Amend the minimum subdivision area and minimum area for which no permit is required to use land for a dwelling in the Schedule to the Farming Zone in the form contained in Document 6 as contained in Appendix D to refer to irrigated farmland in the following manner:

Irrigated farmland as defined by Lower Murray Water or Goulburn Murray Water.

Amend Clause 02.03 and Clause 14.01-1L to refer to the single Farming Zone schedule in the form of Document 5 as contained in Appendix E.

Amend Clause 19.01-2L to revise policy statements with the single Farming Zone schedule in the form of Document 10 as contained in Appendix F.

Amend Clause 74.01 to refer to a single Farming Zone schedule.

Amend the relevant zone maps to reflect the merging of Schedules 1 and 2 to the Farming Zone.

4.3 Loddon Mallee Waste and Resource Recovery Group

(i) Submissions

The Loddon Mallee Waste and Resource Recovery Group (Submitter 7) requested additions to Clause 02.03 (Strategic directions), Clause 19.03-5L (Waste and resource recovery) and the insertion of the Loddon Mallee Waste and Resource Recovery Implementation Plan 2017 as a Background Document and other documents at Clause 72.08.

Council submitted that *“while there is qualified support for inclusion of some additional detail in the amendment at Clauses 2 and 19.03-5L, much of the requested information can remain in Background Documents.”* Council supported references to the Robinvale landfill and transfer stations and the Swan Hill depot and transfer station at Clause 02.03 and their buffer protection in Clause 19.03-5L. Council accepted the insertion of the implementation plan as a Background Document but no other documents.

(ii) Discussion and conclusion

Managing waste and resource recovery is critical at the local level and protecting these facilities through appropriate planning policy and provisions is important. While the Loddon Mallee Waste and Resource Recovery Group did not attend the hearing, the Panel considers Council has struck the right balance in supporting some additional references and endorsing the Loddon Mallee Waste and Resource Recovery Implementation Plan as a Background document. The Panel accepts that this approach is correct in the circumstances and supports the minor additions to Clauses 02.03 (Document 5), 19-03-5L (Document 12) and schedule to 72.08 (Document 13).

(iii) Recommendations

The Panel recommends:

Amend Clause 02.03, under Infrastructure, to provide more accurate references to local waste facilities in the form of Document 5 as contained in Appendix E.

Amend the strategy in Clause 19.03-5L to read the following;

Protect the Swan Hill and Robinvale landfill sites and Swan Hill transfer station against encroachment by incompatible uses.

Amend the schedule to Clause 72.08 by inserting the Loddon Mallee Waste and Resource Recovery Implementation Plan (LMWRRG, 2017) as a Background Document.

4.4 North Central Catchment Management Authority**(i) Submissions, discussion and conclusion**

The NCCMA proposed a simplified text for the ground level extension to existing dwelling exemption in the LSIO schedule. Council supported this proposed text. The Panel supports this more succinct set of words.

The NCCMA also requested modified terminology for the identification of the 1 in 100 year flood event, which the Panel supports.

The Panel supports the inclusion of the NCCMA as a recommending referral authority for all applications in the ESO1 and ESO3. As the local floodplain manager, it is appropriate that the NCCMA has a more formal role in the management of the Murray River corridor and waterways, wetlands and lake environs.

(ii) Recommendations

The Panel recommends:

Amend the references to the exemption for ground level extensions to existing dwellings and reference to the 1%AEP flood event in the schedule to the Land Subject to Inundation Overlay in the form of Document 7 as contained in Appendix G.

- 1. Amend the schedule to Clause 66.04 to make the North Central Catchment Management Authority a recommending authority for all applications in Schedules 1 and 3 of the Environmental Significance Overlay.**

4.5 Environment Protection Authority

(i) Submissions, discussion and conclusion

The EPA (Submitter 9) sought a more specific reference to minimising negative off-site impacts to sensitive uses for land in the Karinie Street industrial estate in Swan Hill. Council supported this. The Panel supports the proposed text put forward by the EPA.

(ii) Recommendation

The Panel recommends:

Amend Clause 02.03, under Economic Development, to refer to minimising off site impacts for uses within the Karinie Street industrial estate in Swan Hill in the form of Document 5 as contained in Appendix E.

4.6 Swan Hill Murray River bridge

(i) Submissions, discussion and conclusion

VicRoads proposed revised text for Clause 02.03 in how it refers to the Swan Hill Murray River bridge crossing. Council supported this text.

The current text refers to the lack of Council support for the 'Route 9a' bridge option. The revised text deletes the reference to Route 9a and replaces it with "*pending consideration of feasible river crossing opportunities.*" The Panel considers this seems to be a more balanced approach to this issue.

(ii) Recommendation

The Panel recommends:

Amend references to the Swan Hill Murray River bridge crossing at Clause 02.03, under Transport, in the form of Document 5 as contained in Appendix E.

4.7 Avoiding duplication of state policy

(i) Submissions, discussion and conclusion

Council proposed to delete the following strategy of Clause 19.02-1L as it duplicates state policy and is not locally specific:

Encourage the expansion of the health care sector in the municipality.

The Panel supports this improvement.

(ii) Recommendation

The Panel recommends:

Amend Clause 19.02-1L by deleting the first strategy.

4.8 Correction of errors

(i) Submissions, discussion and conclusion

The Panel identified drafting errors in:

- Clause 17.03-2L (Industrial development siting) and Clause 42.01-1 (ESO1) which contained notes that should be deleted. Council supported this.
- the mapping of the Parking Overlay where it had been applied to residential land around the Swan Hill activity centre. Council agreed that this was an error and the PO should be deleted from residential land.

(ii) Recommendation

The Panel recommends:

Amend Clauses 17.03-2L and 42.01-1 in the form of Documents 16 and 17 respectively as contained in Appendix H.

Amend Zone Maps 38 and 40 to ensure the Parking Overlay is not applied to land in the General Residential Zone.

Appendix A Submitters to the Amendment

No.	Submitter
1	Withdrawn
2	Belinda and Christopher Day
3	Lower Murray Water
4	Country Fire Authority
5	Withdrawn
6	Les McPhee
7	Loddon Mallee Waste and Resource Recovery Group
8	Environment Protection Authority
9	Department of Transport
10	Northern Land Solutions
11	VicRoads
12	Northern Land Solutions
13	North Central Catchment Management Authority
14	Kilter Rural Pty Ltd
15	Goulburn Murray Water

Appendix B Document list

No.	Date	Description	Provided by
1	11/11/2019	Council Part A submission	Council
2	19/11/2019	Council Part B submission	Council
3	19/11/2019	Email dated 23/10/2019 from Robert Rorke, Department of Environment, Land, Water and Planning	Council
4	19/11/2019	Email from Jacqueline Storer	Council
5	19/11/2019	Post exhibition changes to Clause 02.03	Council
6	19/11/2019	Post exhibition changes to Farming Zone Schedules 1 and 2	Council
7	19/11/2019	Post exhibition changes to Schedule 1 to Land Subject to Inundation Overlay	Council
8	19/11/2019	Post exhibition changes to the schedule to Clause 66.04	Council
9	19/11/2019	Post exhibition changes to Clause 14.01-1L1	Council
10	19/11/2019	Post exhibition changes to Clause 19.01-2L	Council
11	19/11/2019	Post exhibition changes to Clause 19.02-1L	Council
12	19/11/2019	Post exhibition changes to Clause 19.03-5L	Council
13	19/11/2019	Post exhibition changes to the schedule to Clause 72.08	Council
14	19/11/2019	Post exhibition changes to the schedule to Clause 74.01	Council
15	19/11/2019	Post exhibition changes to the schedule to Clause 74.02	Council
16	19/11/2019	Post exhibition changes to Clause 17.03-2L, Schedule 1 to the Environmental Significance Overlay, Schedules 1 and 2 to the Development Plan Overlay	Council
17	19/11/2019	Kilter Rural Pty Ltd submission	Cameron Gray, St Quentin Consulting
18	19/11/2019	Les McPhee submission	Les McPhee

Appendix C Panel preferred version of Clause 74.02

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SCHEDULE TO CLAUSE 74.02 FURTHER STRATEGIC WORK

Further strategic work

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- Develop and implement a Settlement Strategy, including investigating opportunities for land around Lake Boga.
- Investigate the Swan Hill Racecourse land fronting the highway for potential urban uses.
- Investigate a future heavy vehicle bypass to the west of Swan Hill with access to industrial areas in the vicinity of Dead Horse Lane, Back Boga Road and Memorial Drive as identified on the Swan Hill Framework Plan at Clause 02.04.
- Identify longer term land use opportunities for the former aerodrome site adjacent to Anzac Road in Robinvale.
- Investigate the potential for a new industrial estate south of Pethard Road and west of the Murray Valley Highway, Robinvale.
- Complete updated flood data and local floodplain development plans for all relevant river precincts.
- Investigate and develop options for de-watered farming land.
- Engage with Goulburn Murray Water, DELWP, the Victorian Planning Authority and the community regarding the viability and sustainability of previously farmed small irrigated lots and review planning controls accordingly.
- Investigate options for seasonal farmer accommodation.
- Prepare a town entry design concept for Murray Valley Highway/Latje Road intersection at Robinvale.
- Complete Industrial Zones Strategy.
- Continue the staged development of the Swan Hill Riverfront Master Plan
- Complete and implement the Swan Hill Riverfront Commercial Development Strategy.
- Investigate the need for a revision of the Airport Environs Overlay at Swan Hill airport.
- Investigate options for an appropriate location and alignment of the river crossing at Swan Hill.
- Investigate the appropriate zones and overlays to apply to existing landfill and transfer stations.

Appendix D Panel preferred version of the schedule to the Farming Zone

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SCHEDULE TO CLAUSE 35.07 FARMING ZONE

Shown on the planning scheme map as **FZ**.

1.0

Subdivision and other requirements

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Minimum subdivision area (hectares)	Broadacre Farmland	100 hectares
		920 hectares
	<u>Irrigated farmland as defined by Lower Murray Water or Goulburn Murray Water.</u>	
Minimum area for which no permit is required to use land for a dwelling (hectares)	Broadacre Farmland	100 hectares
		920 hectares
	<u>Irrigated farmland as defined by Lower Murray Water or Goulburn Murray Water.</u>	
Maximum area for which no permit is required to use land for timber production (hectares)	All land	None specified
Maximum floor area for which no permit is required to alter or extend an existing dwelling (square metres)	All land	250 square metres
Maximum floor area for which no permit is required to construct an out-building associated with a dwelling (square metres)	All land	250 square metres
Maximum floor area for which no permit is required to alter or extend an existing building used for agriculture (square metres)	All land	500 square metres



Minimum setback from a road (metres).	A Road Zone Category 1 or land in a Public Acquisition Overlay to be acquired for a road, Category 1	50 metres
	A <u>Any other road</u>	20 metres

Minimum setback from a boundary (metres).	All land	5 metres
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Minimum setback from a dwelling not in the same ownership (metres).	All land	50 metres
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Earthworks which change the rate of flow or the discharge point of water across a property boundary	All land
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Earthworks which increase the discharge of saline groundwater	All land
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Appendix E Panel preferred version of Clauses 02.03 and 14.01-1L

02.03 STRATEGIC DIRECTIONS

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Settlement

Swan Hill is the largest town in the municipality (about 10,000 people) and has a regional service role that extends beyond the municipal and state borders. Most population growth is expected at Swan Hill which, with the exception of low-lying areas to the south of the urban area, has no infrastructure constraints for the future development of the town.

Robinvale plays a similar role at a smaller scale for those areas in the north of the municipality. Robinvale's population (about 4000) has increased in recent years due to industry changes and the growth in irrigated horticulture.

Lake Boga (750 population) is an attractive, lakeside village and tourist town within commuting distance of Swan Hill providing a range of water based and recreational activities as well as a diverse ecosystem. Growth is expected to continue at Lake Boga with the added security of water in the lake and the potential of residential land with lake views.

Nyah and **Nyah West** are border towns located on the Murray Valley Highway about 27 kms north west of Swan Hill. The towns have a combined population of about 1200 people. The Nyah West town centre comprises a fine collection of substantially intact inter-War buildings which enhance its tourism potential.

Smaller centres such as Manangatang, Ultima, Woorinen, Boundary Bend, Piangil, Wood and Beverford serve local needs.

Settlement planning for Swan Hill Rural City will:

- Locate the majority of population growth within Swan Hill and Robinvale.
- Maintain Swan Hill and Robinvale as regional service centres which other towns rely on.
- Facilitate residential growth in smaller towns.
- Co-ordinate residential growth so that infrastructure is provided equitably between the developer and the community.
- Provide rural residential development within planned estates.
- Limit further subdivision and dwellings for residential purposes within farming areas.

Environment and Landscape Values

The Murray River and its wetlands provide significant habitat values. The threats and pressures on the Murray River and adjacent riparian vegetation from expanding development are a major challenge for waterway health.

The municipality hosts two major wildlife corridors (the Murray River and Lalbert Creek) which are essential for the movement, development and survival of flora and fauna. The Mallee Regional Catchment Strategy and the North Central Regional Catchment Strategy provide an assessment of environmental values and actions to protect these values.

The Nyah and Vinifera State Forests of redgum and box contain a wealth of archaeological material relating to ancient Aboriginal occupation, including canoe trees, middens, burial grounds and boundary markers. At the east end of the Vinifera State Forest is the location of the first commercial rice crop in Australia.

In protecting environmental and landscape values, Council will:

- Protect the environmental values of the Murray River corridor.
- Improve stormwater run-off from townships into the Murray River.

- Protect and maintain remnant native vegetation for catchment health and prevention of erosion, particularly in dryland farming areas.

Environmental Risks and Amenity

Floodplains of the Murray River and its tributaries affect urban and rural areas although there is an absence of accurate data to identify floodways and land subject to inundation. Areas at risk from flooding include the Murray River, Little Murray River and Lalbert Creek.

Residential areas within these towns often require complementary non-residential uses (medical centres, vet clinics, child care centres, places of assembly, places of worship and convenience shops etc) for the convenience of local residents.

In addressing environmental risks and amenity, Council will:

- Identify those portions of the River Murray, Avoca River, Little Murray River and Lalbert Creek flood plains that are inundated in a 1% flood event.
- Locate non-residential uses within towns that avoid loss of privacy and amenity, while providing a service and convenience to residents.

Natural Resource Management

The *Rural Land Use Strategy* (RMCG, 2016) (the 'RLUS') responded to current and emerging rural land use issues and opportunities in the municipality. The RLUS identified [that the Farming Zone](#) will:

- Promote and encourage commercial scale broad acre agriculture such as livestock grazing and cropping, large scale irrigated development and 'Farmland of Regional Strategic Significance'.
- Protect the opportunity for future horticultural development on 'Farmland of Strategic Significance'.
- Promote and encourage commercial scale horticulture and other irrigated agriculture.
- Protect agricultural activity from conflicting land uses.

Further subdivision [of Farming Zone land](#) in dryland areas will rarely be required given the large supply of lots and the trend in increasing scale of landholdings. [Other farming land](#) is close to the Murray River and has been significantly fragmented. There is a legacy of small rural lots in irrigated and high amenity areas close to the Murray River and urban centres has become popular for rural residential use. Further fragmentation through land subdivision could have considerable implications for agricultural production.

Dwellings and small lot subdivision in the rural areas that are not associated with agricultural activities could potentially undermine the viability of the rural sector. This could occur through land use conflict, loss of productive agricultural land, use of infrastructure and water that could otherwise be used for agricultural production, and inflated land values that exceed agricultural value. Housing for lifestyle purposes in rural areas also has the potential to create demand for community and physical infrastructure that may be more appropriately located in dedicated rural living areas.

In order to manage the natural resources in the Rural City, Council will:

- Protect horticultural and dryland agriculture as it is fundamental for economic growth.
- Discourage small lot subdivision in rural areas that undermine the productive agricultural base of Swan Hill.
- Discourage dwellings in rural areas that are not related to agriculture.
- Discourage land uses in the Farming Zone that are not directly related to agriculture, or that have an adverse impact on agricultural opportunities.
- Support rural industry so long as it is associated with a rural activity.
- Direct rural industries to locations where the impact on agricultural land and off site effects are minimised, and where good road access is available.

- Encourage the proper siting and design of intensive animal production to protect residential amenity and environmental quality.

Built Form and Heritage

Improvements to the design of buildings will improve the visual character and appearance of towns, especially at its entrances.

Heritage places in Swan Hill Rural City are valuable and irreplaceable elements which can contribute to the creation of a sense of place and connectivity to the past, as well as enrich the experience of tourists. The conservation and maintenance of this heritage has community, economic and cultural significance. Aboriginal heritage sites and objects are an important element of the pre-history of the municipality.

In protecting heritage assets and promoting built form improvements, Council will:

- Encourage well designed development at entrances to townships.
- Encourage highway development that is setback, landscaped and of a scale that maintains township character.
- Protect Aboriginal and European heritage for the growth of tourism and a sense of place.
- Preserve the historical attributes of all towns.
- Facilitate well sited and well designed industrial areas that provide a good level of amenity for workers and visitors.
- Minimise visual, acoustic or other off-site effects of industrial areas on surrounding land uses.

Economic Development

The region has an economic output of over \$1 billion and irrigated farming (including stonefruit, grapes, nuts, olives and vegetable production) account for 11% of economic output with traditional livestock and broadacre farming accounting for another 4%. The municipality is supported by food processing and rural services industries linked to the large agricultural base. The food-processing sector has consistently been identified as a growth area and opportunities are available to set up industries which will add value to products.

The health care and social assistance sector is the second largest employment sector in the municipality providing 13.7% of jobs, and the demand for health services is set to increase.

The Swan Hill CBD is the dominant business location in the municipality, and it plays an important regional role. Local shops and services provided in small towns play a local convenience role and are an important part of the local community.

Swan Hill township is the main industrial base being a service centre processing local product. There are opportunities for new industrial development within Swan Hill's major industrial area at Karinie Street- subject to minimizing negative off site impacts on nearby sensitive land uses. There are substantial opportunities for infill and consolidation within the Moore Street industrial area in Robinvale subject to visual amenity issues being addressed.

The municipality has large deposits of mineral sands and gravel and a large mineral sand mining operation has already been established at Wemen. Another emerging industry is solar power generation.

Tourism attractions based on the Murray River, the river towns, Lake Boga and the Swan Hill Pioneer Settlement are also important components of the municipality's tourism role. Horticultural product and special regional events are becoming important components of local and regional tourism.

In promoting economic development in the Rural City, Council will:

- Facilitate value-adding to agricultural product.
- Facilitate the growth of the health care and social assistance sector in the Swan Hill Health Precinct.

- Promote the health precinct containing the Swan Hill District Hospital, associated health care services and private health care providers.
- Maintain the primacy of the Swan Hill CBD
- Discourage highway commercial development that competes with the role of the Swan Hill CBD.
- Facilitate the growth of the mineral sands and solar industries.
- Facilitate significant tourism opportunities with the redevelopment of the riverside precincts, the Pioneer Settlement and the new Murray River bridge crossing.

Transport

The local economy partly depends upon efficient transport corridors especially the Loddon and Murray Valley Highways. The local road network is important transport infrastructure that needs to be maintained and improved especially for all weather access.

The *Swan Hill Car Parking Strategy* (Trafix Group, 2016) identified that there is scope to reduce car parking requirements within the Swan Hill central area. A ‘cash in lieu’ system was identified for payments to be made instead of providing car parking spaces.

Regional airports are located at Swan Hill and Robinvale. ~~he~~The new Swan Hill Murray river crossing provides opportunities to implement the Riverside Precinct Master Plan, pending consideration of other feasible river crossing opportunities.

Transport planning for Swan Hill Rural City will:

- Integrate urban development with road-based transport planning.
- Provide adequate car parking within townships.
- Provide better access to industrial areas by a future heavy vehicle bypass to the west of Swan Hill township.
- Encourage Swan Hill airport to cater for growth.
- Facilitate inter-modal freight facilities within the municipality.

Infrastructure

The efficient delivery of infrastructure is a fundamental element in providing affordable and diverse housing and generating economic growth. The community expects that developers should contribute to the cost of utility, service and community infrastructure.

The *Infrastructure Design Manual* (Local Government Infrastructure Design Association) provides standardised design requirements to improve the efficient assessment and delivery of infrastructure.

Water supply is available via the Murray River system and the Torrumbarry Irrigation System. Maintaining water quality of the Murray River is of vital importance for Swan Hill’s future water supply. Reticulated sewerage is available in Swan Hill, Robinvale, Lake Boga and Nyah/Nyah West. Irrigation districts served by large pumping stations are located at Robinvale, Nyah and Tresco. The Northern Mallee Pipeline delivers stock and domestic water from the Murray River to dryland farms and towns.

The provision of reticulated gas is important for value adding industries and reducing the community’s carbon footprint. Council is part of the Loddon Mallee Waste and Resource Recovery Group and it hosts landfill ~~sites~~sites in Swan Hill and Robinvale, a depot in Swan Hill and transfer stations at ~~Manangatang~~Swan Hill, Robinvale, Manangatang, Piangil and Ultima.

Infrastructure planning and delivery for Swan Hill Rural City will:

- Facilitate a coordinated, efficient and equitable approach to the provision of infrastructure and community facilities.
- Ensure new urban development in township areas is connected to reticulated services.
- Encourage development to be in accordance with the *Infrastructure Design Manual*.

- Protect and consolidate water supply and irrigation infrastructure.
- Adopt improved irrigation practices via programs such as the Northern Victorian Irrigation Renewal Project (NVIRP).
- Require urban development to be connected to reticulated services.
- Manage stormwater as a key consideration for urban development.
- Identify and protect waste and resource recovery facilities.

14.01-1L1 Agriculture

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Policy application

This policy applies to all land within the Farming Zone.

Objective

To avoid land use conflicts between agricultural and non-agricultural land uses.

Strategies

Discourage non-agricultural use and development in all rural areas other than those that support agriculture.

Separate agricultural and non-agricultural uses by using landscape buffers, orientation and siting of buildings.

- Consider the effect of the proposed use and development on the amenity of adjacent land.

Policy guidelines

Consider as relevant:

- Encouraging the following uses in the Farming Zone:
 - agriculture
 - extractive industry (only in dryland areas).
 - mineral sands facility (only in dryland areas).
 - primary produce sales
 - tourism facilities in association with or that complement agriculture such as wine tasting and farm gate sales.
 - renewable energy facility (only in dryland areas).
 - rural industry in association with a rural activity.
- Discouraging the following uses in the Farming Zone:
 - convenience shop
 - dwelling other than in association with agriculture
 - industry (other than rural industry or extractive industry in dryland area)
 - motor racing track
 - hotel
 - renewable energy facility on irrigated land
 - tavern
 - trade supplies
 - service station
 - warehouse (other than rural store).

Objective

To discourage new dwellings that undermine the productive agricultural base of the municipality.

Strategies

Discourage any new dwelling unless it has a relationship with and is required to directly support the continuing operation of an existing rural use conducted on the land.

Ensure that the agricultural use has been established on the land prior to the construction of a dwelling.

Discourage any new dwelling that will have an adverse impact on other rural land uses on the land, adjoining land and the general area.

Specify a lot size for a new dwelling in the Farming Zone that is larger than (or equal to) the minimum lot size for subdivision.

Policy guidelines

Consider as relevant:

- Requiring that any new dwelling:
 - is on a lot of at least 2ha.
 - is set back from neighbouring farmland by at least 50m and does not reduce the potential for agricultural production or other rural uses on surrounding farmland.
 - does not have an adverse effect on existing rural and irrigation infrastructure.
- Whether there is a need for an agreement under Section 173 of the Act that specifies that the land may not be further subdivided (except in accordance with the minimum lot size in the zone).

Objective

To discourage small lot subdivision that prejudices surrounding agricultural activities.

Strategies

Discourage 'small lot' subdivision unless the balance lot is at least the minimum lot size specified in the zone.

Discourage small lot subdivision to meet personal and financial circumstances.

Prevent small lot subdivision to create lots for 'rural lifestyle' purposes.

Encourage any excised lot to be of a manageable size that maintains sufficient land on the balance lot to support agricultural activity.

Require the excision of a dwelling to be via the re-subdivision of existing lots so that the number of lots is not increased.

Discourage the creation of long, narrow lots, 'axe handle' lots or island-style lots.

Discourage subdivisions that will impact on significant farm infrastructure.

Discourage further subdivision (by any method) of land where a dwelling has already been excised from the land.

Discourage the excision of a dwelling if it is required for the carrying out of agricultural activities on the land.

Ensure the excision dwelling is habitable and has existing use rights under Clause 63.

Encourage a beneficial agricultural outcome for the land.

- Consolidate land in the same ownership if consolidation would facilitate the productive use of land.

Policy guidelines

Consider as relevant:

- Discouraging applications proposing an area greater than 2 hectares for a dwelling lot.
- Whether there is a need for an agreement under Section 173 of the Act which:
 - prevents the subdivision of any new house erected after 30 September 2016;
 - prevents the construction of a dwelling on any residual lot created;

- prevents further subdivision of any lot so as to create another lot for an existing or future dwelling.

Policy documents

Consider as relevant:

Swan Hill Rural Land Use Strategy (RMCG, 2016)

Appendix F Panel preferred version of Clause 19.01-2L

19.01-2L Renewable energy

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Strategies

Encourage solar power generating plants and other forms of renewable energy in dryland farming areas.

Discourage solar power and renewable energy generating plants on irrigated land as defined by the relevant water authority within the Farming Zone-..

Appendix G Panel preferred version of schedule 1 to the Land Subject to Inundation Overlay

DD/MM/20-- Proposed C73	<p>SCHEDULE 1 TO CLAUSE 44.04 LAND SUBJECT TO INUNDATION OVERLAY</p> <p>Shown on the planning scheme map as LSIO.</p> <p>Riverine flooding</p> <p>1.0 Land subject to inundation objectives to be achieved</p> <p>None specified</p> <p>2.0 Statement of risk</p> <p>None specified</p> <p>3.0 Permit requirement</p> <p>A permit is not required for the construction of buildings or the construction or carrying out of works for the following:</p> <p>Replacement buildings</p> <ul style="list-style-type: none"> • if the footprint of the replacement building(s) is the same or less than the original building(s); and • if the floor level of the replacement building is finished at least 300 mm above the <u>1% AEP</u> flood level; and • if the replacement building is on unenclosed foundations such as stumps or piers with open style cladding below floor level. <p>External alterations to existing buildings</p> <ul style="list-style-type: none"> • if the original building footprint remains the same. <p>Ground level extensions to existing buildings (other than dwellings)</p> <ul style="list-style-type: none"> • if the floor level of the extension is at least 300mm above the <u>1% AEP</u> flood level; or • if the floor level of the extension is not lower than the existing floor level and the gross floor area of the extension is no greater than 20 sq.m. <p>Ground level extensions to existing dwellings</p> <ul style="list-style-type: none"> • <u>Repairs if the gross floor area of the dwelling extension does not exceed 40 square metres and the existing floor level is no lower than 300 millimetres below the 1% AEP flood level, subject to the extension being constructed no lower than the existing floor level.</u> <p><u>Repairs</u> and routine maintenance of existing fences</p> <ul style="list-style-type: none"> • if the fence design and materials remain the same. <p>New or replacement fence</p> <ul style="list-style-type: none"> • if the fencing complies with any approved CMA guidelines for fencing in flood prone areas. <p>Earthworks</p> <ul style="list-style-type: none"> • if the earthworks are associated with a dam exempted by Clause 62.02-1.
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- if the earthworks do not raise ground level topography by more than 300 millimetres.
 - if there is a protective levee bank around the immediate surrounds of a habitable dwelling.
- A building which is open on all sides (and with unenclosed foundations) including a pergola, carport, domestic shed, verandah, deck, animal enclosure, outbuilding, stockyard or agricultural shed.

Road works or works to any other access way (public or private) that:

- do not change the finished level of the road surface; or
- are limited to resurfacing of an existing road.

Bicycle or pedestrian paths where there is no alteration in the natural ground level.

Repairs and routine maintenance that do not affect the height, length, width or location of any levee or embankment.

An enclosed shed of less than 10sqm gross floor area.

A pump shed.

An in-ground domestic swimming pool or spa, and associated mechanical and safety equipment where:

- the excavated spoil is removed from within the 1% AEP floodplain; and
- the perimeter edging of the pool is finished at natural ground level.

4.0 Application requirements

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The following application requirements apply to an application for a permit under Clause 44.04, in addition to those specified in Clause 44.04 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- Plans demonstrating that the proposed development does not adversely affect the passage of floodwaters and does not increase the overall flood risk on the site.
- Plans that specify the floor level of the existing dwelling as determined by a licensed surveyor to AHD.

5.0 Decision guidelines

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None specified

Appendix H Panel preferred version of Clauses 17.03-2L and 42.01-1

17.03-2L Industrial Development Siting

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Policy application

This policy applies to all land within the Industrial 1 Zone (IN1Z)

Objective

To site and design industrial buildings and works that are compatible with the surrounding area.

Strategies

Locate industrial development having regard to the amenity of the local area and nearby facilities.

- Encourage the façade of all buildings facing an external road to be constructed of brick, glass, or painted/treated concrete, or colorbond steel cladding.
- Ensure industrial development is connected to reticulated water, sewerage, power and storm water facilities.
- Encourage industrial development to incorporate water sensitive urban design and re-use.
- Identify setback areas for landscaping, vehicle and pedestrian access and car parking.
- Require all loading and unloading to be carried out within property boundaries.
- Require driveways, car parking areas and external storage areas to be constructed of an impervious all-weather surface as a minimum standard.

Policy guidelines

- Consider as relevant:
 - Encouraging the following minimum setback distances:
 - 10.0 metres from external walls to front boundary.
 - 5.0 metres to side street boundary for corner allotments.
 - 3.0 metres from side or rear boundaries for steel framed structures and metal cladding, or on boundary for brick or concrete walls.
 - Encouraging land within 10.0 metres of the front boundary to be used for car parking, access and landscaping.
 - Encouraging a minimum setback of 3.0 metres for offices and amenity buildings where car parking is not in front of industrial buildings.
 - Encouraging a minimum 2.0 metres wide strip for landscaping along the frontage of allotments and the sideage of corner allotments.

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SCHEDULE 1 TO CLAUSE 42.01 ENVIRONMENTAL SIGNIFICANCE OVERLAY

Shown on the planning scheme map as **ESO1**.

Murray River Corridor

1.0 Statement of environmental significance

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Clause 2 and the NSW *Murray Regional Environment Plan No. 2 – Riverine Land* identify the Murray River as an asset of National and State significance. The Murray River, its tributaries and its environs serve a variety of environmental, economic, social, and recreational and tourist functions.

2.0 Environmental objective to be achieved

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To protect the environs of the Murray River recognising its importance for biodiversity, nature conservation, flooding, economic development, cultural values, recreation and tourism.

3.0 Permit requirement

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A permit is not required to construct a building or construct or carry out works for:

- An extension to an existing dwelling, subject to the buildings and works being less than 250 square metres in floor area and located greater than 60 metres from the Murray River or the Crown land boundary;
- Minor buildings and works including a pergola, veranda, decking, garage, carport, water tank, domestic shed or swimming pool associated with an existing dwelling, subject to the buildings and works being located greater than 60 metres from the Murray River or the Crown land boundary;
- An agricultural building for the storage of farm machinery or farm vehicles, or a workshop associated with a rural use in a rural zone, subject to the buildings and works being located greater than 60 metres from the Murray River or the Crown land boundary;
- Extensions and upgrades to an existing pump shed and associated pipe infrastructure;
- A hay shed with open sides;
- A mast, antenna or telecommunications tower;
- Open type fencing (not including solid fences such as wooden or metal paling fences, cyclone mesh fences or brick, stone or concrete wall); and
- Roadworks carried out by a public authority.

4.0 Application requirements

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None specified

5.0 Decision guidelines

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The following decision guidelines apply to an application for a permit under Clause 42.01, in addition to those specified in Clause 42.01 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

Access

- Whether the proposal will result in the obstruction of the waterway and foreshore.

- Whether the proposed access will adversely impact on flora and fauna.

Bank disturbance

- Whether the proposal will result in disturbance to the shape of the bank.

Biodiversity

- Whether the proposal:
 - Will adversely impact on existing flora and fauna values (including migratory species) including the potential for future recovery of threatened populations.
 - Will adversely impact on flora and fauna and areas of native vegetation.
 - Is located on land that has the capability to sustain the development.
 - Reduces opportunities for increasing vegetation connectivity.
 - Incorporates appropriate revegetation and tree planting programs.
 - Does not impact on adjoining environmentally sensitive areas.

Building setbacks and design

- Whether the development is within 60 metres of a watercourse or from an existing river levee or Crown land boundary (whichever is the greater).
- The setback of the proposed development from a watercourse or from an existing river levee or Crown land boundary.
- Whether the proposed development complements the natural environment.

Earthworks

- Whether the proposal will result in earthworks which obstruct natural flow paths or drainage lines or impact existing wetlands.

Effluent disposal

- Whether the proposed method of effluent disposal is appropriate and in accordance with the *Code of Practice – Onsite Wastewater Management*.
- Whether excess stormwater should be disposed of on-site and away from any septic absorption area.

Heritage

- Whether the proposed development is designed so as to protect and enhance historic and archaeological sites and the natural and cultural heritage of the river environs.

Land degradation

- Whether it is appropriate for any approval to include permit conditions which specifically address land degradation processes including erosion, native vegetation decline, pollution of ground or surface water, salinisation and soil acidity and adverse effects on the quality of land and water habitats.

Landscape

- The visual impact of the proposal on the riverine landscape and whether this may be lessened through the planting of a variety of appropriate indigenous vegetation species and by other means as appropriate.

River related development

- The appropriateness of the location of the development with respect to the bank of the Murray River, or whether the development should be located outside the overlay area.
- Whether it is appropriate for any approval within this overlay area to include permit conditions which provide for and facilitate public access to the foreshore.

Subdivision

- The impact of the subdivision on areas of native vegetation and the Murray River Reserve.
- The impact of subdivision (or re-subdivision) on the Murray River corridor and other public land as floodplains and as buffer areas for nutrients and other pollutants.

Water quality

The views of the relevant water authority on the quality of water in the Murray River and what measures are proposed to reduce the prospects of pollution.