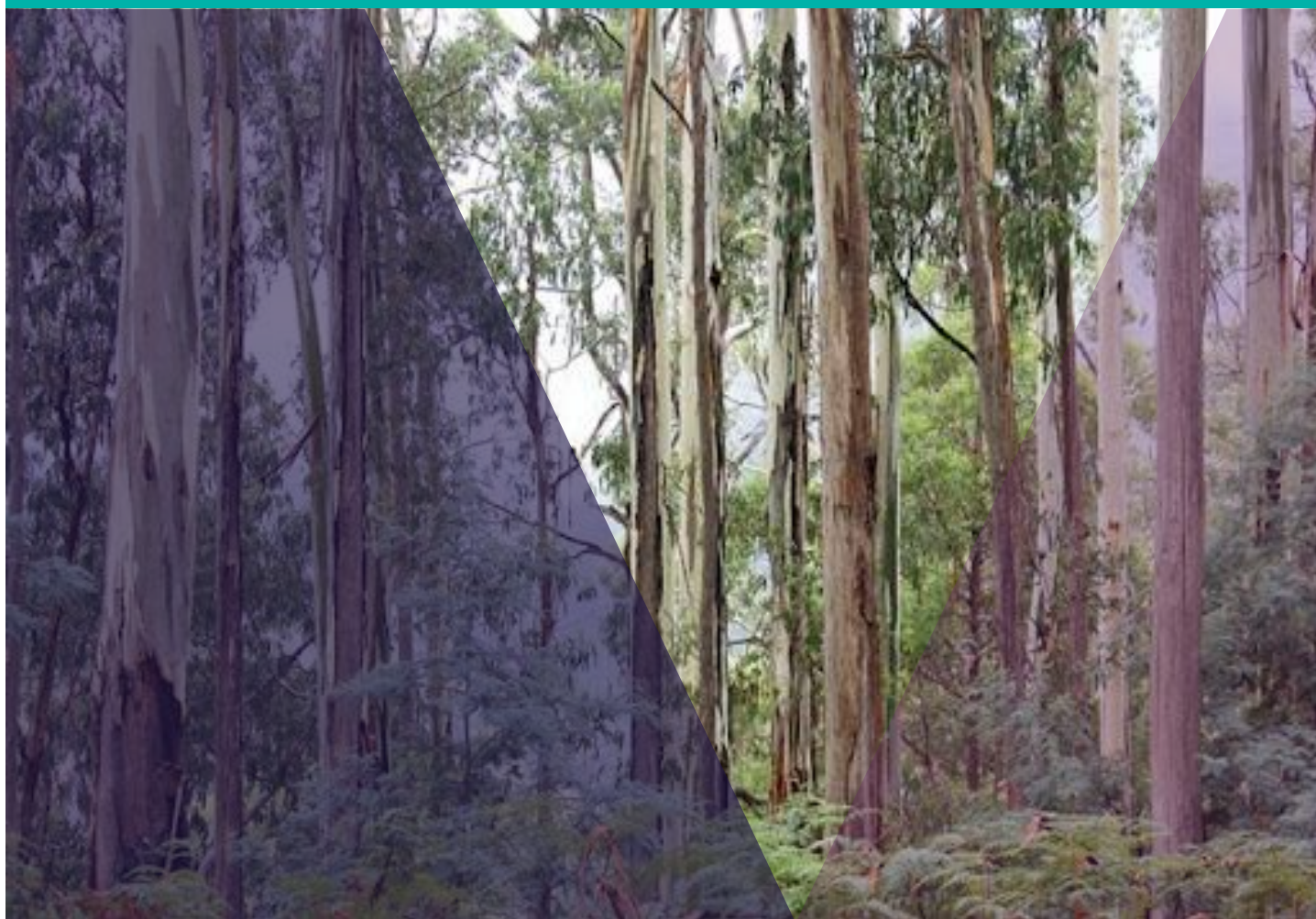


# Mansfield Planning Scheme Review

Final Report

September, 2022





# Document Control

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## Document History

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## Approval

### Handover to Council

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# Executive summary

## Why is the planning scheme being reviewed?

Council as the planning authority for the Mansfield Planning Scheme is required to review its planning scheme every four years under Section 12(B) of the *Planning and Environment Act 1987* (the Act).

Council last undertook a comprehensive review of the planning scheme in March 2015. The findings of this review were translated into the planning scheme via multiple amendments, being C15, C36 and C37.

## Characteristics of the municipal area

Mansfield Shire is located about 150 kilometres northeast of Melbourne and has an area of 3,891 square kilometres. The resident population in Mansfield Shire for 2021 was estimated at 10,178 (ABS Census 2021), and Victoria in Future data estimates that by 2031 the population in Mansfield Shire will increase to 10,485. Over the last few years, and noticeably during the COVID-19 pandemic, the Shire has become a more popular place for people to live. However, it is noted that the Victoria in Future data figure of 10,485 has almost been reached in 2021 and is anticipated to be exceeded in 2022. Based on the population projections in the Mansfield Planning Strategy, the population of Mansfield Shire Council is expected to be 13,440 by 2031 and 16,384 by 2041.

Mansfield is the main urban settlement, with a number of smaller settlements throughout the Shire. These include Merrijig, Sawmill Settlement, Alpine Ridge and Bonnie Doon, Jamieson, Macs Cove, Howqua Inlet, Goughs Bay, Tolmie, Maindample and Mountain Bay. The Shire's town and settlement network offers a diverse range of housing and lifestyle opportunities for residents, from rural living lots, lakeside and alpine townships, small historic settlements, to conventional suburban style living.

Agriculture and tourism are key economic drivers for the municipality. Most industrial land is located in and around Mansfield, and land use conflicts between different sectors balances against increasing residential growth are a concern for planners.

On average, Council process approx. 192 planning permit applications per year, with the most common application being for "one of more new buildings". Over the past 4 years, the Council has considered a total of 737 applications.

Key planning issues that face Mansfield Shire Council include:

1. Balancing economic development for agriculture vs tourism
2. The consideration of significant environmental areas including catchments
3. The protection of native vegetation

## Overall health check

The Mansfield Planning Scheme is generally performing well. A high-level policy check was undertaken through the PPF Translation Amendment C47mans, which removed any outdated policy or anything that was in conflict with State policy. The scheme generally complies with the Ministerial Direction on Form and Content.

Only a small number of permits are heard by VCAT, which indicates that decisions made by delegates and Council are supported by policy in the scheme as they are not being challenged.

The Scheme has a hierarchy for townships, with growth outlined primarily for Mansfield. This is reflected in policy within the scheme, and also in the recent strategic work undertaken by Council. The Mansfield Station Activation Project, the Mansfield Township Approaches Planning Controls and Guidelines, and the Mansfield Commercial and Industrial Land Use strategy are in the process of being implemented in the scheme.

The residential zones for the municipality do not comply with the recent changes to state policy settlement planning. While this is not something that needs rectifying in the short term, Council should consider these changes as new strategic work is rolled out. This will provide more clarity for growth accommodation in different townships and assist with the protection of character.

Many of the schedules to zones and overlays do not specify local policy. This provides a future opportunity to provide clearer planning guidance and potentially remove permit triggers and streamline planning applications.

Particular Provisions and Operational Provisions comply with the Ministerial Direction on Form and Content, but most do not contain any local content. There is opportunity to expand on these policies.

The planning team has a sound understanding of what is required to address policy gaps in the scheme and the work program reflects this. The recommendations in this report will further support the planning department in its prioritisation of strategic work.

## Consolidated recommendations

The consolidated recommendations that have been developed through this review, and next steps for this planning scheme review. The reasons for these recommendations are outlined in the body of the report and the analysis work that has been undertaken and can be seen in Appendix One and Two.

### Planning scheme amendment recommendations

These recommendations relating to the planning scheme amendment that should be progressed to implement the findings of this review relating to administrative matters or to incorporated Council or State adopted strategic planning work into the scheme.

The planning scheme review has identified many policy neutral changes that should be made to the planning scheme to bring it into alignment with the Ministerial Direction on the Form and Content of Planning Schemes. These are purely administrative matters and do not change the policy intent of the scheme. Other changes identified are not policy neutral and will require a separate planning scheme amendment and potentially further strategic work.

There are several factual changes that should be made to the Municipal Planning Strategy to bring it up to date with the latest ABS data, the Council Plan and to acknowledge the Traditional Owners of the land in which Mansfield Shire Council sits – the people and lands of the Taungurung and Gunaikurnai.

An audit of local and regional strategies and policies that have been completed since the last planning scheme review (Appendix 1) has identified new policy that has the strategic justification to be incorporated into the planning scheme.

These changes are marked up on the supporting Ordinance (See Appendix 1). Changes that are policy neutral are in blue and red. Changes that are not policy neutral are in green and orange.

In Appendix 1, the reason for each change is included in orange text in brackets like this: [\[source code\]](#) This reason will take the reader back to the correct page of the parent document or the correct provision in the planning scheme as appropriate and enable changes to be understood in their original context.

It will be up to Council to liaise with the DELWP Regional Planning Services team to determine what sort of amendment or amendments are appropriate to progress the findings of this report.

It is recommended that Council:

#### **1 Prepare a planning scheme amendment or amendments to:**

- a) Incorporate the policy neutral changes identified on Appendix 2 to align the ordinance with the Ministerial Direction on the Form and Content of Planning Schemes.**
- b) Incorporate elements from the Council Plan that were missed during the PPF Translation and make other updates to factual data.**
- c) Amend the MPS at 02.01 Context to include appropriate reference to Traditional Owners and Country.**
- d) Include new policy to implement the:**
  - Mansfield Shire Council Plan 2021 – 2025**
  - Mansfield Open Space Strategy 2021**
  - Mansfield Planning Strategy 2022**
  - Mansfield Commercial and Industrial Use Strategy 2021**
  - Activating Lake Eildon: Lake Eildon Masterplan 2020**

- e) **Include an updated Clause 74.02 Further strategic work that prioritises the strategic work program based on the findings of this review and prioritisation of the strategic planning work identified in Section 9.**
- 2 **Prepare a planning scheme amendment to Implement the findings of the Mansfield Planning Strategy.**

## **Further strategic work recommendations**

Section 9 of this report outlines the strategic planning work that has been identified through this planning scheme review.

Only work that can be completed in the next four years should be included in Clause 72.04 of the planning scheme. A recommended Clause 72.04 is included in the marked-up ordinance at Appendix 2.

This should be considered by Council to ensure that the work is reasonable to complete over the next four years and, if not, the priority projects that should be included in Clause 74.02.

- 3 **Prepare a signage strategy to implement the Township Approaches Planning Controls and Guidelines Study, Mansfield (2018).**
- 4 **Consider whether a Design and Development Overlay is required to address character and urban design in Mansfield Township.**
- 5 **Review, with Goulburn Valley Water, the buffer zone areas, and zones around wastewater management facilities.**
- 6 **Prepare policy guidance to help balance priorities for rural land use, tourism in agricultural areas and protection of landscape values.**
- 7 **Identify areas where vegetation and key biodiversity areas should be retained and conserved and apply appropriate planning tools to protect them.**
- 8 **Identify, in partnership with Goulburn Murray Water, where permit triggers within the ESO1 and 2 can be amended or removed to reduce the resource burden on councils and referral authorities and remove red tape for applicants.**
- 9 **Develop, in partnership with Traditional Owners, new planning policy to support Traditional Owner interests and values considering:**
  - 02.01 Context
  - 02.03 Strategic Directions to provide high level policy guidance on protection of Country and of Traditional Owner values in relation to the development of the land.
  - 02.04 Strategic Framework Plan (identification of Country boundaries)
  - Clause 11.03-6 Planning for places to insert a new policy related solely to Traditional owner values and objectives, including a Country map which can include key cultural assets.
  - Localised policy into Planning Policy Framework, Zones, and Overlays that are existing, such as an ESO or SLO (in collaboration with the Regional Planning Services office)
  - Inclusion of applicable Country Plan (or other applicable document) into the planning scheme as a Background document at Clause 72.08
- 10 **Update flood prone area mapping across the municipality in partnership with Goulburn Broken Catchment Management Authority.**
- 11 **Prepare a Rural Living Strategy or similar to identify areas of the Shire that would be suitable for Rural Living Zone, Rural Conservation and Low Density Residential Zone.**
- 12 **Identify areas where vegetation and key biodiversity areas should be retained and conserved and apply appropriate planning tools to protect them.**
- 13 **Prepare a housing strategy or neighbourhood character study to review township framework plans and settlement strategies to assess growth opportunities and constraints, populate local schedules to residential zones, and align township zoning with State policy (PPNs 90 ad 91).**
- 14 **Undertake strategic work to prepare the municipality for climate change impacts, including risks such as fire and flooding**

## Process improvement recommendations

These recommendations are drawn from both the analysis of the planning scheme and consultation with Council staff and referral authorities.

Both council and Goulburn Murray Water (GMW) raised that it would be worth revisiting the MoU that is in place regarding what permits should be referred and when. GMW suggested that it would be mutually beneficial to review, to save time for both council and the referral. This would improve overall permit timeframes for applications triggered by the ESO1 or 2.

- 15 Work with Goulburn Murray Water to update the MoU between the organisations to streamline planning permit referrals and responses.**

## Advocacy recommendations

These recommendations are generally beyond the scope of what Council can achieve in its planning scheme under the current Victoria Planning Provisions or scope of the Planning and Environment Act 1987 but have been identified in the review as matters that Council may wish to raise with the State Government for consideration.

During the councillor briefing session a number of important issues were raised, including the appropriateness and availability of regional DCPs, affordable housing provisions, right to farm, and what can be done about Airbnb.

The State government is currently working on more effective ways to implement affordable housing, however at the time of writing this report there is no State policy for rates or locations. At present the recommendation is for local governments to speak directly to housing providers and arrange a model for affordable housing that is tailored for that particular community.

Airbnb's are undefined in the planning scheme. They are a type of dwelling and accommodation, and as such the scheme treats an Airbnb the way any other dwelling or accommodation of its category would be treated.

A Regional DCP and ICP toolkit has been under consideration for quite some time. In regional areas it is difficult to apply DCPs as infrastructure costs can be prohibitive to development. At present the more widely used model for collection from developers are section 173 agreements.

- 16 Advocate for further investigation to be undertaken in how to manage Airbnb's and have them defined with a land use term in the planning scheme**
- 17 Advocate for better guidance and policy for the application and location of affordable housing for Mansfield Shire**
- 18 Advocate for a Regional toolkit for regional Developer Contribution Plans**

## Minister for Planning recommendation

Mansfield Shire Council, with assistance from the DELWP Regional Planning Partnerships, has prepared a planning scheme review as required by section 12B(1) of the *Planning and Environment Act 1987* (the Act).

In accordance with section 12B(3) of the Act this review identifies opportunities, set out in this report, enhances the effectiveness and efficiency of the planning scheme in achieving the objectives of planning in Victoria and the objectives of the planning framework established in the Act.

In accordance with section 12B(4) of the Act, the review evaluates the planning scheme to ensure that it:

- Is consistent with Ministerial Direction on the Form and Content of Planning Schemes.
- Sets out the policy objectives for the use and development of land.
- Makes effective use of state and local provisions to achieve state and local planning policy objectives.

- 19 That Mansfield Shire Council CEO, Kirsten Alexander accepts this Planning Scheme Review and forward to the Minister for Planning as evidence Mansfield Shire Council, as the planning authority for the Mansfield Planning Scheme, has met its obligations in accordance with Section 12B of the Planning and Environment Act 1987 to review the planning scheme every four years.**



# 1. Introduction

## 1.1 Purpose

Council as the planning authority for the Mansfield Planning Scheme is required to review its planning scheme every four years under Section 12(B) of the Act.

Council last undertook a comprehensive review of the planning scheme in March 2015. The findings of this review were translated into the planning scheme via multiple amendments, being C15, C36 and C37.

Recently the planning scheme was restructured to insert a new Municipal Planning Strategy and local Planning Policies to replace the former Local Policy Planning Framework. This was done via amendment C47mans and was a policy neutral amendment undertaken by the State government.

This review will be forwarded to the Minister for Planning as required under section 12(B) of the Act once complete. A planning scheme amendment to implement the findings of the review will be required. The marked-up ordinance to support this amendment forms Appendix One.

## 1.2 Methodology

This planning scheme review was undertaken by the Regional Planning Partnerships at DELWP which has been funded to assist rural and regional councils with surplus planning work. Many rural and regional councils have requested assistance from the Hub to prepare their planning scheme reviews.

To support this, the Regional Planning Partnerships Team partnered with Redink Planning to develop a methodology, procedure, and templates to enable planning scheme reviews to be undertaken more easily. This included developing a methodology that enabled a thorough and quick understanding on how the scheme is performing against various indicators and identifying 'big rocks' to focus on to improve the scheme. The methodology also includes marking up the planning scheme ordinance with the recommended changes to enable the review to be progressed as a planning scheme amendment without further work being required apart from the preparation of the Explanatory Report and List of Changes

The Mansfield Planning Scheme was in the first tranche of six councils to have their schemes reviewed using this new, simpler methodology. The six schemes were: Benalla, Corangamite, Golden Plains, Horsham, Mansfield, and West Wimmera.

The methodology, procedure and templates have been documented and will continue to be refined by DELWP as further reviews are undertaken. The savings in officer time, consultants' fees, and efficiencies by undertaking reviews in tranches and using the methodology, procedures and templates that have been developed are significant. There has also been an opportunity to compared and benchmark similar councils.

Stage	Tasks	Timing
Inception stage	<p>Inception meeting with project manager</p> <p>Gather information from council (e.g., referral authorities, strategic plans, permit data etc)</p> <p>Survey of planning staff to identify performance strengths and weakness of the scheme and key issues.</p> <p>Email referral agencies for feedback</p>	March, 2022
Analysis stage	<p>Review of previous 12B</p> <p>Review of VCAT decisions and Panel recommendations</p> <p>Review of Planning Permit Activity Reporting System (PPARS) data.</p> <p>Review of new strategic plans (regional and local)</p> <p>Audit planning scheme and identify changes required.</p> <p>Document concurrent planning scheme amendments.</p> <p>Ongoing consultation with internal staff.</p> <p>Further consultation with referral authorities if required.</p> <p>Consultation with DELWP – Regional Office</p> <p>Review community satisfaction rating for planning</p>	March/April, 2022

Consultation stage	Consultation with internal staff Briefing to Councillors and the Executive Team.	May/June/July, 2022
Reporting stage	Finalise planning scheme review report. Finalise ordinance.	July, 2022
Finalisation stage	Endorse review and send to Planning Minister as required by section 12(B) of the <i>Planning and Environment Act 1987</i> . Proceed with planning scheme amendment to implement the review.	TBD by Council

## 1.3 Guidance

This planning scheme review has been prepared in consideration to the following directions and guidance provided by DELWP.

Ministerial directions:

- Ministerial Direction on the Form and Content of Planning Schemes.
- Ministerial Direction No. 11 Strategic Assessment of Amendments.

Planning practice notes and advice:

- A Practitioners' Guide to Victorian Planning Schemes.
- PPN – 46 Strategic Assessment Guidelines
- PPN32 – Review of planning schemes

## 2. What's driving change

### 2.1 Population, growth, and economy

The resident population in Mansfield Shire for 2021 was estimated at 10,178 (ABS Census 2021), and Victoria in Future data estimates that by 2031 the population in Mansfield Shire will increase to 10,485. However, it is noted that the Victoria in Future data figure of 10,485 has almost been reached in 2021 and is anticipated to be exceeded in 2022. Based on the population projections in the Mansfield Planning Strategy, the population of Mansfield Shire Council is expected to be 13,440 by 2031 and 16,384 by 2041.

The Mansfield Township Housing Strategy (April 2018) predicted that the population of Mansfield would grow by 1.6% to reach a population of 4098 by 2031. This was less than the Structure Plan's prediction of a 2% growth rate. In data released by the Australian Bureau of Statistics in 2021, Mansfield had experienced a 3.3% population growth, with the current population of Mansfield being 5,421 – 1,323 more people than anticipated and 9 years earlier than predicted.

It is these significantly underestimated predictions that have had a major impact on land availability and affordability in Mansfield. While the Mansfield Planning Strategy has measures to address this, the timeframes for implementation are long and do not address immediate issues faced by the community.

Profile ID data reports a total of 6,577 private dwellings in the municipality (2021 data), up from 5,919 in 2016. New land has been introduced through rezonings and subdivision, with an additional 577 lots being created in the last 4 years.

Agriculture and tourism are key economic drivers for the municipality. Most industrial land is located in and around Mansfield, and land use conflicts between different sectors balances against increasing residential growth are a concern for planners.

In Mansfield Shire, construction is the largest employer, followed by agriculture, retail trade, health care, and accommodation and food services (Economy ID). Mansfield Shire's Gross Regional Product was \$0.42 billion in the year ending June 2021, decreasing 4.2% since the previous year.

## 2.2 Climate change and other environmental risks

Mansfield Planning Scheme does not have strong climate change policy and relies on State policy to guide planning decisions. Due to climate change and climate variability, natural disasters, and environmental hazards such as heatwaves, bushfires, floods, and storms are likely to be more frequent and severe. This will present many challenges and some opportunities.

Due to the location and topography of the Shire buildings on ridgelines or prominent exposed areas are particularly vulnerable to natural hazards such as bushfire, flood, and land slip.

## 3. Previous review

### 3.1 Mansfield Planning Scheme Review (2015)

The Mansfield Planning Scheme was last reviewed by Isis Planning in 2015 and endorsed/adopted by Council at its meeting on 19 May 2015.

The review found:

- Core issues that had been identified in the previous 1994 Review were still relevant
- The scheme was using outdated language and format, and recommended updating to insert a new Municipal Strategic Statement
- There was lack of clear direction in the strategic work plan on what the key priorities for council were
- Further work included:
  - A rural strategy plan
  - Flood hazard mapping controls
  - Implementation of the Domestic Wastewater Management Plan
  - Consider using local content in zone and overlay schedules

### 3.2 Progress since last review

Since the last review, Council has undertaken the following work in response to the recommendations from the last review.

- Flood hazard mapping and implement planning controls prepared in partnership with Goulburn Broken Catchment Management Authority
- Adopt and implement the Mansfield Structure Plan and the Merrijig Township Concept Plan
- Insert the Domestic Wastewater Management Plan 2014 into the scheme

## 4. Planning permit activity

This section contains an analysis of planning permit activity that has taken place during the last four years. It draws on both publicly available Planning Permit Activity and Reporting System (PPARs) data and data provided by Council. Appendix 2 includes the raw data that has been used for the analysis.

### 4.1 Number and nature of permits assessed

Table 1 shows the number of permit applications that Mansfield Council processed between the 2017/18 financial year and the 2020/21 financial year. The numbers varied, with a low of 171 and a high of 223, with the average permits being processed per year at 192. In 2020/21 Council processed more applications than previous years, which can be attributed to Mansfield Shire Council experiencing reported growth of approximately 3%. This is a general trend seen across the state and may have correlation to the COVID-19 pandemic. Permit activity in Mansfield has been consistently increasing over the last four years, which

supports growth projections of 1.1% from 2018 – 2036 (ViF, 2019). It is noted that actual growth for Mansfield Shire has been at 3.5% per year for the past 5 years, well above the projected Victoria in Future figures.

**Table 1: PPARs report for permits processed, including refusals**

Permits (including refusals)	2017/2018	2018/2019	2019/2020	2020/2021
	171	184	191	223

Over the last 4 years the category of permits generating the highest activity has consistently been “one or more new buildings”. Subdivisions and single dwellings also generate a significant portion of the permit activity and change or extension of use also featuring heavily. Single dwellings were the next highest generating category. This is an indication of the type of development happening in the municipality primarily being residential.

Although loss of vegetation was raised as an issue during workshops, vegetation removal permit applications have not featured prominently in the data, likely because of existing exemptions in the scheme. It was identified through the workshop that stronger policy around identification and retention of key native vegetation areas or types would help conserve and enhance habitat corridors but may result in increased permit activity in this category (depending on the choice of control).

## 4.2 Service performance

The median number of days taken between receipt of an application and a decision on an application was 59 days in 2020 – 2021. This is an increase on previous years and Council has explained this is because there has been a general increase in applications, but the size of the statutory planning team has remained the same. The average for other similar councils is 54.37 days based on data collected from [knowyourcouncil.vic.gov.au](http://knowyourcouncil.vic.gov.au).

## 4.3 Decision making

### 4.3.1 Decisions by Council

The data in Table 2 demonstrates that most decisions are made under delegation (86.5%). Mansfield has only 0.5% of decisions being made by Council. This indicates that the current delegation settings are working effectively for Mansfield and don't require review. Data for this Table was provided by DELWP Planning Information Services division.

**Table 2: Decision outcome data from 2018-2021**

	No permit issued	Permit issued by delegate	Permit issued by the RA	Not yet determined	Total permits
Permit	97	645	4	0	746
% of total	13%	86.5%	0.5%	0%	100%

## 4.4 Geographic spread of applications

Table 3 shows that, during the previous 4 years, 44.5% of all applications processed by Council are in Mansfield, followed by Bonnie Doon at 11.5%. Both Merrijig (8.9%) and Tolmie (5.8%) have attracted reasonable permit activity, and other permits are attributed to the smaller townships across the Shire. This is expected, as Mansfield is the main township in the municipality and has the strongest planning controls and policy to support growth. Significant strategic work to support the growth of Mansfield has been recently undertaken by the planning team through the Mansfield Planning Strategy, which was recently adopted by Council.

Mansfield is identified in the Hume Regional Growth Plan 2014 as a sub-regional moderate growth centre in the Central Hume sub-region and has capacity and policy support within the existing township for both infill development and moderate residential and commercial expansion.

**Table 3: Key permit action areas from 2018-2021**

Location	Number of applications	% of total
Mansfield	330	44.2
Bonnie Doon	84	11.2
Merrijig	65	8.7
Tolmie	43	5.8
All other towns	223	29.9
<b>Total</b>	<b>746</b>	<b>100</b>

Other towns such as Merrijig and Tolmie were the next most active towns, and then the smaller towns making up the remainder. Mansfield is unique in that many of its smaller towns have framework plans at Clause 11.01-1L-02 and are supported by a high-level policy. This could be strengthened through updates to residential zones to reflect best practice (based on PPNs 90 and 91), and a general review of the townships. It was identified through internal stakeholder feedback that there is an interest for additional Rural Living Zone (RLZ) land, and for this to be better planned across the municipality. Many of these smaller towns are likely have capacity to support this zoning, but further strategic work is required.

## 5. Planning scheme performance

### 5.1 Planning Panel Victoria recommendations

Council has undertaken 16 planning scheme amendments since the last planning scheme review. These are detailed in Appendix One.

Four Planning Panels have been conducted by Planning Panels Victoria in the review period.

The changes recommended to the Planning Scheme as a result of the analysis of Panel Reports includes:

- Prepare a Signage Policy to guide policy for township gateways and alpine approaches.
- Prepare a Rural Strategy that addresses use, development, tourism activity, subdivision of land, water catchment protection, environmental risk constraints and landscape significance.
- Prepare Heritage Gaps Study to identify, assess and protect places of heritage significance.

At the time of writing, a Planning Panel has been appointed to hear submissions to amendment C51mans Part 2 to implement the recommendations of the Mansfield Commercial and Industrial Land Use Strategy.

### 5.2 VCAT decisions

A detailed assessment of specific VCAT decisions of note is included in Appendix 1.

Only a small number of the VCAT cases have exposed policy gaps in the Planning Scheme. A notable policy gap identified in VCAT decision ‘140 High Street Pty Ltd v Mansfield SC [2021] VCAT 291’ relates to the application and extent of Schedule 1 to the Design and Development Overlay (DDO1) and the preparation of policy guidance relating to signage policy and built form character along Mansfield’s gateway precincts.

Council prepared the *Township Approaches Planning Controls and Guidelines Study, Mansfield (2018)* to introduce new local planning policy and two Schedules to the Design and Development Overlay (DDO) to the scheme to guide built form of residential, commercial, industrial, and farming areas along the Mansfield township approaches. Part of this work is being implemented into the scheme via amendment C48, however further work is required to prepare a signage policy.

VCAT decision Harris v Mansfield SC [2018] VCAT 1504 raises a policy issue associated with rural land uses and compatibility between tourism accommodation, rural amenity, and extractive industries and highlighted a policy gap in this area.

**Findings:**

**Prepare a signage strategy to implement the Township Approaches Planning Controls and Guideline Study, Mansfield (2018)**

**Undertake strategic work to prepare the municipality for climate change impacts, including risks such as fire and flooding**

## **5.3 Consultation with stakeholders**

### **5.3.1 Councillors and executive team consultation**

A council briefing session was held on 5 July 2022. The councillors were provided with an overview of the project and highlighted some of the key strategic recommendations that had been identified.

The Councillors were engaged with the process and asked insightful questions. The following topics were explored:

- Questions about the big rocks relating to economic development for agriculture and tourism and raised points about directing growth in Mansfield and RLZ availability.
- What can and can't be considered in a planning scheme review, and that the review was specific to land use planning only.
- Affordable housing.
- Developer contributions.
- Role of the community and how consultation will occur.
- The right to farm, and preventing tourism uses from taking away valuable agricultural use.
- Airbnb and how this impacts housing availability.

### **5.3.2 Council planners and internal staff consultation**

Meetings with the council planning team and internal stakeholders were held on 4 May 2022 with planners, and 30 May 2022 with planners and other internal stakeholders. Both meetings were held via Microsoft Teams.

During the first workshop planners provided the project team with additional information on permit observations and verified that the data from the permit analysis generally reflects what is happening on the ground. Council raised the issue of location of rural development, and this was again reinforced in the internal stakeholder workshop later in the month.

There is a general desire to seek opportunities within existing rural zones, and there is appetite to apply the Rural Living Zone (RLZ) in a planned way. Council reported that at present the zoning of RLZ is somewhat ad hoc in that there is no strategic work underpinning its application. Council reported that the broader community have requested more rural land be available for dwellings, and this was reiterated by the Councillors. There has not been a specific land supply and demand assessment done for rural living.

Key issues identified during these meetings relate directly to the Key Issues, being vegetation loss, opportunities for improving the ESO in consultation with GMW, and how to best locate tourism opportunities without losing valuable agricultural land.

### **5.3.3 Referral agencies**

Requests for feedback on the Review were sent to Goulburn Murray Water and Goulburn Valley Water, as both are referrals listed under Clause 66.04 and 66.06, as well as having direct involvement with Clause 42.01 ESO (schedule 1 and 2 for both).

Both referral agencies responded with feedback. Detailed responses are included in Appendix 2.

**Finding:**

**Undertake further strategic work with Goulburn Valley Water to review buffer zones areas and zones for wastewater management facilities**

### 5.3.4 Registered Aboriginal Parties

The Victorian Aboriginal Heritage Act (2006) recognises Traditional Owners as the primary guardians, keepers, and knowledge holders of Aboriginal cultural heritage. At a local level, Registered Aboriginal Parties are the voice of Aboriginal people in the management and protection of Aboriginal cultural heritage in Victoria.

The project team acknowledges that Indigenous people and values go beyond RAPs, but for the purposes of the project and available timeframes, only formally recognised Registered Aboriginal Parties (RAPs) were engaged.

#### **Taungurung Land and Waters Aboriginal Corporation (TLaWAC)**

The Traditional Owners of most of the land now described as the Shire of Mansfield are the Taungurung people. The Taungurung Land and Waters Council (Aboriginal Corporation) are the Registered Aboriginal Party, formally recognised by the Taungurung Recognition and Settlement Agreement (RSA) 2018 made under the Traditional Owner Settlement Act 2010.

The project team met with the TLaWAC to discuss the Planning Scheme Review with a view to incorporating a recognition of Traditional Owners in the Mansfield Planning Scheme.

The project Discussion Paper was shared with TLaWAC, who are interested in continuing the discussion on how to embed TLaWAC values more effectively into the planning scheme. Further work is required to develop ideas from the Discussion Paper.

#### **Gunaikurnai Land and Waters Aboriginal Corporation (GLaWAC)**

The Gunaikurnai people are the Traditional Owners of a smaller area to the far east of the land described as the Shire of Mansfield. GLaWAC was established in 2007, and legally recognised by the Federal Court of Australia in 2010.

The project team was not able to connect with GLaWAC. The DELWP project team reached out through internal channels to connect with GLaWAC, but unfortunately without success. It is unknown what interest GLaWAC would have in the project, and as such it is strongly recommended that council officers continue to build a relationship with GLaWAC. However, it is recommended that recognition of the Gunaikurnai be included in the Mansfield Planning Scheme.

As identification of Country and acknowledgement of the Traditional Owners of the Country are factual and statistical, it is recommended that this be included in a policy neutral amendment (Appendix C4). It is recommended to amend the MPS at 02.01 Context to include appropriate reference to Traditional Owners and Country.

Future strategic work should include partnership and collaboration with TLaWAC and GLaWAC to develop policy. Council should work with TLaWAC and GLaWAC to develop high level planning policy statement for future planning scheme amendment opportunities.

### 5.3.5 Findings:

**Amend the MPS at 02.01 Context to include appropriate reference to Traditional Owners and Country.**

**Work in partnership with TLWAC and GLaWAC for future strategic planning matters and recognising traditional owners, places of significance and the Country Plan in the planning scheme.**

## 6. New strategic work

### 6.1 Regional documents

A detailed assessment of applicable Regional Documents is included in Appendix 1. The documents reviewed were:

- Goulburn Broken Regional Catchment Strategy 2021 – 2027 (Draft)
- Taungurung Country Plan
- Gunaikurnai Whole of Country Plan

## Findings:

**Include First Nations people recognition in the planning scheme.**

**Conduct future strategic work in partnership with the Goulburn Broken Catchment Management Authority to update flood prone areas across the municipality and update controls as necessary.**

## 6.2 Council documents

Council provided the project team with the following council documents for review:

- Mansfield Township Housing Strategy and Mansfield Township Approaches Planning Controls and Guidelines Study (Mansfield Shire Council, 2018)
- Mansfield Township Integrated Water Management Strategy (Mansfield Shire Council, 2019)
- Mansfield Station Precinct Activation Project: Master Plan + Implementation Plan Station Precinct (SJB Urban May 2019)
- Activating Lake Eildon: Lake Eildon Masterplan (Urban Enterprise with Regional Development Victoria and Regional Partnerships Goulburn, May 2020)
- Statutory Planning Services Review (Mansfield Shire Council, 2020).
- Waste Management Strategy 2020-2025 (Mansfield Shire Council, 2020)
- Mansfield Shire Economic Development Strategy 2020-2025 (Urban Enterprise June 2020)
- Mansfield Council Plan 2021-2025 (Mansfield Shire Council, 2021)
- Mansfield Shire Council Plan 2021-2025 - Community Health and Wellbeing Plan (Mansfield Shire Council, 2021)
- Mansfield Open Space Strategy (MOSS) (Mansfield Shire Council, 2021)
- Mansfield Commercial and Industrial Land Use Strategy (Charter. Keck Cramer, 2021)
- Station Precinct, Mansfield Background Report (Mansfield Shire Council, 2021)
- Mansfield Planning Scheme Development Overlay Review (Mansfield Shire Council, 2021)
- Mansfield Planning Strategy (Mansfield Shire Council, 2022)

A detailed assessment of Council Documents and Strategies adopted since the last review is included in Appendix. Not all of these documents were appropriate to be translated into new policy, and some are already being implemented through other strategic work.

## Findings:

**Amend Clause 74.03 (Further strategic work) to include priority work identified in adopted Documents / Strategies**

**Introduce a range of new policies to give effect to Council's adopted:**

- **Mansfield Shire Council Plan 2021 – 2025**
- **Mansfield Open Space Strategy 2021**
- **Mansfield Planning Strategy 2022**
- **Mansfield Commercial and Industrial Use Strategy 2021**
- **Activating Lake Eildon: Lake Eildon Masterplan 2020**

**Introduce high level factual policy from the following Registered Aboriginal Parties:**

- **Taungurung Country Plan 2016**
- **Gunaikurnai Whole-of-Country Plan 2015**



## 7. Audit and assessment of the current scheme

An audit of each local provision and schedule in the planning scheme has been undertaken. This audit has compared the drafting and application of each provision against the Ministerial Direction on the Form and Content of Planning Schemes, a *Practitioners' Guide to Victorian Planning Schemes* (Version 1.5, April 2022) and relevant planning practice notes.

Each provision has also been assessed with consideration to the work it is doing in achieving the strategic objectives that are set out in the State, regional and local planning provisions.

The detailed outcomes of the audit are contained in Appendix One to the scheme.

Findings on improvements that could be made are listed below. Some of these can be implemented through a policy neutral planning scheme amendment based on the findings in this report and are included in the marked-up Ordinance at Appendix Three. Others require further strategic work to justify the change and are listed as findings.

### Recommended changes

Clause	Change	Policy neutral	Not policy neutral	Further strategic work required
MPS	Include First Nations people recognition in Clause 02.01 Context.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MPS	Make minor amendments to the Context (02.01) to include updated economic and population data and the Vision (02.02) to reflect the current Council Plan (2021-2025).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MPS	Introduce new policy at Clause 02.03-7 "Support increased activation and access to Lake Eildon"	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PPF	Introduce new policy at 17.01-1L Diversified economy – Mansfield, to implement policy from the Commercial and Industrial Strategy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PPF	Introduce new policy at 18.01-3L Path networks – Mansfield, and 19.02-6L Open space – Mansfield, to implement policy from the Mansfield Open Space Strategy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
MPS/PPF	Implement the findings and recommendations of the Mansfield Planning Strategy to clauses in both the MPS and PPF	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PPF	Rewrite each settlement in Clause 11.01-1L Other local areas so they have their own Clauses.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PPF	Make minor amendments to policy names and content to comply with the Ministerial Direction.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PPF	Undertake strategic work to develop Alpine Gateway policy at 12.04	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PPF	Consider a DDO for Mansfield Township to address character and urban design.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PPF	Further strategic work to address climate change adaptation policy gap	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PPF	Undertake strategic work to identify areas where vegetation and key biodiversity areas should be retained and conserved and apply appropriate planning tools to protect them.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Clause	Change	Policy neutral	Not policy neutral	Further strategic work required
PPF	Review Clause 19.02-1L Health facilities to remove the reference to another clause.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Zones	Opportunities to populate residential zone schedules to better guide development and support character outcomes.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Zones	All residential zones should be reviewed against PPNs 90 and 91 when undertaking the next settlement strategy.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Zones	Schedules to the RLZ, RCZ and FZ do not meet MDFC as Clause 1 Subdivision and other requirements is not listed in square metres.  Unclear policy regarding the exemption for a 2 storey building, suggest rewriting for clarity.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Zones	Redraft the Special Use Zone Schedule 1 so it meets the Ministerial Direction on Form and Content. This is a policy neutral change but looks significantly different.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Zones	Redraft the Development Plan Overlay Schedule 1,2 and 3 so it meets the Ministerial Direction on Form and Content. This is a policy neutral change but looks significantly different.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Overlays	DDO1 to be redrafted to include guidelines from <i>Mansfield Township Housing Strategy and Mansfield Township Approaches Planning Controls and Guidelines Study</i> if not implemented through C48mans.  This policy should reflect Alpine Gateway policies recommended to be included in the PPF at Clause 12.04.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Overlays	ESO1 and 2 - Undertake strategic work in partnership with GMW and GVW to identify opportunities where permit triggers within the ESO1 and 2 can be amended or removed to reduce the resource burden on councils and referral authorities and remove red tape for applicants.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Overlays	43.01 Heritage Overlay, 2.0 Heritage places - The columns 'Outbuildings or fences not exempt under Clause 43.01-4' and 'Included on the Victorian Heritage Register under the Heritage Act 2017' includes specifications. Should only say either yes or no.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Operational Provisions	Update Clause 74.02 Further Strategic Work to include updated works and remove expired actions	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### Findings:

The following projects have been identified as further strategic work for Council:

**Consider a DDO for Mansfield Township to address character and urban design.**

**Address climate change adaptation policy gaps.**

**Identify areas where vegetation and key biodiversity areas should be retained and conserved and apply appropriate planning tools to protect them.**

**Review residential zones should be reviewed against PPNs 90 and 91 when undertaking the next settlement strategy.**

**Rationalise ESO1 and ESO2.**

## 8. Key issues

This section of the report identifies the key issues, or “big rocks” that have come up during the preparation of the Planning Scheme Review.

### 8.1 The protection of agricultural land and conflicts with tourism and residential uses

Through the analysis of the MPS and PPF it was determined that there were policy gaps in how non-agricultural uses in the Farming Zone were being addressed. This is not uncommon in regional schemes that have undergone the PPF Translation – policy to guide non-agricultural uses was not always carried over from the old schemes.

Council agreed with the analysis, and during both workshops also raised other concerns with the loss of agricultural land associated with residential uses. Through the sessions different opportunities on how to address this were raised.

Policy within the Farming Zone is not totally aligned with Clause 17.04-1L Facilitating tourism in Mansfield Shire. Strategies include supporting tourism development in rural areas that is compatible with surrounding agricultural uses, such as bed and breakfasts, host farms or tourist uses related to the agricultural use of the land or natural setting. The only other local policy in the scheme directly related to agriculture is 14.01-1L is the only local policy in 14.01 Agriculture, and it provides policy direction for dwellings and subdivisions.

The recently adopted Mansfield Planning Strategy contains recommendations to insert new policy into the scheme to protect and enhance the ongoing productivity and viability of agricultural lands. These policies being implemented into the scheme would further strengthen the protection of agricultural land. It also contains some policy on the kind of non-agricultural uses that could be supported in rural zones, which in turn supports tourism.

Additionally, the Strategy contains policy recommendations for supporting rural residential development that does not compromise sustainable land use, including agriculture.

To be able to address the issue of continued growth into the Farming Zone, it is recommended that a Rural Living Strategy be undertaken to determine the potential to increase capacity within existing Rural Living Zone and potential areas for introducing new areas to Rural Living Zone or Low Density Residential Zone. This is also a recommendation of the Mansfield Planning Strategy.

#### Findings:

**Implement the findings of the Mansfield Planning Strategy through a planning scheme amendment**

**Prepare a Rural Living Strategy or similar to identify areas of the Shire that would be suitable for Rural Living Zone, Rural Conservation and Low Density Residential Zone.**

### 8.2 Native vegetation and biodiversity policy gap

Planners and the community within Mansfield Shire Council rely on State biodiversity and vegetation policy when making planning decisions and applications.

It was identified through policy analysis and feedback from workshops that planners and planning scheme users must rely on State policies to make decisions about native vegetation and biodiversity. There is an opportunity for these policies to be improved at the local level.

In particular, it was raised that Red Gums are particularly vulnerable and there is scope to improve policy on their conservation.

Currently the scheme utilises the Vegetation Protection Overlay (VPO) for a number of areas but only some very specific species of tree. In addition, the schedule does not contain any permit requirements, application requirements, or decision guidelines.

Given that council officers and the community have raised this as an issue, it is recommended that strategic work is undertaken to identify key areas where vegetation should be retained and conserved, such as a municipal habitat study or bio link strategy. A shire-wide biodiversity strategy and potentially the development of an ESO would likely provide greater protection for vegetation and habitat. A suggestion would be to partner with a wildlife organisation (such as Birdlife Australia) to assist with the study. This study would identify any specific threatened species habitat areas for conservation and should provide clear

recommendations for both overlay controls and policy mapping through high-level policies in the MPS and PPF.

It is important for the council environment and biodiversity teams to work with the planning department in preparing this work to ensure there is capacity for appropriate implementation into the planning scheme. While additional permit triggers might not be feasible, identifying areas of significance through policy in the MPS and PPF will provide a policy basis for future protection measures.

**Finding:**

**Identify areas where vegetation and key biodiversity areas should be retained and conserved and apply appropriate planning tools to protect them.**

### 8.3 Review of ESO1 and 2 - permit requirements

The Environmental Significance Overlay 1 and 2 both apply to water catchment areas. The provisions are very similar, with ESO1 applying to catchments at a high risk of water quality impacts and ESO2 for those at a medium risk.

Goulburn Valley Water provided feedback that they were comfortable with the controls as they are, however, the response from Goulburn Murray Water indicated that strategic work was required to ensure the control was adequately addressing the needs of the referral authority – primarily around setbacks. They also provided feedback that the current mapping of the waterways is not accurate, as many waterways are actually drainage lines and should not trigger a planning permit.

As identified in the audit of the planning scheme in Section 7, There is clearly an opportunity for the schedules to the ESO to be amended to remove permit triggers that do not generally add any value to an application from an assessment perspective. It is difficult to know from the permit data provided exactly how many of the buildings and works applications are within the ESO1 and 2 areas, however planners have indicated through consultation that a large number of permits are triggered under these clauses.

It is recommended that council undertake strategic work in consultation with the water authorities to look at amending or removing permit triggers for certain buildings and works. Consideration could also be given to amending the clause wording to waterway and/or drainage lines, so applications on defined drainage lines are not triggered under the ESO.

A review of planning controls, including why they were introduced and how they are currently being administrated is required to see what value add the trigger for buildings and works on land under 40 hectares. The analysis should include which elements of the control are key considerations in decision making and how the size of the land is considered vs the type of application. If the permit triggers based on land size or type of waterway are found to be unnecessary then it is recommended that council undertake a planning scheme amendment to remove the trigger, which will reduce the resource burden on the council planners and referral authorities and remove unnecessary red tape for applicants.

Another option could be to include certain ESO applications in the Schedule to Clause 59.15 Local Vic smart applications. Council currently do not utilise the schedule to Clause 59.15, and by requiring the applicant to get all information from the water authority up front time could be saved. This approach may not be attractive to the water authorities, so consultation would be required.

**Finding:**

**Identify opportunities with GMW where permit triggers within the ESO1 and 2 can be amended or removed to reduce the resource burden on councils and referral authorities and remove red tape for applicants.**

## 9. Further strategic work

There are several pieces of further strategic work that have been identified in this review, as well as the further strategic work that is already identified at Clause 74.02. The consolidated list of strategic work that has been identified in this review comes from:

- Council planning strategies that have been recently adopted.

- The audit of the planning scheme outlined in Section 7 of this report.
- Key stakeholder engagement.

The list of new strategic work that has been identified is:

- Prepare a signage strategy to implement the Township Approaches Planning Controls and Guideline Study, Mansfield (2018).
- Consider whether a Design and Development Overlay is required to address character and urban design in Mansfield Township.
- Review, with Goulburn Valley Water, the buffer zone areas, and zones around wastewater management facilities.
- Prepare policy guidance to help balance priorities for rural land use, tourism in agricultural areas and protection of landscape values.
- Identify areas where vegetation and key biodiversity areas should be retained and conserved and apply appropriate planning tools to protect them.
- Identify, in partnership with Goulburn Murray Water and Goulburn Valley Water, where permit triggers within the ESO1 and 2 can be amended or removed to reduce the resource burden on councils and referral authorities and remove red tape for applicants.
- Develop, in partnership with Traditional Owners, new planning policy to support Traditional Owner interests and values considering:
  - 02.01 Context.
  - 02.03 Strategic Directions to provide high level policy guidance on protection of Country and of Traditional Owner values in relation to the development of the land.
  - 02.04 Strategic Framework Plan (identification of Country boundaries).
  - Clause 11.03-6 Planning for places to insert a new policy related solely to Traditional owner values and objectives, including a Country map which can include key cultural assets.
  - Localised policy into Planning Policy Framework, Zones, and Overlays that are existing, such as an ESO or SLO (in collaboration with the Regional Planning Services office).
  - Inclusion of applicable Country Plan (or other applicable document) into the planning scheme as a Background document at Clause 72.08.
- Update flood prone area mapping across the municipality in partnership with Goulburn Broken Catchment Management Authority.
- Prepare a Rural Living Strategy or similar to identify areas of the Shire that would be suitable for Rural Living Zone, Rural Conservation Zone, and Low Density Residential Zone.
- Identify areas where vegetation and key biodiversity areas should be retained and conserved and apply appropriate planning tools to protect them.
- Prepare a housing strategy or neighbourhood character study to review township framework plans and settlement strategies to assess growth opportunities and constraints, populate local schedules to residential zones, and align township zoning with State policy (PPNs 90 and 91).
- Undertake strategic work to prepare the municipality for climate change impacts, including risks such as fire and flooding.

## Appendix One: Analysis documents

## Appendix Two: Marked up ordinance

