



Colac Otway
SHIRE

COLAC OTWAY PLANNING SCHEME

2017 PLANNING SCHEME REVIEW AND RED TAPE REDUCTION PROJECT

**REVIEW REPORT
FEBRUARY 2018**

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I. EXECUTIVE SUMMARY

Colac Otway Shire Council is required to review the Colac Otway Planning Scheme every four years, Monitoring, auditing and reporting of the Planning Scheme is now a mandatory requirement under the *Planning and Environment Act 1987*.

The Colac Otway Planning Scheme Review has been prepared in accordance with the Department of Environment, Land, Water and Planning (DELWP) Planning Practice Note: *Review of Planning Schemes*. This review provides Council with:

- An overview of the performance of the Colac Otway Planning Scheme since its last review in 2015;
- An understanding of what State and local policy changes have occurred since the last review; and
- A program for future action.

Further, the scope of this review provides a broad opportunity to review the planning scheme in the context of 'red tape reduction'.

Overall, this review has highlighted that the basis of the Colac Otway Planning Scheme is fundamentally sound and is generally performing well.

However, it is apparent to remain contemporary, Council will need to update its planning scheme, in response to new important State and local strategic priorities that have emerged since the last review, as well as strategic gaps that have been identified as part of this review.

The importance of maintaining a contemporary planning scheme should not be underestimated. The Colac Otway Planning Scheme is an important tool in giving effect to Council strategies across the spectrum, where their objectives and policies seek to influence land use and development within the Shire.

Significantly, there are also fertile opportunities to review zone and overlay schedules, with a view to rationalising permit triggers, requirements and mapping.

A wholesale review and rewrite of zone and overlay schedules is necessary to implement these changes, as a the highest priority outcome of this review.

A wholesale review and rewrite of the Local Planning Policy Framework is also necessary and a high priority for Council.

The scope of this Planning Scheme Review provides opportunity to implement both of these recommendations as part of the second stage of this project.

Recommendations

This report makes a number of specific recommendations relating to all aspects of the Colac Otway Planning Scheme. Overall, there are two aspects of strategic planning work that need to be advanced in order to ensure the ongoing effectiveness of the planning scheme.

These are:

- Maintenance and administration of the planning scheme; and
- Strategic policy development and review.

The specific recommendations that arise as part of this review are highlighted at the end of each chapter. Some of those recommendations are reinforced multiple times, highlighting the imperative to address their requirements.

In summary, these recommendations are as follows:

Planning Scheme Review Report

High Priority

That Council:

- **adopt this report as the review required pursuant to section 12B (1) of the *Planning and Environment Act 1987*.**
- **forward the report to the Minister for Planning as required by section 12B (5) of the *Planning & Environment Act 1987*.**

Maintenance and Administration of the Planning Scheme

High Priority

- **Rewrite zone and overlay schedules in accordance with this review report to ensure that they are achieving their intended purpose, are minimising permit applications and are consistent with the Ministerial Direction on the Form and Content of Planning Schemes. This amendment should be focused on opportunities for red tape reduction, in line with the recommendations outlined in Chapters 5 and 6 of this report. This includes increasing permit exemptions and reviewing mapping.**

- **Prepare an amendment to implement a new ‘streamlined’ LPPF based on a translation of the important parts of the existing MSS; and the development of new stand-alone local policies.**

Strategic Work Program

High Priority

- **Implementation of the Colac 2050 Growth Plan (when complete).**
- **Development of detailed growth areas planning for Colac, arising out of Colac 2050.**
- **Review the Forrest Structure Plan.**
- **Commission a Flood Study for Birregurra and Apollo Bay (Barham River).**
- **Review the mapping and ordinance of Environmental Significance Overlays, Vegetation Protection Overlays and Significant Landscape Overlays in light of Amendment VC138 and updated Departmental mapping.**
- **Commission a targeted Heritage Review, which considers opportunities to address regulatory burden for the Murray Street precinct and whether the controls over the Colac Housing Estate are warranted.**
- **Commission a review of the mapping of the Erosion Management Overlay.**

Medium Priority

- **Monitor the implementation of the Birregurra Structure Plan.**
- **Undertake further strategic work to address strategic gaps in the Colac Otway Planning Scheme relating to:**
 - **Environmentally Sustainable Design.**
 - **Acid Sulphate Soils.**
 - **Salinity.**
 - **Social Inclusion.**
 - **Advertising Signage.**
 - **Direction for small towns such as Alvie, Beeac, Gellibrand and Cororooke.**
- **Investigate opportunities to expand the application of the RAZ within the coastal hinterland of the Shire.**

Low Priority

- **Commission a Gaming Strategy.**
- **Commission a Licensed Premises Strategy.**
- **Commission heritage investigations into Dry Stone Walls.**

Advocacy

- **Monitor the progress of the Smart Planning program implementation and have regard to its emerging direction in the rewrite of the Colac Otway Planning Scheme to implement the findings of this review.**
- **Engage with the Country Fire Authority regarding the application of the Bushfire Management Overlay and its schedules to tourism areas, such as Gellibrand.**

1. CONTEXT

1.1 Introduction

This Planning Scheme Review Report has been prepared to provide an overview of the performance of the Colac Otway Planning Scheme since its last formal planning scheme review in 2015.

Section 12B of the *Planning and Environment Act 1987* requires Council to regularly review its planning scheme. Section 12B(a) of the *Planning and Environment Act 1987* states that a planning authority must review its planning scheme:

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; or Within such longer period as is determined by the Minister.

The Council Plan was approved in June 2017. This Planning Scheme Review commenced prior to the approval of that document.

Once finalised and adopted by Council, this Planning Scheme Review Report will constitute the formal "Planning Scheme Review" of the Colac Otway Planning Scheme, as required by Section 12B of the *Planning and Environment Act 1987*.

The planning scheme review process has been undertaken in accordance with the requirements of the Act and has had regard to Planning Practice Note PPN32: Review of Planning Schemes and the (then) Department of Planning and Community Development's *Continuous Improvement Kit* (February 2006).

The review process has included consultation with Councillors, agencies, Council Officers and key stakeholders, as well as a detailed review of the local provisions of the scheme, including zones, overlays and policies. Relevant reports and strategic documents have also been reviewed.

In addition to the formal requirement for a planning scheme review, the scope of this review includes the need to identify opportunities to reduce red tape within the planning system, by considering opportunities to reduce planning burden. The review of zone and overlay schedules in particular has considered opportunities to reduce planning burden through rationalisation of controls, mapping improvements and increases in planning permit exemptions.

1.2 The Colac Otway Planning Scheme

The Colac Otway Planning Scheme commenced on 5 August 1999. At the time of this review, the local content of the Colac Otway Planning Scheme comprises:

- The Municipal Strategic Statement.
- 1 local policy.
- 16 zones, with 14 schedules in total.
- 16 overlays, with 50 schedules in total.

A number of Planning Scheme Reviews and Planning Scheme Amendments have influenced its development over that period.

In 2005, Colac Otway Shire commenced its first 'three year' review of its planning scheme. That Review recommended a significant streamlining of the Municipal Strategic Statement, local policies and zones and overlays, with the aim of making policies clearer and more effective, rationalising content and giving effect to recent strategic work undertaken by the Shire. Amendment C55 subsequently led to a significant restructure of the Colac Otway Planning Scheme, in line with the findings of the review. This led to a significant operational improvement in the planning scheme's performance.

A subsequent review in 2010 considered new State planning initiatives and policies and addressed emerging issues in the municipality, such as potential inundation of coastal areas from sea level rise, the 2009 Bushfires Royal Commission and protecting agricultural land.

Most recently, the planning scheme was last formally reviewed in 2015.

1.3 The 2015 Planning Scheme Review

The 2015 Review provided Council with:

- An overview of the performance of the Colac Otway Planning Scheme.
- An understanding of what state and local policy changes have occurred since the last review.
- A program for future action.

In summary, the 2015 Review found that the Colac Otway Planning Scheme was structurally sound, with good linkages to State Planning Policy and between the Municipal Strategic Statement and controls. However, it identified that the controls had some degree of duplication and inconsistency between them and were leading to a high level of regulatory burden.

The report identified opportunities for improvements in the expression of the Municipal Strategic Statement and zone and overlay schedules, as well as identifying future strategic work to be undertaken by Council to address policy gaps.

Significantly, while some work has been undertaken to implement specific policies into the Colac Otway Planning Scheme, there has been no amendment that has fundamentally sought to implement the findings of either the 2010 or 2015 Planning Scheme Reviews, by way of a significant rewrite of the Local Planning Policy Framework or review of permit triggers in controls that has addressed the findings of those reports.

This review has been conducted having regard to the body of work that has gone into the 2015 Planning Scheme Review. That review provides a strong foundation on which this current review seeks to build upon.

Where relevant, this review highlights issues that were identified in the 2015 Review and remain in the planning scheme. Many of the recommendations of that review also inform the opportunities for red tape reduction within the planning scheme.

2.0 MAJOR PLANNING ISSUES

2.1 Existing MSS

The major strategic planning issues in Colac Otway as identified in the current MSS and local policies are:

Settlement and housing

- Colac and the coastal townships are experiencing increased rates of growth.
- The management of residential, tourism and infrastructure development pressures is required, particularly in coastal areas.
- The development of major towns in the Shire needs to take place in accordance with detailed Structure Plans that have been prepared.
- There are environmental constraints to growth for coastal townships.
- Effluent disposal is a major problem in smaller settlements, particularly during peak tourist seasons.
- 'De facto' rural living areas have developed over years on old subdivisions.
- Dwellings and small lot subdivisions in agricultural areas.

Environment

- The declared special water supply catchment areas need to be protected from inappropriate land use and development.
- Landslides are a significant hazard in the southern half of the Shire, associated with steep slopes, high rainfall and erosion vulnerability.
- Remnant vegetation provides significant habitat value.
- Flooding and bushfire are significant environmental risks throughout the Shire.

Built environment and heritage

- The protection of Aboriginal and European heritage is critical to the growth in tourism and sense of place.
- There is a need to encourage excellence in the design of new development, including the layout of subdivisions and the recognition of cultural heritage.

Economic development

- The importance of agriculture, timber production and tourism to the economy.
- The need to manage the transition of the manufacturing industry as it declines.
- The need to facilitate the growth of commercial, industrial and tourism activities.

It was highlighted by Council staff throughout this review that some of these current issues are requiring a continuing and ongoing need for strategic direction and further strategic work, in order to ensure that MSS directions acknowledge the key issues that are identified in the Shire.

For instance, Council highlighted that there is a need for direction on tourism opportunities in the Otways and coastal hinterland and that the MSS needed to reinforce the strength of Colac manufacturing and the strong economic focus of the Council to support that industry.

2.2 Emerging Issues

While all of the issues identified in the existing MSS remain relevant, emerging issues that arose during this planning scheme review and in consultations that may require some planning scheme direction in any re-write of the Colac Otway Planning Scheme include:

- Environmentally efficient design in the built environment.
- Climate change.
- Bushfire protection.
- Gaming.
- Licensed premises.
- 'Liveability' and promoting healthy lifestyles through planning and design.

While work on some of these issues has already commenced, these and other issues remain a high priority for planning scheme implementation or 'further strategic work' during the next review phase.

3.0 STATE AND LOCAL POLICY CONTEXT

3.1 State Policy Initiatives

Since the 2015 Colac Otway Planning Scheme review, there have been further changes to planning policy at the State level. Current Government initiatives that have been developed or are being considered include the following.

Smart Planning

The *Smart Planning* Program is an initiative of the state government with a 2016 Budget commitment of \$25.5 million to reform the Victorian Planning System for the 21st century, with a potential allocation of a further \$25 million in the 2018 State Budget.

The Department of Environment, Land, Water and Planning (DELWP) acknowledge that the Victorian Planning System has become large and complex, and is increasingly difficult to navigate and understand, with widespread variation between municipalities and planning schemes.

The challenges confronting the Victorian planning system include:

- Recognition that planning schemes, over the 15 years since the introduction of the VPP and New Format Planning Schemes, have become too complex, long and varied.
- Watching the digital revolution emerge while nursing ageing IT infrastructure and manual processes that are no longer best practice or supported technologies.
- Being unable to provide innovative ways of involving citizens and industry in ongoing and shared conversations about planning issues.
- Struggling to provide better access to data and online digital services.
- Being unable to reduce the administrative burden for planners in state and local government.

The State Government considers that these challenges are leading to growing issues with the planning system, including inconsistencies in planning schemes and decision-making, lengthy approval times and barriers to public participation and understanding of the system.

While the planning system has generally served the community, industry and local government well, advances in technology and the digital revolution have created opportunities to engage in smarter and more efficient ways. This includes making services and information available in an electronic and

accessible form that is simple to understand and interact with.

To address this, the state government *Smart Planning* Program will be delivered in 3 stages, over the next few years;

- Improve;
- Reform; and
- Transform.

Broadly, the program aims to:

- Simplify and clarify Victoria's planning regulation (including through reform to the VPPs and planning schemes).
- Make planning information easier to find, understand and interpret.
- Introduce user-focused digital tools that improve accessibility and interactivity and provide greater certainty and transparency.
- Establish a more effective and accessible engagement platform for stakeholders.

In October 2017, the State Government released the *Reforming the Victoria Planning Provisions* discussion paper. The discussion paper proposed several reforms which seek to restructure the VPPs, widen the opportunity to use VicSmart, rationalise permit triggers and increase permit exemptions and align the SPPF and LPPF into an integrated policy model.

Feedback is invited on the discussion paper, with further reforms to follow in 2018.

It is clear from the emerging reform that the changes proposed by the Smart Planning Program will have implications for the future form and content of the Colac Otway Planning Scheme.

It is recommended that the Shire continue to monitor progress of this program and engage with DELWP in the formulation of any future planning scheme amendment to implement the findings of this review.

As part of its engagement with DELWP, Council should investigate opportunities for it to be involved in any 'pilot' translation to Smart Planning provisions, during the amendments which seek to implement the findings of this review.

This engagement with DELWP should consider opportunities for the State

Government to contribute resources to Council to support its transition to the Smart Planning environment.

VicSmart

VicSmart is a simple and fast permit process for straightforward, low-impact planning applications. *VicSmart* was introduced into all Victorian planning schemes by VC114 in September 2014. Key features of *VicSmart* include:

- A 10-day permit process.
- Applications are exempt from third party notice and review requirements.
- Pre-set information which is required to be submitted with an application (and what council can consider).
- The Chief Executive Officer of the council or a delegate decides the application.
- No consideration of state and local policy frameworks unless specifically nominated.

Since its introduction, it is estimated that about 7% of applications throughout Victoria have been assessed under the *VicSmart* process. This is less than had been anticipated.

In the last financial year, 3848 applications (out of 56,394 statewide) were assessed through the *VicSmart* process (6.85%). The majority of these (81%) were assessed by metropolitan councils and another 11% were assessed by the three largest regional Councils. The take up rate in rural Victoria has been very low, with many rural Councils failing to use the system at all.

Colac Otway Shire Council has only considered a small number of *VicSmart* applications, although this has increased in the last 12 months.

DELWP had previously issued a 'User Survey' to seek feedback from local government and the development industry about the operation of the *VicSmart* program over its first two years of operation and to test comfort levels for potential extension candidates.

The survey was distributed to all 79 Councils and to 15 peak Industry Groups (Architecture, Property and Construction, Development sector, Planning and Law etc). A number of the industry groups also provided the survey to its members.

It was always intended that *VicSmart* be monitored and possibly extended. In

this context, and as part of its initial 'stocktake', a number of opportunities about extending the scope of VicSmart to cover more zones and overlays have already been identified by the Department of Land, Environment, Water and Planning (DELWP), Councils and other stakeholders.

In particular, DELWP acknowledge that there is considerable opportunity to extend VicSmart into rural zones and overlays.

In March and July 2017, the VicSmart program was extended by Amendments VC135 and VC137 respectively, essentially responding to the findings of the user survey.

Amendment VC135 particularly extended the ability to apply for a permit under VicSmart provisions in rural areas (up to \$500,000 in agricultural settings and \$250,000 in more sensitive areas), as well as for small scale buildings and works in selected overlays, advertising signs, car parking and subdivision applications.

VicSmart can be used to apply for:

- minor subdivision;
- minor buildings and works in most zones and overlays;
- more extensive buildings and works in the commercial and industrial zones (up to \$500,000 in the commercial zones and \$1,000,000 in the industrial zones);
- more extensive buildings and works in the rural zones;
- a range of applications for minor works under the Heritage Overlay and Special Building Overlay;
- tree removal and lopping;
- small advertising signs;
- car parking and loading bay waivers.

The amendments to VicSmart introduced this year provide opportunities to expand the use of these provisions within Colac Otway Shire, particularly in the context of the 'red tape reduction' aspect that Council is seeking to deliver as part of this planning scheme review project.

Planning and Environment Fee Regulations

The State Government introduced a range of new planning permit, planning scheme amendment and related fees in October 2016.

The changes introduced allow for an annual indexation of fees. A 50% reduction of the most substantial fees in both the planning permit and planning scheme amendment process applied for the first 12 months, but have recently ceased.

Ministerial Direction on the Form and Content of Planning Schemes and Amendment VC133

In May 2017, the Minister for Planning amended the Ministerial Direction on the Form and Content of Planning Schemes.

The amendments to the Direction make several changes to the requirements for planning scheme ordinance (including schedules). Most significantly, Annexure 2 has been updated to provide more guidance on the form and content of schedules to provide a clear and consistent format and ensure that the planning scheme ordinance will meet the requirements for integration with a new digital planning scheme management tool (PSIMS).

The changes outlined within the revised direction will have implications for this review and the subsequent rewrite of the local provisions within the Colac Otway Planning Scheme.

For instance, it is now a requirement that all ordinance can only contain the headings that are set out within the templates at Annexure 2. There are a number of zone and overlay schedules within the Colac Otway Planning Scheme that do not conform with this requirement currently.

Additionally, the changes limit the number of objectives that are permissible in overlay schedules (to one for the environment and land overlays and five for the design and built form overlays).

These changes will have implications for the future drafting of planning scheme amendments and will be a consideration for the planning scheme rewrite that forms part of the later stage of this project.

At the same time as the introduction of the revised Ministerial Direction on the Form and Content of Planning Schemes, Amendment VC133 made minor changes to the VPPs and planning schemes to reflect some of the revised direction, including the introduction of Clauses 1 and 2 to the VPPs.

Bushfire Mapping

On 3 October 2017, Amendment GC13 introduced updated Bushfire Management Overlay mapping to 64 planning schemes and introduced schedules to the Bushfire Management Overlay to 47 planning schemes, including the Colac Otway Planning Scheme.

The amendment introduced mapping undertaken by the Country Fire Authority, in accordance with Recommendation 37 of the 2009 Victorian Bushfires Royal Commission to ensure that bushfire hazard is accurately mapped using a consistent criteria and that bushfire risk is adequately captured by the planning system.

The schedules to the Bushfire Management Overlay introduced by the amendment are designed to streamline the planning permit process for applicants in relatively low risk locations by pre-setting bushfire protection measures and not requiring referral of applications to the relevant fire authority if all of the requirements in the schedule are met.

Within the Colac Otway Shire, the schedules have been applied to BAL-12.5 areas (Schedule 1 to the BMO) and BAL29 areas (Schedule 2 to the BMO) in Skenes Creek and Forrest.

Amendment VC132 also made minor amendments to the Bushfire Management Overlay, including relevant transition provision for the changes identified in Amendment GC13.

Reformed Residential Zones

On 27 March 2017, Amendment VC110 introduced reforms to the Neighbourhood Residential, General Residential and Residential Growth Zones in the Victoria Planning Provisions, as well as new requirements for their accompanying schedules.

The reforms build on the new suite of residential zones which were introduced into Victorian planning schemes in 2013 and 2014.

The key changes that have been made to these zones are:

- Increasing the mandatory maximum building height for residential development in the Neighbourhood Residential Zone from 8 metres to 9 metres and introducing a mandatory 2 storey height limit.
- Removing the restriction on the number of dwellings that can be built on a lot in the Neighbourhood Residential Zone.
- Increasing the discretionary height limit of 9 metres for residential development in the General Residential Zone to a mandatory maximum

of 11 metres and introducing a mandatory maximum 3 storey height limit.

- Introducing a mandatory garden area requirement in the Neighbourhood Residential Zone and General Residential Zone. The mandatory garden area is to be between 25-35% of the allotment, on all lots above 400 square metres, except where precinct structure plans apply.

The Purposes to each zone were also updated to better reflect the level of change anticipated within each zone.

The accompanying changes to the schedules to all three zones means that councils are no longer able to nominate a building height in the schedule that is lower than the height specified in the zone.

A schedule to the Neighbourhood Residential Zone must now also specify up to 5 neighbourhood character objectives to be achieved in development. The inclusion of these objectives in a schedule to the General Residential Zone is optional.

A schedule to the Residential Growth Zone must now specify up to 5 design objectives to be achieved.

The zones include transition provisions for the height and garden area requirements for applications which were lodged prior to the gazettal of Amendment VC110.

Better Apartments Design Standards

In April 2017, Amendment VC136 introduced the Better Apartments Design Standards into the Victoria Planning Provisions and all planning schemes.

The provisions are introduced at Clause 55.07 (for apartments in residential zones up to 4 storeys) and Clause 58 (for all other apartment developments). The provisions adopt a 'Rescode' approach of objectives, standards and decision guidelines and cover a range of matters such as building siting, dwelling amenity and the technical performance of the development in terms of energy efficiency, waste and recycling and other matters.

Development Contributions

The Minister for Planning introduced a new system for Infrastructure Contributions Plans (ICP) effective from 27 October 2016. This system replaces the former Development Contributions Plan.

The new system is based on standard levies that are pre-set for different development settings and land uses to fund the provision of essential infrastructure to support new or growing communities.

From 27 October 2016 the ICP system will apply to metropolitan greenfield growth areas. Metropolitan greenfield growth areas are the first of three identified development settings in the new system, with regional growth areas and strategic development areas to be added later.

The Ministerial Direction on the Preparation and Content of Infrastructure Contributions Plans specifies the development settings and the details of the new system such as levy rates, indexation methodologies and allowable items.

A key component of the system is an Infrastructure Contributions Plan which must be incorporated into the planning scheme.

Council should take a proactive approach with engagement with DELWP to ensure that the development contributions amendment is rolled out to regional areas, including the Shire.

Intensive Animal Husbandry Advisory Committee

In September 2015, the Minister for Regional Development and the Minister for Planning jointly announced that they were appointing an advisory committee to examine how the planning system can better support Victorian farmers and agriculture.

The *Animal Industries Advisory Committee* received 146 submissions and heard from 43 submitters at public hearings. It delivered its report to the Minister for Planning on 29 April 2016. Its report acknowledged that the planning controls over intensive animal industries had “let down” rural communities, with poorly-run or poorly-sited operations causing significant environmental or amenity impacts.

It considered that the existing Farming Zone and other rural zones were inadequate to manage competing land uses and that there was conflict

between prioritisation of farming activities or dwellings. It also recognised that the Codes of Practice that were incorporated into the planning scheme were largely out of date.

Overall, it concluded that the regulation of animal industries was complex, uncertain and did not adequately respond to, or support, changing practices within the animal industry or community expectations. Its report outlined a number of recommendations for improvement, including through changes to the planning system.

'Planning for sustainable animal industries' is the Victorian Government's response to the Advisory Committee Report and provides strategic direction for planning for animal industries in Victoria. The response has four key areas of focus and 12 actions centered around more support and clarity for all those involved in animal industries in Victoria. The key pillars of the Government response are:

- Improve strategic planning for animal industries including support for local councils, with access to expertise and information.
- Clarify planning requirements and support early decision-making including introducing clearer land use definitions, taking a graduated approach to planning, and providing assistance through online tools and Agribusiness Development Facilitation.
- Support the planning permit application assessment process including practical support, education through short courses, clear guidance information and a new code of practice for animal industries
- Ensure timely and effective enforcement.

In October 2017, the State Government began consultation on a number of proposed planning scheme reforms, including the addition of new land use terms in planning schemes and the introduction of 'a graduated approach to planning approval, including the consideration of streamlined applications (i.e. an approach similar to VicSmart).

When implemented, the proposed planning scheme reforms will have implications for policies and controls within the Colac Otway Planning Scheme. Council should actively review this process as part of the planning scheme rewrite that will follow in the later stages of this project.

Review of Native Vegetation Clearing Regulations

On 12 December 2017, Amendment VC138 made changes to the native vegetation clearing regulations.

The gazettal of the amendment followed a two year review of the native vegetation provisions in the planning scheme and were underpinned by the release of *Protecting Victoria's Environment – Biodiversity 2037*.

The amendment amended the SPPF at Clause 12 to align State policy with the objectives and strategies of *Protecting Victoria's Environment – Biodiversity 2037*.

The *Guidelines for the removal, destruction and lopping of native vegetation* (Department of Environment, Land, Water and Planning, 2017) was also introduced as an Incorporated Document. The environmental overlays were amended and referral provisions for native vegetation removal amended.

3.2 Local Policy Initiatives

Since the preparation of the 2015 Colac Otway Planning Scheme Review, there have also been further changes to planning policy at the local level. Current Council initiatives that have been developed or are being considered include the following.

Council Plan

Following Council elections in November 2016, the *Colac Otway Shire Council Plan 2017-2021* was adopted by Council at its meeting of 28 June 2017.

The Plan articulates an overarching vision for the Council and the Shire and is the Council's principal planning document.

The Council Plan outlines a strategic vision for the Shire as:

Towards a Prosperous Future

The Councillors of Colac Otway Shire commit to plan for growth in business and employment for our towns and settlements; the delivery quality services that meet community needs and demonstrate value for money; and to be leaders and work together as a team with the community and the organisation to achieve our goals for the Shire.

The Plan outlines a number of opportunities and challenges which face the municipality, particularly in terms of population and migration management, socio-economic development, education and employment and health and wellbeing.

It incorporates four core themes, each with supporting objectives and strategies that are aimed at achieving the aspirational vision of the Council towards 2021. The key themes outlined within the Council Plan are:

Theme 1: Our Prosperity

- *Economic Growth.*
- *Thriving Industries.*
- *Partnerships.*
- *Great Ocean Road.*

Theme 2: Our Places

- *Assets and Infrastructure.*
- *Sustainable.*
- *Welcoming and Attractive.*
- *Natural Environment.*
- *Capital Works Delivery.*
- *Emergency Management.*

Theme 3: Our Community

- *Socially Connected.*
- *Events, Arts and Culture.*
- *Lifelong Learning.*
- *Physical Activity.*
- *Inclusive Community.*
- *Plan for Community.*

Theme 4: Our Prosperity

- *Financial Management.*
- *Openness and Accountability.*
- *Organisational Development.*
- *Value for Money.*
- *Communication.*

The Council Plan outlines 21 goals and 70 actions to be achieved over the life of the plan under the four themes.

As with the 2013-2017 Council Plan, the revised Council Plan contains many projects and actions that are of direct relevance to the Colac Otway Planning Scheme. The Council Plan has been informed by extensive community

consultation and those areas that are identified and considered to have a planning scheme connection will be included in the new MSS.

Section 12A of the *Planning and Environment Act 1987* requires that the Colac Otway Planning Scheme and MSS be consistent with the current Council Plan, although there is no requirement for it to be detailed in the MSS. Nevertheless, best practice would have Council including the most relevant and important parts of its Council Plan within the MSS.

In that context, the planning scheme rewrite will have to ensure that the MSS is drafted in alignment with the current Council Plan.

Colac Otway Shire Municipal Public Health and Wellbeing Plan

The Colac Otway Shire Municipal Public Health and Wellbeing Plan (2017-2021) was adopted by Council in July 2017.

The Plan provides the strategic framework for addressing the key health and wellbeing needs of the Shire's community. The Plan has been prepared in accordance with the requirements of the *Public Health and Wellbeing Act 2008*.

The adopted Plan identifies that it is important that the Municipal Strategic Statement reflect the direction in the Public Health and Wellbeing Plan.

Relevant to this review, it is noted that the Plan states:

The MSS does not currently have general health and wellbeing considerations across the whole municipality. It is recommended that subsequent reviews of the Colac Otway Planning Scheme could include the following:

- *Facilitate healthier places through land use planning considerations of design, layout, liner and safer access to public recreational places that encourage active lifestyle.*
- *Use contributions to upgrade the existing and or to create new public open spaces that encourage active and healthier lifestyle.*
- *Create high quality accessible and safer public places and social and community infrastructure (including transport infrastructure) through land use planning.*
- *MSS and local policies in the Planning Scheme provide strategic directions to create safer and accessible places that encourage active, healthier lifestyles and discourage car dependency.*
- *Effective management of wastewater in unsewered areas.*

In that context, there is clear need to ensure that the planning scheme rewrite considers opportunities to incorporate these directions within the MSS and, where relevant, form the basis of a future strategic work program.

Infrastructure Design Manual

The Infrastructure Design Manual (IDM) is a joint initiative of Victorian rural and regional Councils to formulate and maintain a set of consistent requirements and standards for the design and development of infrastructure.

In September 2004, Campaspe Shire Council, Greater Shepparton City Council and City of Greater Bendigo began to develop a common engineering manual documenting infrastructure standards that could be uniformly used across the borders of the three municipalities.

The IDM was designed to clearly document and standardise Councils' requirements for the design and development of municipal infrastructure. It also aimed to expedite Councils' engineering approvals and ensure that minimum design criteria were met in regard to the design and construction of municipal infrastructure regardless of whether it is constructed by a Council or a developer.

The use of the IDM quickly spread to councils in other regions, leading to changes in the IDM structure to provide for local or regional variations, including the use of 'selection' tables. In that context, the IDM is regarded as a 'guideline' document and that there was scope to vary its standards.

At present, about forty three (43) Councils use the IDM, including Colac Otway Shire.

At the suggestion of DELWP, Amendment C112 to the Greater Shepparton Planning Scheme was exhibited as a 'test case' to bring the Infrastructure Design Manual into the planning system (notwithstanding that ten Councils already refer to it somewhere in their planning schemes).

There was a very high level of support for Amendment C112 in submissions.

The Panel was satisfied that the IDM was a useful resource that warranted recognition in the Greater Shepparton Planning Scheme and potentially in other rural and regional planning schemes. It also agreed with submitters that the IDM should be a 'guideline' document and that compliance with its standards should be discretionary and not mandatory.

The Panel supported Council's revised MSS content subject to some further minor changes and recommended that it be approved. Amendment C112 was gazetted on 6 April 2017 and now forms part of the Greater Shepparton

Planning Scheme.

In addition to preparing Amendment C112, Greater Shepparton City Council requested that the Minister for Planning appoint an Advisory Committee to investigate various issues associated with the broader implementation of the IDM within Victoria. The Minister agreed to this request and appointed an Advisory Committee in June 2015 following the Hearings for Amendment C112.

The Advisory Committee delivered its report to the Minister on 6 October 2015. Its recommendations include that the IDM should be introduced into the MSS of regional planning schemes and that the IDM be a reference document. It was the view of the Committee that the IDM could be introduced on a staged basis into planning schemes using the Minister's powers to exempt an amendment from exhibition under s20(4) of the Act.

It further recommended that DELWP review Clause 56 with respect to the currency and completeness of the standards to that clause and their relevance for rural municipalities.

Colac Otway Shire Council has adopted the IDM to define standards for construction for many kinds of infrastructure and it is extensively used in many of the schedules within its planning scheme. It would be prudent to include reference to the IDM within the MSS and to include it as a reference document.

Domestic Wastewater Management Plan

Council adopted the Colac Otway Shire Council Domestic Wastewater Management Plan in November 2015. The Plan comprises an 'operational document' and a complementary 'technical document', which provides the detailed technical assessment.

The Plan was developed in consultation with the local water authorities to assist in the management of domestic wastewater in the Shire in a manner that reduces potential risks to public health and the environment. The impetus for the development of the Plan is to respond to the State Environment Protection Policy (Waters of Victoria) and to allow variation to Guideline 1 of the *Minister's Guidelines for Planning permit applications in open, potable water supply catchment areas* (November 2012), for the parts of the shire that are within potable water catchments.

The Plan estimates that there are approximately 8,800 domestic wastewater systems across the shire. It details a risk assessment for all lots against a

number of factors, including lot size, slope, soil profile, proximity to groundwater, watercourses and flood prone land.

The Plan identifies that 24% of the shire's lots are highly or very highly constrained, 53% pose a moderate risk and 23% are of low consolidated constraint.

A detailed township-level assessment is set out throughout the Plan, as well as a number of management strategies that should be incorporated in the planning process or through the septic tank permit process.

The Action Plan does not detail any requirements relevant to Council's planning function. Regardless, the Plan will be an important tool in the consideration of land capability and domestic wastewater in future permit applications, as well as any strategic work that Council undertakes. Accordingly, it would be appropriate to provide greater recognition in the MSS about the Plan and the need to manage domestic wastewater.

Colac 2050

Council is in the process of undertaking a significant strategic work project, known broadly as the Colac 2050 Growth Plan.

The Plan provides an aspirational vision for Colac and its surrounds towards 2050 and is being prepared in partnership with Regional Development Victoria, with the aim to accommodate growth of the Colac population to 20,000 residents by 2050.

It is anticipated that the Colac 2050 Growth Plan project will seek for the City to achieve a 'Botanic Garden City' theme, providing drivers for growth in population and the local economy, as well as improving the overall wellbeing, productivity, functionality and liveability of the town.

Council released the *Colac 2050 Growth Plan Background Report* in July 2017. The report summarises the key findings from the technical assessments commissioned by Council and synthesises the opportunities and constraints for future development.

The Colac 2050 Growth Plan project is a significant piece of strategic work that Council is undertaking. A draft Growth Plan will be prepared for public engagement early in 2018 and implemented by a planning scheme amendment in 2018-2019.

Apollo Bay Harbour

The redevelopment of the Apollo Bay Harbour has been a long term strategic project for Council and key stakeholders.

The 2015 Planning Scheme Review noted that a draft Master Plan had been prepared in 2013 and was proposed to be implemented by Amendment C73, which had been subject to two formal exhibition processes.

Amendment C73 was gazetted on 13 August 2015, introducing the Special Use Zone – Schedule 2 to the Harbour area, which sought to facilitate the coordinated redevelopment of the Harbour in a manner consistent with an approved Development Plan.

Council has resolved to utilise a market-based approach for the preparation of the Development Plan to guide future development. At the time of this review, Council and the Apollo Bay Harbour Project Control Harbour were considering a draft Expression of Interest process to appoint a suitable consultant and/or developer.

Amendment C90 - Deans Creek and Barongarook Creek Flood Study

Council has prepared Amendment C90 to the Colac Otway Planning Scheme to implement the findings of the *Deans Creek and Barongarook Creek Flood Study (2017)*, prepared by BMT WBM.

The amendment updates the mapping of the Land Subject to Inundation Overlay and Floodway Overlay in accordance with the updated flood modelling undertaken as part of the Flood Study. The amendment also makes changes to the MSS to consider environmental risks from flooding and inundation and amends the schedules to the Land Subject to Inundation Overlay and Floodway Overlay.

The amendment is on exhibition until 9 March 2018.

Planning Scheme Amendments

Since the 2015 Planning Scheme Review was adopted by Council, the following significant local strategic work has been introduced into the Colac Otway Planning Scheme via planning scheme amendments:

- **Amendment C73** – rezoning of the Apollo Bay Harbour area to the Special Use Zone – Schedule 2 to facilitate harbour redevelopment.

- **Amendment C89** – Facilitation of the construction and reconstruction of dwellings in Wye River and Separation Creek impacted by the December 2015 Separation Creek and Wye River bushfire.
- **Amendment C93** – Introducing of refined BAL mapping for Wye River and Separation Creek.
- **Amendment C78** – Expansion of the Wyuna Residential Estate, by rezoning 14 hectares of land from Farming Zone to the General Residential Zone, applying the Design and Development Overlay – Schedule 17 and deleting the Significant Landscape Overlay – Schedule 1 from the land.
- **Amendment C92** – Rezoning of part of 120 Pound Road, Elliminyt from the Rural Living Zone to the General Residential Zone and amendment of the settlement boundary in the Colac Framework Plan.
- **Amendment C91** – Rezoning of surplus Barwon Water land in Apollo Bay to Rural Conservation Zone.
- **Amendment C86** – Implementation of the Colac Township Economic Development, Commercial and Industrial Land Use Strategy 2017.

3.3 Conclusions Regarding Strategic Context

This review highlights that there have been significant changes in strategic policy at both the State and local level since the 2015 Planning Scheme Review.

At a local level, Council has not actively implemented much of this strategic work, nor has it implemented all of the strategic that was undertaken prior to the 2015 Planning Scheme Review.

There is a need for the planning scheme rewrite to consider the implications of these changes.

Additionally, this review has highlighted further strategic work to be completed by Council. This is addressed later in this report.

3.4 Recommendations

Monitor the progress of the Smart Planning program implementation and have regard to its emerging direction in the rewrite of the Colac Otway Planning Scheme to implement the findings of this review.

Redraft zone and overlay schedules within the Colac Otway Planning Scheme in a manner consistent with the revised Ministerial Direction on the Form and Content of Planning Schemes as part of the implementation of the Planning Scheme Review.

Include reference to the IDM within the MSS and as a reference document within the MSS.

Include reference to the Domestic Wastewater Management Plan within the MSS.

4.0 THE EFFECTIVENESS OF THE LOCAL PLANNING POLICY FRAMEWORK

4.1 Review of the Local Planning Policy Framework

The 2015 Colac Otway Planning Scheme Review Report briefly addressed the issues of structure and usability of the LPPF, as well as its content.

In a general sense, that report found that the MSS was structurally sound, with the extensive restructure following the gazettal of Amendment C55 (which implemented the first three year planning scheme review) improving clarity and readability. The introduction of more locally specific policy guidance for Colac, Apollo Bay and other settlements across the Shire as a result of other planning scheme amendments was also seen as an improvement to the scheme overall.

There were a number of specific recommendations which were raised in the 2015 report for changes and improvement to the MSS, most of which have not been subsequently updated or included. These changes are (where relevant) explored in detail as part of the commentary for this current review.

The consultations with planning staff as part of this current review have identified that the MSS is generally useful and provides good direction for guiding discretion in planning permit applications.

Notwithstanding this, and despite improvements to the structure and language in the MSS as a result of Amendment C55, the current MSS still contains some information that is overly descriptive. It is a very 'wordy' document and the removal of much of the descriptive content will not impact on the overall usefulness of the MSS.

In this regard, the MSS as a whole requires a tight edit.

In terms of individual clauses, the following comments are made:

Clause 21.01 Municipal Profile

This clause provides a description of the Shire's profile in relation to location, settlement, environment, cultural heritage, economic development and the broader region. It was last amended by Amendment C55 in 2009.

There is a need to update the population numbers in this clause to reflect the most recent Census figures and reflect current population projections for the Shire.

Clause 21.02 Vision

Clause 21.02 provides the Municipal Vision (as reflected in the Council Plan 2009-2013) and the Land Use Vision for townships, cultural heritage, rural living, agriculture, tourism and environmental features.

Feedback from staff as part of this review indicated that it is a helpful clause in guiding discretion and provides a good summary of what is to be achieved by land use and development overall.

There is a need to update the Municipal Vision at Clause 21.02-1 to reflect the Vision set out in the current Council Plan (2017-2021).

The 2015 Planning Scheme Review Report also identified the need to update the vision to provide more guidance in relation to the need for catchment protection and to note constraints and existing septic issues in smaller coastal towns. Now that the Domestic Wastewater Management Plan has been adopted by Council, it would be appropriate to consider any further guidance that can be provided within the Vision, and other parts of the MSS, in line with the 2015 recommendation.

Clause 21.03 Settlement

Clause 21.03 provides the guidance for settlement within the Shire, as well as specific guidance for several townships, such as Colac, Apollo Bay, Birregurra, Skenes Creek, Kennett River and Wye River in accordance with their approved framework plans.

Parts of the clause have been updated in the inter-review period to reflect emerging strategies for some areas.

Overall, this clause works well and provides appropriate guidance for land use and development within each township and throughout the shire.

In a general sense, the clause is overly wordy and contains many statements which do not assist the exercise of discretion. At 28 pages, it is the longest clause in the MSS and there is opportunity to reduce some of the overview text to each sub-clause to improve clarity and direction.

Consultations with Council staff identified that there is a need for greater direction to guide discretion for applications for dwellings, excisions and boundary realignments in some rural zones. In part, providing clearer and stronger direction at Clause 21.03-9 'Rural Living' and stronger cross-references to the Rural Living Strategy will need to be considered to provide a more consistent framework for decision-making.

This was also identified in the 2015 Planning Scheme Review, which identified that dwellings within the Farming Zone and the Rural Conservation Zone were particularly problematic.

The policy directions for small towns includes an 8 metre height limit and the way it is expressed implies that it is a mandatory requirement. The 2015 Planning Scheme Review Report identified that there is an opportunity to review this requirement and incorporate flexibility to account for site conditions and surrounding context.

Clause 21.04 Environment

Clause 21.04 sets out objectives and strategies in relation to a range of environmental matters, including catchment protection, water quality, vegetation, salinity, erosion, flooding, climate change, landscape character and cultural heritage.

This is a broad clause that provides targeted objectives and strategies. Like other sections of the MSS, there are opportunities to review the overview section to each sub-clause to improve clarity and reduce the length of the document.

Consultation undertaken as part of this review has identified the need to provide greater guidance on land capability for development. Whether this guidance best sits in the Environment section or elsewhere in the MSS can be considered as part of a future re-write.

Similarly, the Domestic Wastewater Management Plan has been adopted by Council and should be reflected in the MSS.

The lack of a dedicated section on bushfire risk is a significant policy gap, considering that it is an issue within the Shire, experienced most recently in the summer of 2015-16 in Separation Creek and Wye River. The CFA has commented on the need for a clear and unambiguous statement in relation to bushfire within the MSS, particularly to balance other clauses within the MSS that seek to nestle buildings within vegetated treescapes. The lack of policy

guidance on bushfire was also identified within the 2015 Planning Scheme Review.

The 2015 Review also identified a number of changes that were required to this clause. Specifically:

- Clause 21.04-2 (Water) requires a section on stormwater and a requirement for a management plan for Colac based around water sensitive urban design.
- Clause 21.04-3 (Vegetation) should include commentary on Timber Production on private land and refer to native vegetation harvesting.
- Clause 21.04—4 (Salinity) should be expanded upon to provide clearer guidance in relation to salinity, following the abandonment of Amendment C67 which was to introduce a Salinity Management Overlay to land.
- Clause 21.04-5 (Erosion) requires more emphasis on landslip constraints and a distinction between erosion and landslip.
- Clause 21.04-7 (Climate Change) requires updating in line with the Regional Climate Change Resilience Project and its outcomes. This clause also requires reference to regional coastal hazard vulnerability.
- Clause 21.04-9 (Cultural Heritage) should include a section on the importance of Dry Stone Walls and should consider indigenous heritage.

It is evident from this review that many of these comments are still relevant and require resolution. Particularly, the changes proposed to the Erosion subclause should be undertaken having regard to the updated mapping and changes proposed for the Erosion Management Overlay and as discussed later in this report.

Council staff highlighted that there is an ongoing tension between the operation of the Bushfire Management vegetation removal provisions and the overlays in the Colac Otway Planning Scheme that require permits for vegetation removal. It was highlighted that guidance for discretion should be provided to ensure that decision-makers can appropriately determine which provisions should take precedence in assessment.

Clause 21.05 Economic Development

Clause 21.05 provides guidance in relation to a broad range of economic development initiatives in the Shire, specifically in relation to agriculture, timber production, manufacturing and tourism.

Consultations highlighted that there is a need to closely review this clause and improve its alignment with the Rural Land Strategy and other documents adopted (and implemented) by Council.

The Agriculture policy at Clause 21.05-1 needs to be carefully reviewed and rationalised. The overview section is overly long and partially outdated. It could be strengthened by rationalising some of the text and directing language that is helpful to the exercise of discretion into the relevant objectives and strategies.

Strategies at this sub-clause include direction for dwellings and subdivisions in agricultural areas. The genesis of these strategies was that they were previously a Clause 22 policy, which had been absorbed into the MSS. The anecdotal evidence of planning staff suggested that these strategies require greater clarity to assist in the exercise of discretion. It may be advantageous to decant the requirements back into a local policy to increase its standing. Regardless, any future changes to this clause will need to ensure that the strategies and policy position aligns with the direction in the Rural Living Strategy and Rural Land Strategy adopted by Council.

Some feedback from individual councillors sought greater flexibility to allow dwellings on small lots in the Farming Zone. Staff consultations and the review of the consultants has highlighted that this would be inconsistent with Council's adopted strategies. A further review as part of Council's strategic work program would be required in order to investigate whether this outcome could be supported and in what circumstances.

Clause 21.06 General Implementation

Clause 21.06 outlines measures that will support the implementation of various objectives and strategies within the MSS, either through the application of zones, overlays, policy and discretion or through further strategic work.

The entire clause could be carefully reviewed and rationalised, with much of its content absorbed into Clauses 21.03-21.05.

There is a need to review the tasks under further strategic work and delete those which have been completed.

Clause 21.07 Reference Documents

Clause 21.07 lists reference documents which have informed the preparation of various aspects of the Colac Otway Planning Scheme.

While many remain relevant, the rewrite of the LPPF should review the documents within this clause and rationalise any documents that are no longer relevant to decision-making.

4.2 Strategic Policy Gaps

Specific gaps in the LPPF raised during consultations for the 2015 Planning Scheme Review (and subsequent strategies) included:

- Environmentally Sustainable Design.
- Acid Sulphate Soils.
- Salinity.
- Social Inclusion.
- Advertising Signage.
- Gaming.
- Dry Stone Walls Heritage Protection.
- Licensed Premises.
- Direction for small towns such as Alvie, Beeac, Gellibrand and Cororooke.

Subsequent staff discussions as part of this review have supported those statements. Indeed, it is apparent that many of these policy gaps have been known issues since at least the 2010 Planning Scheme Review.

It was particularly reinforced that the Gaming policy has been a long identified need, but never funded.

The need for structure planning in Gellibrand and the review of town boundaries for Cororooke, Beeac and Alvie is also further reinforced in the Rural Living Strategy, adopted by Council and implemented into the scheme.

There is also an identified need to review the Forrest Structure Plan. The township and its surrounds are experiencing substantial tourism growth and issues with wastewater treatment.

Similar issues are also being experienced in Gellibrand, where there is a strategic interest in tourism growth and issues accommodating the wastewater and bushfire implications of new development. To this extent, Council should engage with the Country Fire Authority about the need for further schedules to the Bushfire Management Overlay in some areas of the Shire, where there are pressures for tourism development.

Council has also identified that there is a need to review the Birregurra Structure Plan 2013 to determine whether the strategic outcomes are being achieved. While we comment on the Birregurra Design and Development Overlays later in this report, we highlight that the controls have only been in the planning scheme for less than four years. We consider that it would be premature to undertake a review of the Structure Plan in determining whether the 'on the ground' outcomes reflect the intent of the Structure Plan. This is particularly relevant when the Structure Plan has a 20 year time horizon. The consultants are not aware of any significant changes in strategic policy for the township that would justify a significant review of the Structure Plan.

Nevertheless, we encourage Council to actively monitor permit activity and undertake a wholesale review at the midpoint of the time horizon nominated in the Structure Plan.

Strategic work to guide the development of Colac is ongoing as part of the Colac 2050 project and its related development of Infrastructure Contribution Plans. This work, once implemented, will address an existing strategic gap in the planning scheme for the town's growth.

4.3 Conclusions Regarding the Local Planning Policy Framework

Overall, the LPPF has been effectively used by Council and other decision-makers in the assessment of planning permit applications.

The structure and format of the MSS is inconsistent with the current State Government 'best practice'. The structure of the LPPF will need to be reviewed during the implementation of the State Government's Smart Planning Program. It is likely that there will be changes to the structure and format of planning schemes, with the potential for an integrated planning policy framework. Any structural changes to the LPPF should await the outcome of that program.

In a policy sense, the LPPF provides an appropriate framework for the assessment of planning applications. There is a need to reduce the wordiness of the document and eliminate repetition.

There is a clear need to reference completed strategic work, such as the Domestic Wastewater Management Plan, and introduce the Infrastructure Design Manual into the Local Planning Policy Framework. Further strategic work and new policies are also required to address strategic policy gaps within the scheme.

There is also a clear need for the LPPF to ensure that it reflects the updated Council Plan and the Municipal Health and Wellbeing Plan, where those strategies contain directions for land use planning.

4.4 Recommendations

Review and rewrite the Local Planning Policy Framework in line with the recommendations and comments provided throughout this chapter.

Undertake further strategic work to address strategic gaps in the Colac Otway Planning Scheme relating to:

- **Environmentally Sustainable Design.**
- **Acid Sulphate Soils.**
- **Salinity.**
- **Social Inclusion.**
- **Advertising Signage.**
- **Gaming.**
- **Dry Stone Walls Heritage Protection.**
- **Licensed Premises.**
- **Direction for small towns such as Alvie, Beeac and Cororooke.**

Review the Forrest Structure Plan.

Monitor the implementation of the Birregurra Structure Plan.

Engage with the Country Fire Authority regarding the application of the Bushfire Management Overlay and its schedules to tourism areas, such as Gellibrand.

5.0 THE EFFECTIVENESS OF ZONES AND SCHEDULES

5.1 Review of Zones and Schedules

There are a total of 16 zones in the Colac Otway Planning Scheme as follows:

- Low Density Residential Zone.
- Township Zone.
- General Residential Zone.
- Neighbourhood Residential Zone.
- Industrial 1 Zone.
- Industrial 3 Zone.
- Commercial 1 Zone.
- Commercial 2 Zone.
- Rural Living Zone.
- Rural Conservation Zone.
- Farming Zone.
- Rural Activity Zone.
- Public Use Zone.
- Public Park and Recreation Zone.
- Road Zone.
- Special Use Zone.

Most of these zones have attached schedules, with the exception of the Commercial 2 and Road Zones.

These schedules vary in complexity from the standard “default” provisions to quite complex provisions. Some zones have “none specified” in the requirements in their Schedule. The Rural Living, Rural Conservation, Farming and Rural Activity Zones each have schedules which specify minimum lot sizes. There are 4 tailored schedules to the Special Use Zone.

The 2015 Planning Scheme Review Report audited the application and performance of the zones in the scheme; and investigated whether or not the Schedules in the scheme had been appropriately applied.

The 2015 Review concluded that most of the zones and schedules in the Planning Scheme also required some level of review and further work including possible deletion and map changes.

There has not been any significant change to the application of zones within the Shire since the 2015 Planning Scheme Review. Where relevant, the

commentary provided in this section of the report reflects any outstanding considerations from the 2015 Review Report.

In a general sense, the changes to the Ministerial Direction on the Form and Content of Planning Schemes in May 2017 will have significant implications for the form and content of schedules of the zone schedules within the Colac Otway Planning Scheme.

It is apparent that almost all zone schedules will require some degree of change to conform with the requirements of the updated Ministerial Direction. Given that this review includes scope for a 'red tape' reduction amendment, it is considered that this would also provide a good opportunity to update all zone schedules to comply with the revised Ministerial Direction.

Specific issues to emerge from this review and its consultation in relation to zones and alternative zone options include:

Residential Suite

The Residential suite of zones, as applied in the Colac Otway Planning Scheme includes the General Residential Zone – Schedule 1 (GRZ1), Neighbourhood Residential Zone – Schedule 1 (NRZ1), Township Zone (TZ) and Low Density Residential Zone (LDRZ).

The review of these zones has highlighted that:

- The Schedule to the LDRZ is blank. The 2015 Planning Scheme Review Report highlighted that there were issues concerning the inappropriate design and siting of sheds within the zone. It identified that setting a requirement for 'dimensions above which a permit is required to construct an outbuilding' within the Schedule to this zone could address these concerns, by introducing setback permit triggers.

Ultimately, the Council has decided not to pursue this recommendation.

- The NRZ and GRZ were introduced into the Colac Otway Planning Scheme by Amendment C79 in June 2014. The General Residential Zone applies to all former Residential 1 zoned land, with the exception of land within Apollo Bay and Marengo that is affected by DDO7 and other DDOs to the north, which is zoned Neighbourhood Residential.
- The Schedules to all of the residential suite of zones are blank. There is considerable scope to investigate the incorporation of the overlay

schedules (DDO, SLO and NCO) that apply in many townships into new zone schedules.

Most particularly, the minimum lot size and building height requirements can be directly translated into customised zone schedules. Equally, some of the built form requirements can be translated into the varied 'ResCode' standards of the zone schedules.

This could lead to a rationalisation of some overlay provisions within townships and a reduction in controls. This option should be actively explored as part of the red tape reduction and rationalisation stage of this review.

Industrial Suite

The Industrial suite of zones as applied in Colac Otway include the Industrial 1 Zone (IN1Z) which is applied broadly to industrial areas in Colac, Apollo Bay and Birregurra, and the Industrial 3 Zone (IN3Z), which applies to the northern section of the Apollo Bay Industrial Estate, as introduced by Amendment C74.

The maximum leasable floor area requirements in the schedules to the IN1Z and IN3Z are blank and there is no appetite to introduce a numerical requirement in either provision.

Council has recently increased its industrial land supply within the Shire by implementing the findings of the Colac Economic Development Commercial and Industrial Land Use Strategy via Amendment C86, which was gazetted on 26 October 2017. The Planning Panel generally supported the amendment and the increased supply of industrial land, with the exception of the AKD Softwoods land in Irrewarra, where it recommended that the existing Farming Zone be retained.

The Panel found that the rezoning of some land to the Industrial 1 Zone would be a logical extension of Council's existing industrial land supply. Consultations as part of this review have highlighted that with the implementation of the Colac Economic Development Commercial and Industrial Land Use Strategy, there is sufficient industrial land available to meet current and future needs.

Overall, there is no overwhelming need to review the application of the industrial zones, given that this has been extensively considered as part of Amendment C86. However, consideration should be given to the requirements of the revised Ministerial Direction on Form and Content.

Commercial Suite

The Commercial suite of zones as applied in Colac Otway includes the Commercial 1 Zone (C1Z) to commercial areas within Colac, Birregurra and Apollo Bay and the Commercial 2 Zone (C2Z) which applies to some discrete commercial areas within Colac.

The schedule to the Commercial 1 Zone is blank.

In terms of their application, there will be some changes following the introduction of Amendment C86.

Overall, the Commercial zones are viewed to be working well. There were no systemic issues raised during the consultation process or this review.

Rural Suite

The Rural suite of zones within the Colac Otway Planning Scheme includes the Rural Activity Zone (RAZ), Farming Zone (FZ), Rural Conservation Zone (RCZ) and Rural Living Zone (RLZ). Each zone has one schedule.

The review of these zones has highlighted that:

- The RLZ applies a minimum subdivision area of 1.2 ha to Elliminyt and 23 ha to all other land in the zone. The intention is that RLZ land, other than within Elliminyt will not be further subdivided.

The schedule is curious, as it then only requires a minimum area for which no permit is required for a dwelling is set at 1.2 ha for all land. It is unclear whether this requirement should also reflect a larger number for land outside of Elliminyt.

There is a need to review the Schedule to add in the requirements to the table from the updated Ministerial Direction.

The updated Ministerial Direction also allows for multiple RLZ schedules to be applied. It may be prudent to apply one schedule to Elliminyt and an additional schedule to all other land to separate out the different subdivision requirements and improve clarity.

- The RCZ applies a 40 ha minimum lot size to all land, unless DPO4 applies, where a special requirement applies. The schedule is generally drafted in accordance with the updated Ministerial Direction.

- The FZ applies broadly across the Shire. It contains a detailed Schedule that includes varying subdivision and dwelling permit requirements, depending on whether land is north or south of the Princes Highway and east or west of Ballarat Road, reflecting the outcome of the 2007 Rural Land Strategy.

The Schedule is in need of a substantial redrafting to improve its clarity and to conform with the Ministerial Direction on Form and Content.

It would be logical to create a new FZ schedule (FZ2) for land north of Princes Highway and east of Ballarat Road and decant all requirements for that land into its own separate schedule. This will improve the expression of the lot size requirements and remove ambiguity as to which requirement applies.

Consultations also highlighted that the permit requirements for the minimum setback for a road need to be reviewed. It is suggested that the 100 m requirement from land in a Road Zone, Category 1 can be deleted and replaced with 'None specified'. All references to Road Zone, Category 2 should be removed at the same time, as the Shire does not have any RDZ2 land.

There is an appetite to use the VicSmart process for applications involving farm sheds, particularly within FZ land. The changes to VicSmart earlier this year would allow applications up to \$500,000 in value in the FZ to utilise this process, without any further need to change the planning scheme. Council should consider increasing awareness of the process on its website and at its offices.

- The RAZ is applied to some rural land in proximity to Colac, Forest and Marengo. Despite its application to four discrete areas, only one Schedule applies, with varying minimum subdivision area requirements and differing Purposes for each area.

Overall, staff and community consultations highlighted that the zone is generally performing well.

Notwithstanding this, there are opportunities to improve the expression within the schedule, particularly in relation to where minimum subdivision area requirements apply. These are currently identified based on Lot on Plan references, which are cumbersome and not easy to understand.

The drafting of the Purpose for each precinct is overly long and not consistent with best practice drafting or the Ministerial Direction on Form and Content.

There are opportunities to separate requirements into varying schedules to more accurately specify the Purpose and subdivision requirements and achieve consistency with the Ministerial Direction.

Consultations as part of this review have highlighted an appetite to consider the wider application of the RAZ across the Shire. It is understood that the strategic direction set out in Colac 2050 may support the rezoning of more land east of Colac to the RAZ in the future. Similarly, some coastal hinterland areas that no longer provide for viable agricultural enterprises could facilitate greater demand for tourism related opportunities with the application of the RAZ. This approach would need to be supported by further strategic work.

Public Suite

The Public suite of zones within the Colac Otway Planning Scheme includes the Public Use Zone (PUZ), Public Park and Recreation Zone (PPRZ) and the Public Conservation and Resource Zone (PCRZ).

Like all zones, it is recommended that the schedules be updated to be consistent with the Ministerial Direction on Form and Content. Particularly, each schedule is missing the headings and clause numbers set out within the Ministerial Direction.

Special Use Suite

The Special Use Zone in the Colac Otway Planning Scheme consists of four schedules – Apollo Bay Airfield (SUZ1), Apollo Bay Harbour (SUZ2), Dairy Food Production Plant – Connor and Murray Streets, Colac (SUZ3) and Colac Abattoir & Food Production Plant (SUZ4).

SUZ3 and SUZ4 were introduced into the planning scheme in October 2017 following the gazettal of Amendment C86. SUZ2 is also a reasonably ‘fresh’ control, having been introduced by Amendment C73 in August 2015. The Master Plan associated with the Harbour is still to be prepared. Council is pursuing an Expression of Interest process for a market-led delivery and preparation of the Development Plan that is tied to the SUZ2 schedule and will support the future development of the Harbour.

SUZ1 is in need of significant review. It is an old control that has not been amended in more than 10 years. It will also require alignment with the new Ministerial Direction on the Form and Content of Planning Schemes.

5.2 Conclusions Regarding Zones and Schedules

This review has highlighted that most of the zones and schedules in the Planning Scheme require some level of review and further work, including possible deletion, better definition in schedules and map changes. Importantly, changes will also be required to achieve consistency with the Ministerial Direction on the Form and Content of Planning Schemes.

While of this can be undertaken as part of the rewrite phase of this project, others will require further strategic work to be undertaken by Council.

5.3 Recommendations

Review the form and content of all zone schedules in light of the changes to the Ministerial Direction on the Form and Content of Planning Schemes.

Rationalise all zone schedules and delete any redundant clauses, as required, concurrent with the LPPF rewrite.

Investigate opportunities to reduce red tape through increased permit exemptions, in line with the recommendations of this chapter, concurrent with the LPPF rewrite.

Consider opportunities to consolidate the requirements of DDO, SLO and NCO provisions into residential zone schedules within and adjoining townships.

Investigate opportunities to expand the application of the RAZ within the coastal hinterland of the Shire.

6.0 THE EFFECTIVENESS OF OVERLAYS AND SCHEDULES

6.1 Review of Overlays and Schedules

There are a total of 16 overlays in the Colac Otway Planning Scheme, with 50 schedules, as follows:

- Environmental Significance Overlay (6 schedules).
- Vegetation Protection Overlay (3 schedules).
- Significant Landscape Overlay (5 schedules).
- Heritage Overlay (1 schedule).
- Design and Development Overlay (17 schedules).
- Development Plan Overlay (7 schedules).
- Neighbourhood Character Overlay (1 schedule).
- Erosion Management Overlay (1 schedule).
- Floodway Overlay (1 schedule).
- Land Subject to Inundation Overlay (1 schedule).
- Bushfire Management Overlay (2 schedules).
- Public Acquisition Overlay (1 schedule).
- Airport Environs Overlay (1 schedule).
- Environmental Audit Overlay (no schedule).
- Restructure Overlay (1 schedule).
- Parking Overlay (2 schedules).

With the exception of the Environmental Audit Overlay, all of these overlays have at least one attached schedule, which, like the zone schedules, vary in complexity and length.

Notably, few of the overlay schedules provide any meaningful permit exemption provisions, meaning that, in many cases, most buildings and works require a planning permit. This has led to a perception both within the Council and the community that the controls are cumbersome and have led to a high level of “red tape” associated with planning approval. This is particularly the case given that some land is affected by multiple environmental and land overlays, a design and built form overlay and one or many land management overlays.

In this context, there is a broad opportunity for Council to pursue the ‘red tape reduction’ initiative that is one of this project’s objectives. The 2015 Planning Scheme Review identified that the overlay controls provided fertile ground for improvement in this regard, where it said:

A number of schedules require refinement in relation to unnecessary permit triggers, and would also benefit from clearer decision guidelines that build on recent amendments and the changes to the VPP.

In a general sense, the changes to the Ministerial Direction on the Form and Content of Planning Schemes in May 2017 will have profound implications for the form and content of the overlay schedules within the Colac Otway Planning Scheme.

Most significantly, the form (in terms of structure) of each schedule will need to be translated into the Department's new preferred structure. There is no opportunity to deviate from the template and there are many provisions in the Colac Otway Planning Scheme that do not conform with the revised format.

In a content sense, the objectives within each schedule will need to be closely reviewed, tightened and rationalised, as there are various limitations for the number of objectives that are permissible within the new Ministerial Direction.

It is apparent that almost all overlay schedules will require some degree of change to conform with the requirements of the updated Ministerial Direction. Given that this review includes scope for a 'red tape' reduction amendment, it is considered that this would also provide a good opportunity to update all overlay schedules to comply with the revised Ministerial Direction.

Specific issues to emerge from this review and its consultation in relation to particular overlays are as follows:

Environmental Significance Overlay

This overlay has five schedules as follows:

- Schedule 1 – Warrion Groundwater Area (ESO1).
- Schedule 2 – Lakes, Wetlands and Watercourses (ESO2).
- Schedule 3 – Declared Water Supply Catchments (ESO3).
- Schedule 4 – Habitat Protection (ESO4).
- Schedule 6 – Colac Water Reclamation Plant Buffer (ESO6).

In terms of **ESO1**, the control applies to a large area north of Colac. The feedback from staff as part of consultation for this review highlighted a perception that the control triggers a relatively small number of permits, but that its permit triggers were overly confusing and a source of confusion.

Improvements were suggested to the control as part of Amendment C70, which was subsequently abandoned by Council after exhibition. A

Memorandum of Understanding concerning referral of applications has been in place with the water authorities since 2015.

Some Council staff recommended that the control be deleted, on the basis that a similar control does not apply to the Warrion Groundwater area in neighbouring municipalities.

The water authorities consider that the control still serves a necessary function, but that the mapping could be reviewed, as the groundwater recharge area is the only area of sensitivity and concern to the authority.

It is recommended that the mapping be reviewed and that the permit triggers be rationalised to provide clearer exemptions. In the event that Council seeks to delete the control and replace it with policy guidance, further consultation with the water authorities will be required.

In terms of **ESO2**, **ESO3** and **ESO4**, Amendment C70 proposed substantial changes to the mapping extent of these overlays, with changes to the schedules to ESO2 and ESO4 also sought. The Council abandoned that amendment in 2014, largely on the basis of some small areas of the Shire which would be subject to additional control, but more importantly, based on inaccuracies in the way that overlay boundaries matched up with vegetation on the ground. Council has resolved to seek revised (and more accurate) mapping from DELWP.

The view of staff in consultation for this review highlighted that the proposed deletions of the mapping extent of ESO2, ESO3 and ESO4 proposed in Amendment C70 would be appropriate. This position should be considered in any option to review the extent of the overlay application. There is no appetite within Council to increase the coverage of the overlay. Some consultations highlighted that ESO2 could be rationalised in its entirety.

In terms of the content of the schedule, there are opportunities to review permit triggers and referral requirements. ESO3 requires reference to the Council's adopted Domestic Wastewater Management Plan.

There is also a strategic need to review the ESO controls in light of the changes introduced via Amendment VC138.

ESO6 applies to the Colac Water Reclamation Plant Buffer. The permit triggers need to be reviewed to improve language and consider further opportunities for permit exemptions. Consideration should also be given to the future application of this control to the Apollo Bay Water Reclamation Plant.

All ESO schedules will need to be updated to reflect the revised Ministerial Direction. Particularly:

- The Environmental objective to be achieved will need to be a maximum of 1 objective.
- The referral requirement will need to be deleted.
- Language will need to be modified to reflect current drafting practice.

Vegetation Protection Overlay

This overlay has three schedules as follows:

- Schedule 1 – Significant and Remnant Vegetation (VPO1).
- Schedule 2 – Roadside Vegetation (VPO2).
- Schedule 3 – Birregurra Tree Protection Area.

Amendment C70 proposed to introduce updated biodiversity mapping as well as amending the **VPO1** and **VPO2** schedules to include updated application and referral requirements, decision guidelines and amend the table of values.

The retention of these overlays is supported by DELWP. However, consideration should be given to reviewing the mapping extent, consistent with the proposed deletions under Amendment C70.

VPO3 was implemented in 2014, following a character study and Structure Plan for Birregurra. It is a 'character' control that is intended to protect large canopy trees that have aesthetic significance to the Birregurra landscape.

The permit requirements need to be carefully reviewed, as the language is inconsistent with other controls (i.e. reference to trunk circumference rather than diameter at breast height). The pruning exemption is also problematic and requires review.

Council also suggested that the mapping extent of this overlay should be reviewed, despite its relatively new introduction into the planning scheme. Anecdotal evidence suggests that its application to the C1Z areas within Birregurra is restricting commercial development.

There is also a strategic need to review the VPO controls in light of the changes introduced via Amendment VC138.

All VPO schedules will need to be updated to reflect the revised Ministerial Direction. Particularly:

- The Vegetation protection objective to be achieved will need to be a maximum of 1 objective.
- The referral and application requirements will need to be deleted or moved elsewhere.
- Language will need to be modified to reflect current drafting practice.

Significant Landscape Overlay

This overlay has five schedules as follows:

- Schedule 1 – Valleys, Hills and Plains Landscape Precinct (SLO1).
- Schedule 2 – Coastal Towns: Skenes Creek, Kennett River, Wye River and Separation Creek (SLO2).
- Schedule 3 – Apollo Bay Coastal Valley and Hills Precinct (SLO3).
- Schedule 4 – Johanna Coast to Cape Otway Coastal Valley and Hills Precinct.
- Schedule 5 – Apollo Bay Landscape Precinct.

In a general sense, **SLO1**, **SLO3**, **SLO4** and **SLO5** are all considered to be working effectively subject to some minor improvements, as follows:

- Reviewing the schedule wording for SLO3 and SLO4 to tighten language.
- Removing DELWP as a notice authority under Clause 66.06 for SLO3 and SLO5.
- Considering adding the Otway Coastal Committee as a notice authority.
- Reviewing opportunities for increasing permit exemptions.
- Reviewing the schedules to ensure consistency with the Ministerial Direction on Form and Content.

In terms of **SLO2**, this control applies in tandem with DDO4 and NCO1 (as well as other 'technical overlays' such as the EMO and BMO). This results in a high level of regulatory burden to land and the controls overlap permit requirements with one another. The need for the application of SLO2, DDO4 and NCO1 has arisen from the statutory architecture of each control and the limitations of these provisions.

Notwithstanding this, there is great scope to rationalise SLO2, DDO4 and NCO1 into the one overlay. Council has approached DELWP and Surf Coast Shire Council to undertake this work collectively, as it relies on Government assistance. The second stage of this Planning Scheme Review project should consider opportunities on how these controls can best be rationalised into one control. This review should also consider whether some aspects of these controls can be collapsed into the relevant zone schedules.

There is also a strategic need to review the SLO controls in light of the changes introduced via Amendment VC138.

All SLO schedules will need to be updated to reflect the revised Ministerial Direction. Particularly:

- The Landscape character objective to be achieved will need to be a maximum of 1 objective.
- The referral and application requirements will need to be deleted or moved elsewhere.
- Language will need to be modified to reflect current drafting practice.

Heritage Overlay

The Heritage Overlay has one schedule, which lists numerous heritage places within the Shire.

Generally, the Heritage Overlay is working well and there is no scope under this review to seek any significant changes to the overlay.

Consultation highlighted that there are minor issues for minor buildings and works within the Murray Street commercial precinct, for various minor works behind building facades and for signage. It was identified that the presence of the impact of the Heritage Overlay on minor buildings and works is a source of major frustration for businesses within the Murray Street precinct. It was suggested that an Incorporated Document could facilitate these minor works by exempting permit requirements and providing solid guidance on preferred outcomes.

It was also highlighted that the precinct-based overlay to public housing areas in Colac needed to be reviewed, as it was perceived as restricting its redevelopment.

Council will need to undertake further strategic work into both of these matters as part of its strategic work program.

Design and Development Overlay

This overlay has 17 schedules as follows:

- Schedule 1 – Colac Eastern Entrance and Industrial Area (DDO1).
- Schedule 2 – Colac West Business Area (DDO2).
- Schedule 3 – Colac Western Entrance (DDO3).

- Schedule 4 – Coastal Towns: Skenes Creek, Kennett River, Wye River and Separation Creek (DDO4).
- Schedule 5 – Apollo Bay – Town Centre (DDO5).
- Schedule 6 – Apollo Bay – Medium Density Residential Area (DDO6).
- Schedule 7 – Apollo Bay and Marengo – Lower Density Residential Areas (DDO7).
- Schedule 8 – Colac CBD (DDO8).
- Schedule 9 – 413-437 and 441-479 Murray Street, Colac (DDO9).
- Schedule 10 – 6230, 6240, 6250 and 6280 Great Ocean Road and Lots 1 and 2 LP137842, Marriners Lookout Road, Apollo Bay. (DDO10).
- Schedule 11 – Birregurra Preferred Character Area A (Main Street) (DDO11).
- Schedule 12 - Birregurra Preferred Character Area B (North East) (DDO12).
- Schedule 13 – Birregurra Preferred Character Area C (Roadknight Street Entry & South of Main Street).
- Schedule 14 – Birregurra Preferred Character Area D (South) (DDO14).
- Schedule 15 – Birregurra Commercial Area (DDO15).
- Schedule 16 – Birregurra Industrial Area (DDO16).
- Schedule 17 – Wyuna Estate Area (DDO17).

DDO1 and **DDO2** relate to commercial and industrial areas in Colac and were considered for expansion to Irrewarra (DDO1) and deletion (DDO2) as part of Amendment C86. The Panel report for this amendment has recommended that DDO1 not be expanded to some sites. However, it agrees that DDO2 can be rationalised. The amendment was gazetted in November 2017, with DDO2 rationalised from industrial land west of Colac and the application of DDO1 to a broader range of sites in Colac.

DDO3 applies to the western entrance of Colac. The control generally serves a purpose and the control is considered to be required. However, there is scope to include permit exemptions and to review its form and content based on the Panel preferred version of DDO1.

As previously mentioned, there is significant scope to rationalise **DDO4** with NCO1 and SLO2.

DDO5, **DDO6** and **DDO7** apply to various parts of Apollo Bay. There is scope to remove the permit requirement for subdivision within DDO5 and to rationalise some of the wording of the control to improve its clarity.

DDO6 and DDO7 seek to apply mandatory height requirements, although the wording of DDO7 would allow a permit to be granted for a taller development. There is a need to better align the provisions of both DDOs with

the relevant zone requirements. There is particular concern with the expression of 9 metre height requirements, when changes to the GRZ set an 11 metre height limit. We are instructed by DELWP that there will be a need to provide a consistent height limit between the zone and DDO schedule. We understand that councils have a 'grace period' in which to align the height limits between controls. Council should engage with DELWP as part of the second stage of this project in order to identify whether the red tape reduction amendment should consider these requirements.

DDO8 relates to the Colac CBD. It is a poorly drafted control that is in need of substantial review. Staff consultations highlighted that the advertising sign requirement (Category 3) may need to be reviewed and that either Category 1 or 2 would be more appropriate.

DDO9 applies to two sites specifically on Murray Street. The land is also affected by DPO2 and there is scope to rationalise the DDO on this basis.

DDO10 is a recent control that affects land on Marriners Lookout Road, Apollo Bay. The land was rezoned to NRZ in 2015 by Amendment C74.

DDO11, DDO12, DDO13, DDO14, DDO15 and **DDO16** apply to various areas in Birregurra and implement the Birregurra Neighbourhood Character Study and Birregurra Structure Plan. These controls are still relatively new provisions and it is too early to determine whether the controls have been effective in achieving their purpose. Consultations as part of this review have highlighted that there is an opportunity to exempt outbuildings from requiring planning permits. Table 1 to DDO11 also requires review so that multi-dwellings are mentioned in Clause 2.

Each overlay will also require significant changes to conform with the Ministerial Direction.

Development Plan Overlay

This overlay has five schedules as follows:

- Schedule 1 – Colac Abattoir and Food Production Plant (DPO1).
- Schedule 2 – Future Residential Areas (DPO2).
- Schedule 3 – Future Industrial Areas (DPO3).
- Schedule 4 – Mariners Vue (DPO4).
- Schedule 5 – 6230 and 6280 Great Ocean Road Apollo Bay (DPO5).

A further three DPO schedules were proposed to be introduced by Amendment C86. In its report, the Panel supported the application of DPO6 and DPO7, but not DPO8.

Amendment C86 also sought to amend **DPO1** and **DPO3**. The Panel found that DPO1 was largely acceptable. In relation to **DPO3** which applies to undeveloped industrial zoned land south of Colanda on Forest Street, a specific recommendation of the Panel's report is that:

Council should consider a separate planning scheme amendment to update Development Plan Overlay Schedule 3.

The Panel's recommendation is on the basis of its consideration of **DPO7**, which the Panel considered to be a "vastly different (and superior)" control. It was concerned that introducing DPO7 would create two very different and inconsistent planning frameworks for abutting industrial lots. It recommended that DPO3 should incorporate greater consistency with DPO7.

DPO2 is a 'catch-all' DPO that applies to areas identified for future residential development. The Overlay is needed to ensure adequate master planning occurs for future residential areas. However, it is a problematic control that is in need of substantial review. Particularly, the requirements for development plans require substantial work and the requirement to allow a permit to be granted for subdivision before a Development is approved is causing pressure on Council to approve small subdivisions.

While Development Plans have been approved for 2 areas affected by DPO2, there are a further 4 areas where Development Plans are yet to be approved or prepared. Council is currently in the process of assessing 2 Development Plans, while a third was not supported by residents. The absence of any approved Development Plans for the remaining land could prejudice land supply in Colac into the future.

Neighbourhood Character Overlay

This overlay has one schedule – Coastal Towns: Skenes Creek, Kennett River, Wye River and Separation Creek (NCO1).

The control applies in tandem with DDO4 and SLO2 and there is a fair amount of overlap between these controls.

The constraints of many sites means that there is a need to allow greater flexibility for setbacks and height and there is a need for the control to be redrafted to reflect this.

As outlined throughout this section of the report, there are substantial opportunities to collapse the requirements of the controls into one overlay, or alternatively a zone schedule (such as the existing Township Zone).

Erosion Management Overlay

The EMO applies across the Shire and triggers a significant number of permits.

Despite a significantly improved overlay schedule being introduced by Amendment C68, consultations with staff and the community as part of this review identified that this overlay was a source of much frustration and confusion, with questions over interpretation of requirements and the quality of assessments.

Anecdotal evidence suggested that the Council does not, in the main, refuse applications under this control. Rather, it mostly issues conditional permits.

The mapping extent of the overlay is in need of substantial review. Amendment C54 introduced updated mapping, which included the removal of the overlay from 6 towns in the Shire. The overlay currently applies to approximately 65% of land in the Shire, but updated mapping based on updated information and technology is likely to reduce the extent of application of the overlay. Council will need to commission suitably qualified consultants to review this mapping using the latest technology and knowledge of landslip risk.

This mapping is also likely to lead to a better understanding of the level of risk. It is understood that the coastal areas have the highest constraint and will require the existing schedule to be retained. Areas of lower risk could be subject to a different schedule, with greater permit exemptions and fewer application requirements.

A detailed review of the mapping and opportunities to improve the schedule based on risk should be pursued by Council as a priority.

Floodway Overlay and Land Subject to Inundation Overlay

Updated flood mapping has been undertaken for Colac township. Amendment C90 is likely to be exhibited in the first half of 2018 and will update the schedules to the Floodway Overlay and Land Subject to Inundation Overlay.

Consultations highlighted that a flood study is required for Birregurra and the Barham River in Apollo Bay. This should inform Council's strategic work program.

Bushfire Management Overlay

Updated bushfire mapping and new Schedules to the Bushfire Management Overlay for parts of Forrest and Skenes Creek (BAL-12.5 and BAL-29 areas) were introduced into the Colac Otway Planning Scheme in October 2017.

Council considers that there is further opportunity to engage with the CFA to undertake further hazard mapping in small towns and consider opportunities for BAL-specified schedules to be introduced in other townships.

Public Acquisition Overlay

The Public Acquisition Overlay has one schedule, with two acquisition authorities identified, being VicRoads (PAO1) for road widening works and Barwon Water (PAO2) for water supply purposes.

PAO1 is still required, as much of the land to be acquired is still reflected in private ownership.

It appears that Barwon Water has acquired most of the land required under PAO2, with the exception of a parcel of RCZ land in Apollo Bay. Once this land is acquired, the designation can be removed from the PAO.

Airport Environs Overlay

The Airport Environs Overlay – Schedule 2 (AEO2) applies to land around the Colac and Apollo Bay airfields.

The schedule is a State-standard provision and cannot be altered.

Environmental Audit Overlay

The Environmental Audit Overlay applies to one parcel of land in Colac West along the Princes Highway.

Staff consultations did not highlight a need to extend the application of the Environmental Audit Overlay to other land. Further consideration should be given to the extension of this overlay, as growth pressures result in the rezoning of former rural, commercial and industrial land.

Restructure Overlay

The Restructure Overlay applies to four discrete areas on the south-eastern outskirts of Cressy and other locations (such as Gerangamite) that are all within the Farming Zone.

The Restructure Overlay was introduced in 2013, to minimise the potential for dwellings to be established on land outside the township. The control needs to be retained.

Parking Overlay

This overlay has two schedules as follows:

- Schedule 1 – Colac Commercial Centre (PO1).
- Schedule 2 – Apollo Bay Commercial Centre (PO2).

Both controls were introduced in 2013.

Consultations highlighted that no issues are arising in relation to PO1. However, some staff highlighted that Council has not received many financial contributions in line with the requirements of PO2. It was suggested that this requirement may be discouraging new businesses from establishing or existing businesses from expanding within Apollo Bay.

6.2 Conclusions Regarding Overlays and Schedules

This review has highlighted that most of the overlays and schedules in the planning scheme require review and further work, including possible deletion, exemptions, decision guidelines, map changes and the like.

Notably, few of the overlay schedules provide any meaningful exemption provisions meaning that in many cases, most buildings and works require a permit. It is quite possible that some planning permits are the result of

unnecessary applications triggered by the extensive overlay network with inadequate exemptions. In the context of the red tape reduction aspect of this review and recent state initiatives to streamline planning processes, Council could minimise applications by including some realistic exemptions.

6.3 Recommendations

Review the form and content of all overlay schedules in light of the changes to the Ministerial Direction on the Form and Content of Planning Schemes.

Rationalise all overlay schedules and delete any redundant clauses, as required, concurrent with the LPPF rewrite.

Investigate opportunities to reduce red tape through increased permit exemptions, in line with the recommendations of this chapter, concurrent with the LPPF rewrite.

Consider opportunities to consolidate the requirements of DDO, SLO and NCO provisions into residential zone schedules or other provisions within and adjoining townships.

Review the mapping and ordinance of Environmental Significance Overlays, Vegetation Protection Overlays and Significant Landscape Overlays in light of Amendment VC138 and updated Departmental mapping.

Undertake a Flood Study for Birregurra and Apollo Bay (Barham River).

Commission a targeted Heritage Review, which considers opportunities to address regulatory burden for the Murray Street precinct and whether the controls over the Colac Housing Estate are warranted.

Commission a review of the Erosion Management Overlay mapping.

Pursue further discussions with the Country Fire Authority aimed at introducing further schedules to the Bushfire Management Overlay for the smaller towns.

7.0 THE EFFECTIVENESS OF THE PARTICULAR AND GENERAL PROVISIONS

7.1 Audit of Particular and General Provisions

There are a number of opportunities in Clause 52 and Clause 66 of the Colac Otway Planning Scheme for Council to specify local variations or agencies.

A review of these provisions is provided in the following table.

Clause Title	Schedule Requirements	Comment
52.01 Public Open Space Contribution and Subdivision	Land within the urban boundaries of Colac, Elliminyt, Apollo Bay, Marengo and Birregurra attracts 5% for 3-5 lots, 5% plus an additional 1% up to 10% for each additional lot. All other land excluding FZ, RAZ and RCZ is 5% for 3 or more lots.	The rates are based on the 2011 Open Space Strategy. The rates are supported by Council. In a drafting sense, there is a need to remove the word 'additional' from 3-5 lots.
52.02 Easements, Restrictions and Reserves	None specified.	No change required.
52.03 Specific Sites and Exclusions	Princes Highway Duplication and Wye River Bushfire requirements are noted.	The specific sites and exclusions provisions are current and should remain in the planning scheme.
52.05 Advertising Signs	None specified.	There is a need to review the application of advertising controls more broadly in overlays, with the potential to introduce requirements in the Schedule to Clause 52.05.
52.16 Native Vegetation Precinct Plan	None specified.	No change required.
52.17 Native Vegetation	The Powerline Bushfire Safety program Native Vegetation Removal Code of Practice	No change required.

52.27 Licensed Premises	None specified.	No change required.
52.28 Gaming	None specified.	Further strategic work on developing a Gaming Policy may establish a need for a requirement in this schedule.
52.32 Wind Energy Facilities	Prohibition of wind energy facilities within 5km of the high water mark of the coast or within 5km of specified zones in Colac.	No change required.
52.37 Post Boxes and Dry Stone Walls	None specified.	The 2015 review identified a need for local policy direction for dry stone walls.
52.43 Live Music and Entertainment Noise	None specified.	No change required.
66.04 Referral Requirements	Various referral provisions specified.	The list of referrals under overlay provisions needs to be reviewed in line with comments in this review report.
66.06 Notice Requirements	Various notice provisions specified.	The list of notice agencies under overlay provisions needs to be reviewed in line with comments in this review report.

While Council has not taken the opportunity to include local content in many of these schedules, there still remains significant opportunity to use them to a broader potential.

Particularly, further strategic work should identify opportunities in relation to Gaming Policy, Licensed Premises and Post Boxes and Dry Stone Walls to address policy gaps identified as part of this review.

7.2 Recommendations

Commission a Gaming Strategy.

Commission a Licensed Premises Strategy.

Commission heritage investigations into Dry Stone Walls.

Amend the Schedules to Clauses 66.04 and 66.06 to outline referral and notice authorities under local provisions and remove unnecessary referrals as identified in each overlay, concurrent with the LPPF rewrite.

8.0 CONCLUSIONS AND RECOMMENDATIONS

8.1 Conclusions

The 2015 Report noted that the 'rolling' program of amendment approval meant that Colac Otway Shire Council had a reasonably 'fresh' MSS in terms of content and (mainly thanks to Amendment C55) its structure.

The 2015 Report noted that the scheme would benefit from a further 'freshen up' of both content and structure and this work had already been underway in terms of enhanced direction for some towns and economic development.

This review supports those conclusions, but notes that there is opportunity to improve the effectiveness and efficiency of the MSS.

This current review has highlighted that the most apparent gap in the zoning and overlay schedule regime is the potential to 'exempt out' unnecessary planning permits which clog up the system for little community benefit as well as to streamline the permit assessment process.

8.2 Recommendations

Planning Scheme Review Report

That Council:

- adopt this report as the review required pursuant to section 12B (1) of the *Planning and Environment Act 1987*.
- forward the report to the Minister for Planning as required by section 12B (5) of the *Planning & Environment Act 1987*.

Maintenance and Administration of the Planning Scheme

In terms of **prioritising a work program**, the following specific recommendations are made:

High Priority

LPPF Amendment

- Prepare an amendment to implement a new 'streamlined' LPPF based on a translation of the important parts of the existing MSS; and the development of new stand-alone local policies.

- Ensure the revised LPPF has careful regard to the directions articulated in the *Council Plan* and the *Health and Wellbeing Plan* and its list of Actions.
- Insert other adopted strategic work (such as the Domestic Wastewater Management Plan and Infrastructure Design Manual) into the revised LPPF.

Zone, Overlay and Particular Provisions Amendment

- Rewrite zone and overlay schedules in accordance with this review report to ensure that they are achieving their intended purpose, are minimising permit applications and are consistent with the Ministerial Direction on the Form and Content of Planning Schemes. This amendment should be focused on opportunities for red tape reduction, in line with the recommendations outlined in Chapters 5 and 6 of this report. This includes increasing permit exemptions and reviewing mapping.
- Rewrite schedules to the Particular Provisions in accordance with this review report to ensure that they are achieving their intended purpose.
- This amendment can be undertaken concurrently with the LPPF rewrite amendment.

Strategic Work Program

High Priority

- Implementation of the Colac 2050 Growth Plan (when complete).
- Development of detailed growth areas planning for Colac, arising out of Colac 2050.
- Review the Forrest Structure Plan.
- Commission a Flood Study for Birregurra and Apollo Bay (Barham River).
- Review the mapping and ordinance of Environmental Significance Overlays, Vegetation Protection Overlays and Significant Landscape Overlays in light of Amendment VC138 and updated Departmental mapping.
- Commission a targeted Heritage Review, which considers opportunities to address regulatory burden for the Murray Street precinct and whether the controls over the Colac Housing Estate are warranted.
- Commission a review of the mapping of the Erosion Management Overlay.

Medium Priority

- Monitor the implementation of the Birregurra Structure Plan.
- Undertake further strategic work to address strategic gaps in the Colac Otway Planning Scheme relating to:

- Environmentally Sustainable Design.
- Acid Sulphate Soils.
- Salinity.
- Social Inclusion.
- Advertising Signage.
- Direction for small towns such as Alvie, Beeac, Gellibrand and Cororooke.
- Investigate opportunities to expand the application of the RAZ within the coastal hinterland of the Shire.

Low Priority

- Commission a Gaming Strategy.
- Commission a Licensed Premises Strategy.
- Commission heritage investigations into Dry Stone Walls.

Advocacy

- Monitor the progress of the Smart Planning program implementation and have regard to its emerging direction in the rewrite of the Colac Otway Planning Scheme to implement the findings of this review.
- Engage with the Country Fire Authority regarding the application of the Bushfire Management Overlay and its schedules to tourism areas, such as Gellibrand.