

**Mansfield Planning Scheme Amendment C51mans Part 2  
Mansfield Commercial and Industrial Land Use Strategy**

**Panel Report**

*Planning and Environment Act 1987*

**12 July 2022**

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### How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether or not to adopt the Amendment.  
[section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the PE Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the PE Act]

### *Planning and Environment Act 1987*

Panel Report pursuant to section 25 of the PE Act

Mansfield Planning Scheme Amendment C51mans Part 2

Mansfield Commercial and Industrial Land Use Strategy

**12 July 2022**



Lisa Kendal, Chair



Alison McFarlane, Member

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## Glossary and abbreviations

the Amendment	Mansfield Planning Scheme Amendment C51mans Part 2
C1Z	Commercial 1 Zone
C2Z	Commercial 2 Zone
CBD	Central Business District
Commercial and Industrial Strategy	Mansfield Commercial and Industrial Land Use Strategy, 2021
Council	Mansfield Shire Council
DDO1	Design and Development Overlay Schedule 1 (Alpine Approaches and Township Gateways)
GRZ1	General Residential Zone Schedule 1 (Mansfield General Residential Area)
LDRZ	Low Density Residential Zone
Mansfield Structure Plan	Mansfield Structure Plan, 2015
MCHAC	Mansfield Cultural Heritage and Arts Centre Incorporated
MMG	Mansfield Matters Group Incorporated
MPS	Municipal Planning Strategy
MUZ	Mixed Use Zone
PE Act	<i>Planning and Environment Act 1987</i>
Planning Scheme	Mansfield Planning Scheme
PPF	Planning Policy Framework
Practitioner's Guide	A Practitioner's Guide to Victoria's Planning Schemes, April 2022
VPP	Victoria Planning Provisions

## Overview

### Amendment summary

The Amendment	Mansfield Planning Scheme Amendment C51mans Part 2
Common name	Mansfield Commercial and Industrial Land Use Strategy
Brief description	<p>The Amendment proposes to implement the <i>Mansfield Commercial and Industrial Land Use Strategy, 2021</i> by making the following changes to the Mansfield Planning Scheme:</p> <ul style="list-style-type: none"> <li>• amending Clause 21.07 Economic Development</li> <li>• amending Clause 21.09 Mansfield Township</li> <li>• amending the Schedule to Clause 34.01 Commercial 1 Zone</li> <li>• amending the Schedule to Clause 72.08 Background Document</li> <li>• rezoning land at 19-55 Curia Street and part of the land at 8-10 Station Street, Mansfield from Commercial 1 Zone to General Residential Zone Schedule 1</li> <li>• rezoning land at 264 - 282 Dead Horse Lane, Mansfield from Low Density Residential Zone to Mixed Use Zone</li> <li>• rezoning land at 5 – 17 Crosbys Lane, Mansfield from Mixed Use Zone to Commercial 2 Zone</li> </ul>
Subject land	The Amendment applies to all land in commercial and industrial zones in Mansfield, with specific sites proposed for rezoning
Planning Authority	Mansfield Shire Council
Authorisation	20 September 2021
Exhibition	28 October to 28 November 2021
Submissions	Number of Submissions: 18 Refer Appendix A

### Panel process

The Panel	Lisa Kendal (Chair) and Alison McFarlane
Directions Hearing	Video conference, 14 April 2022
Panel Hearing	Video conference, 24 and 25 May 2022
Site inspections	11 May 2022, accompanied
Parties to the Hearing	Refer Appendix B
Citation	Mansfield PSA C51mans Part 2 [2022] PPV
Date of this report	12 July 2022

## Executive summary

The Mansfield township is the focus for most residential, industrial and commercial development in Mansfield Shire. The commercial area is focussed on High Street and Highett Street and enjoys a high level of occupancy. Land for industry is in two precincts to the north of the town in Larkins Road and Dead Horse Lane.

A key challenge for the Mansfield town centre is continued growth to support the needs of the Shire's residents whilst also functioning as an appealing destination for the Shire's many visitors. Growth and development in the industrial precincts are reliant on effective protection from residential encroachment.

The *Mansfield Commercial and Industrial Land Use Strategy, 2021* was prepared by Mansfield Shire Council (Council) in response to these challenges. It is to be implemented by Mansfield Planning Scheme Amendment C51mans Part 2 which proposes to make local policy changes, amend the schedule to the Commercial 1 Zone and rezone land to reflect preferred land use.

Over half of the eighteen submissions received supported the Amendment, noting it will strengthen Mansfield's commercial core. Opposing submissions focussed on three key issues, including whether:

- the land at 2-4 and 8-10 Station Street should be rezoned for Commercial 1 Zone to General Residential Zone Schedule 1
- changes to the Commercial 1 Zone Schedule are appropriate
- land at 264-282 Dead Horse Lane should be rezoned from Low Density Residential Zone to Mixed Use Zone.

The Panel has observed that Council embarked on the preparation of the strategy in good faith and meaningfully engaged with the community through its development. The resultant strategy might have been appropriate if Mansfield was poised for little growth. However, land use plans and economic development strategies for Mansfield consistently refer to the significant growth prospects of the town. With that in mind, the Panel considers further strategic work is required to understand the future commercial and industrial needs of Mansfield. Only with that understanding can the current proposals to rezone land be properly understood and net community benefit assessed.

The lack of the supply and demand analysis has consequential impacts for assessment of the issues raised in submissions. The Panel has provided a brief discussion and conclusion in relation to these issues to assist with future resolution.

The Panel concludes:

- The Amendment is not strategically justified and is premature.
- Further strategic work is required to properly anticipate and respond to future commercial and industrial needs of the Mansfield township.
- Rezoning of land in Curia Street is not strategically justified and not appropriate.
- Land at 2-4 Station Street should be retained in the existing Commercial 1 Zone.
- The proposed floor space cap for 'Shop' would undermine the proper operation of the Commercial 1 Zone in the Mansfield town centre.
- Rezoning land in Dead Horse Lane from Low Density Residential Zone to Mixed Use Zone is not strategically justified.

- Development guidelines for the Dead Horse Lane Industrial Precinct should be prepared consistent with recommendation of the Mansfield Township Strategic Framework Plan (Clause 11.01-1L-01).

### **Recommendation**

Based on the reasons set out in this Report, the Panel recommends that:

- 1. Mansfield Planning Scheme Amendment C51mans Part 2 be abandoned.**



# 1 Introduction

## 1.1 The Amendment

### (i) Amendment description

Mansfield Planning Scheme Amendment C51mans Part 2 (the Amendment) proposes to implement the recommendations of the *Mansfield Commercial and Industrial Land Use Strategy, 2021* (Commercial and Industrial Strategy).

Specifically, the Amendment proposes to change the Mansfield Planning Scheme (Planning Scheme) to:

- amend Clause 21.07 Economic Development by revising the issues, objectives and strategies for commercial and industrial land
- amend Clause 21.09 Mansfield Township by revising the objectives, strategies and Mansfield Township Framework Plan for industrial and commercial land
- amend the Schedule to Clause 34.01 Commercial 1 Zone (C1Z) to identify preferred areas for “*single enterprises as well as health care, education and recreation uses*” and introduce a floor space cap for ‘Shop’ of 0 square metres
- amend the Schedule to Clause 72.08 Background Documents to include the Commercial and Industrial Strategy
- rezone land in the northern side of Curia Street, generally between Apollo and Elvins Streets, from C1Z to General Residential Zone Schedule 1 (GRZ1)
- rezone 264-282 Dead Horse Lane from Low Density Residential Zone (LDRZ) to Mixed Use Zone (MUZ)
- rezone 5-17 Crosbys Lane from MUZ to Commercial 2 Zone (C2Z).

### (ii) The subject land

The Amendment applies to all land in commercial and industrial zones in Mansfield, and specifically applies to:

- 19-55 Curia Street and part of 8-10 Station Street, Mansfield
- 264 – 282 Dead Horse Lane, Mansfield
- 5 – 17 Crosbys Lane, Mansfield.

## 1.2 Background

### (i) Mansfield Commercial and Industrial Strategy

The Amendment implements the Commercial and Industrial Strategy guided by the following objectives:

- Identify the drivers of future demand for industrial and commercial land.
- Enable existing businesses to expand, attract new businesses and boost employment growth.
- Identify land to support industrial expansion.

- Review the structure and zoning of existing commercial and industrial precincts.<sup>1</sup>

During consultation and preparation of the background report in 2019 and 2020, the following key issues were identified for the town centre:

- A lack of dedicated contemporary office space to accommodate the provision and growth of professional and personal services. A number of prime shop fronts are, for instance, currently used for office-based uses.
- Under current zoning, commercial and retail uses are able to occur in residential streets outside of the township's main road environment. Under the current planning framework Council has limited discretion in managing retail and commercial activities in these locations.
- The western section of High Street requires activation by the introduction of new uses and destinations. Likewise, there is a need to strengthen the link between the Town Centre and the former Station Precinct.<sup>2</sup>

The final Commercial and Industrial Strategy was adopted by Mansfield Shire Council (Council) in 2021.

The objectives of the Commercial and Industrial Strategy are:

Strengthen and grow the capacity of the Shire to service the commercial, retail and industrial needs of its growing population by providing clear land use directions for current and future commercial and industrial uses.

Create investment certainty by detailing enduring land use directions for commercial and industrial land.

Support the growth of service-based industries within the Shire by encouraging the development of appropriate office and service facilities.

Support the diversification and growth of the Shire's industries and trades by supporting the development of a new and contemporary industrial/commercial precinct.

Support the rejuvenation and strengthening of the Shire's key commercial areas including the Mansfield Town Centre and the Mount Buller Road large format and trades precinct by providing clear land use directions and planning certainty.

Support the capacity of the Shire to attract new industries via the establishment of a new and accessible commercial and industrial precinct.

Reduce the potential for land use conflict by minimising the incidence of incompatible land uses and by ensuring buffering between growing residential uses and established industrial areas.

## **(ii) Mansfield Amendment C51mans Parts 1 and 2**

The objectives of the Commercial and Industrial Strategy underpin recommendations which were taken forward for implementation by Mansfield Planning Scheme Amendment C51mans (see Table 1). Following exhibition and consideration of submissions, Council split the Amendment into two parts.

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<sup>1</sup> Document 14

<sup>2</sup> Document 5

Table 1 summarises how the recommendations are proposed to be implemented by the split amendment.

**Table 1 Implementation of the recommendations of the Mansfield Commercial and Industrial Strategy**

Recommendation	Being implemented by
Rezone land at 175 Dead Horse Lane for industrial and commercial purposes, with Development Plan and Development Contributions Plan.	C51mans Part 1
Rezone the former Saw Mill site and other land in Bonnie Doon not suited to commercial uses for residential purposes.	C51mans Part 1
Direct retail and commercial activity to main road locations along High and Highbett Streets and limit commercial uses along residential streets including Curia, Erril, Collopy, Nolan and Ailsa Streets.	C51mans Part 2
Rezone dwellings along the western section of Curia Street from C1Z to GRZ1.	C51mans Part 2
Support large format big box retailing uses within the Mount Buller Road precinct and affirm the role of the Mansfield Town Centre as the Shire's primary retailing and large format food retailing (supermarket) precinct	C51mans Part 2
Rezone land at 5 to 17 Crosbys Lane (Mount Buller Road precinct) from MUZ to C2Z.	C51mans Part 2
Integrate land between 264 and 282 Dead Horse Lane into the Dead Horse Lane industrial precinct by rezoning to MUZ and apply minimum subdivision requirements.	C51mans Part 2 (except minimum subdivision requirements)
Implement acoustic and visual buffer treatments at the residential interface of the Mount Buller Road and Dead Horse Lane commercial/industrial precincts	Not implemented by C51mans Part 1 or 2
Encourage the development of a "Services Hub" along the western section of High Street.	Not implemented by C51mans Part 1 or 2

Source: PPV

**(iii) Authorisation**

The Department of Environment, Land, Water and Planning, under delegation from the Minister for Planning, authorised preparation of the Amendment on 20 September 2021 subject to following conditions:

- Prior to exhibition the explanatory report must be amended to address Ministerial Direction 1 – potentially contaminated land.
- Prior to exhibition the Instruction List in Keystone must be revised to include the changes proposed to the Schedule to Clause 34.01 Commercial 1 Zone. A map clearly indicating the areas where floor space maxima apply should be included in the Schedule.
- Prior to exhibition the Instruction Sheet must be corrected.
- Notice of the amendment must be given to the Victorian Planning Authority.

Council advised that conditions were satisfied prior to exhibition of the Amendment.

**1.3 Procedural issues**

Following receipt of Council's Part A submission and prior to commencement of the Hearing, the Panel issued further directions requiring Council to explain the status, relevance and implications (if any) of various studies and strategic plans in its Part B submission.

After the close of Day 2 of the Hearing, the Panel issued final directions requiring Council to prepare a 'translation version' of the Amendment ordinance to show how the exhibited

Amendment was proposed to be converted into the Amendment VC148 format. Time was provided for Parties to provide written feedback on the translation version of the Amendment and for Council to provide a final response to any feedback received.

## 1.4 Summary of issues raised in submissions

### (i) Agencies

Goulburn Valley Water did not object to the Amendment however requested that comments on provision of reticulated water and sewer services be considered.

The Environment Protection Authority Victoria supported the intent of the Amendment however noted:

- the Development Plan Overlay is not proposed to be applied in all areas where land use conflicts may arise
- under Ministerial Direction 1, Council must satisfy itself that land proposed to be rezoned is suitable for its intended use, and the appropriate steps have been undertaken as set out in *Planning Practice Note 30: Potentially Contaminated Land*, July 2021.

### (ii) Community groups and individual submitters

Supporting submissions noted:

- the Amendment will strengthen opportunities for commercial development at the western end of High Street to better integrate the Railway Precinct with the Central Business District
- the importance of maintaining safe walking access from Station Street to the Station Precinct
- increased development pressure may impact negatively on the red gums located on the northern side of the Maroondah Highway (Station Precinct).

The Mansfield Cultural Heritage and Arts Centre Incorporated (MCHAC), Mansfield Historical Society Incorporated and Mansfield Matters Group Incorporated (MMG) supported the Amendment. The key issue for these community groups, as well as several individual submitters, was the omission of part of 2-4 Station Street, Mansfield from the exhibited Amendment. All supported rezoning of the land from C1Z to GRZ1. Conversely, 140 High Street Pty Ltd opposed the rezoning of 2-4 and 8-10 Station Street from C1Z to GRZ1.

Two submitters (submissions 10 and 14) opposed the rezoning of land in the “*preferred single enterprise commercial office, recreation and health*” area. The Panel notes that the Amendment does not propose to rezone land in this precinct but to set a floor space cap for ‘Shop’.

Four submitters (submissions 7, 11, 12 and 13) opposed the rezoning of land in Dead Horse Lane from LDRZ to MUZ and questioned the adequacy of buffers to protect Cambridge Drive residents from amenity impacts of commercial or industrial developments and the impact of future development on significant native vegetation.

## 1.5 The Panel’s approach

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

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. It has had to be selective in referring to the more relevant or determinative material in the Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Planning context
- Strategic justification
- Curia Street General Residential Zone
- Schedule to Commercial 1 Zone
- Dead Horse Lane Mixed Use Zone.

## 1.6 Limitations

The Council referred the eighteen submissions received on the exhibited Amendment to the Panel. The Panel observes that submissions from Goulburn Valley Water and Environment Protection Authority Victoria, while not objecting to the exhibited Amendment, both provided extensive comments about the future development of land, including industrial and Bonnie Doon sites included in Amendment C51mans Part 1.

Section 23 of the PE Act sets out the requirements for decisions about submissions. While submissions from both agencies have been referred to the Panel, any issues raised relating directly or indirectly to sites included in Amendment C51mans Part 1 have not been considered by the Panel as that Amendment has been adopted by Council, so is not before the Panel.

None of the submissions received relate directly to the land at 5 – 17 Crosbys Lane, Mansfield which the Amendment proposes to rezone from MUZ to C2Z. The Panel has not specifically considered the merits of this part of the Amendment, however its recommendation that the Amendment be abandoned should be applied all parts of the Amendment that rely on the Commercial and Industrial Strategy for strategic justification.

The Panel received submissions from parties on the final form of Amendment proposed by the Council. The Panel makes no recommendations on the final form of the Amendment because it has recommended that the Amendment be abandoned.

## 2 Planning context

### 2.1 Planning Policy Framework

In 2018, Amendment VC148 introduced widespread changes to the Victoria Planning Provisions (VPP) as part of Stage 2 of the Smart Planning Program. It:

- introduced a new Planning Policy Framework (PPF)
- enabled the introduction of a Municipal Planning Strategy (MPS)
- introduced a new state, regional and local integrated policy structure
- modified schedules to some existing zones, overlays and provisions to accommodate additional local content
- created new operational provisions.

Mansfield Planning Scheme Amendment C47mans (gazetted on 3 March 2022) introduced the new PPF to the Planning Scheme in accordance with the requirements of Amendment VC148.

The Explanatory Report for Amendment C47mans states:

- Local policy content has been translated in a generally policy neutral manner, in accordance with the principles set out in A Practitioner's Guide to Victorian Planning Schemes to ensure policy content is:
  - Within the scope of the Planning and Environment Act 1987 and is strategically justified.
  - Clear in its application, proportional to the intended planning outcome and consistent with relevant parent provisions, practice notes, advisory notes and ministerial directions issued by the Minister for Planning.
  - Drafted to be clear and unambiguous.

Council request appointment of a Panel to consider submissions on the Amendment prior to approval of Amendment C47mans. Consequently, the Amendment documents and submissions are drafted in and refer to the out-of-date format of the Planning Scheme.

#### (i) Victorian planning objectives

The objectives for planning in Victoria as set out in the *Planning and Environment Act 1987* (PE Act), relevant to the Amendment are:

- provide for the fair, orderly, economic and sustainable use and development of land
- provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity
- secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria
- protect public utilities and other assets and enabling the orderly provision and coordination of public utilities and other facilities for the benefit of the community
- balance the present and future interests of all Victorians
- ensure sound, strategic planning and co-ordinated action at State, regional and municipal levels
- enable land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies
- ensure the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land

- facilitate development that achieves the objectives of planning in Victoria and planning objectives set up in planning schemes.

## (ii) Municipal Planning Strategy

Table 2 summarises the clauses in the MPS relevant to the Amendment prepared by the Panel.

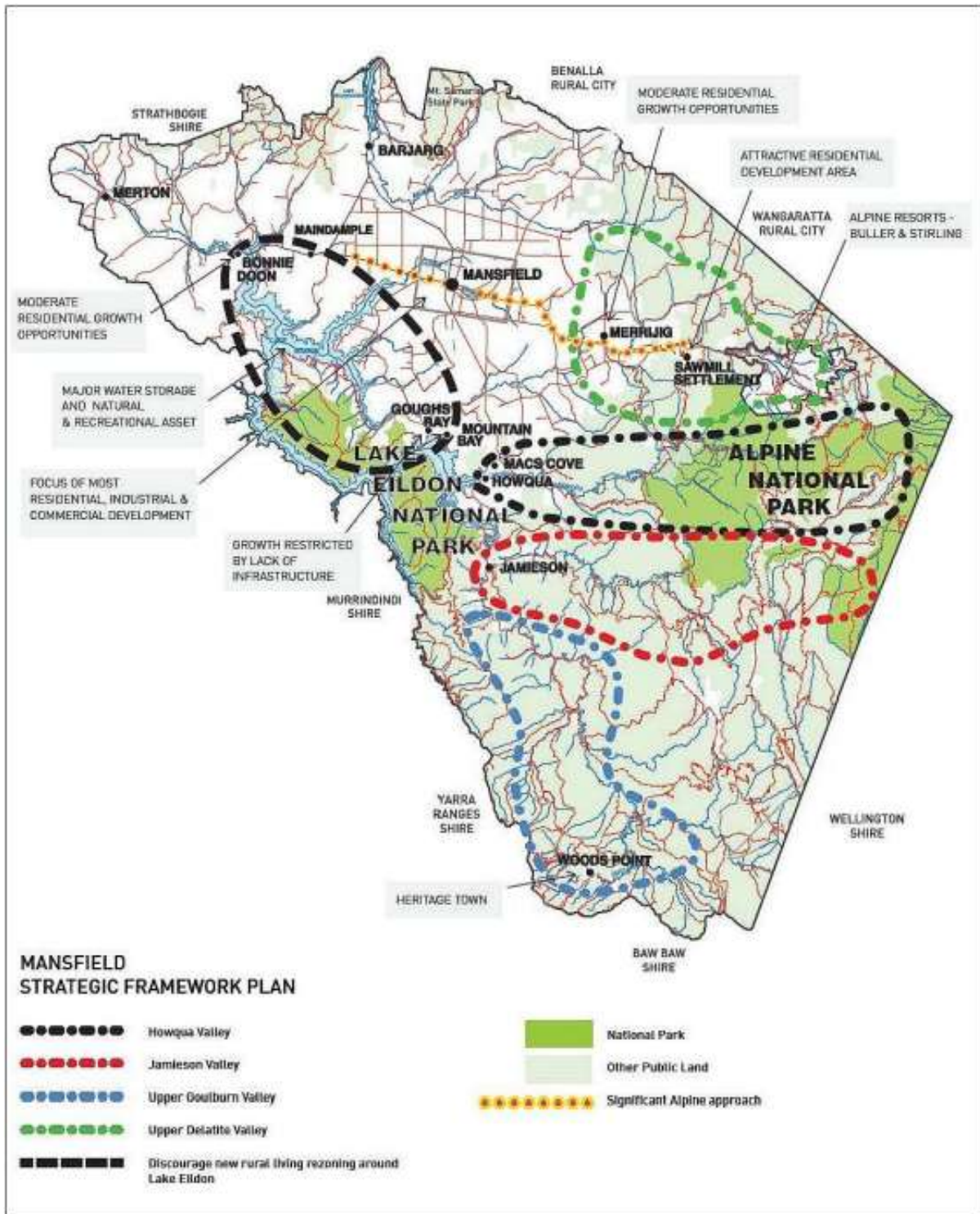
**Table 2** Municipal Planning Strategy

Clause	
02.01 Context	<p>Mansfield Shire is located approximately 150 kilometres north east of Melbourne and has an area of 3,891 square kilometres.</p> <p>Many areas in the Shire are of significant visual, cultural and environmental value and under high demand and increasing pressure for recreation, lifestyle and development activity.</p> <p>The major urban centre is Mansfield Township, with numerous smaller settlements throughout the Shire. Major mountain features include Mount Buller, Mount Stirling (both Alpine Resorts) and the Great Dividing Range.</p>
02.02 Vision	<p>To live, work and play in an inclusive, dynamic and prosperous place where community spirit is strong and people are empowered to engage in issues that affect their lives.</p>
02.03-1 Settlement	<p>The settlement pattern in the Shire is characterised by Mansfield Township as the major urban centre, with a number of surrounding smaller settlements, significant areas for rural living and a number of isolated 'legacy' settlements principally located around the shores of Lake Eildon.</p> <p>Mansfield Township, Bonnie Doon, Merrijig, Sawmill Settlement and Alpine Ridge are the only towns with reticulated sewerage.</p> <p>With the significant visual, cultural and environmental value of many areas in the Shire, tourism is a key local economic driver, particularly around nature-based, food and wine, (on- and off-road) bicycle tourism.</p> <p>The increasing number of visitors and added pressure to provide entertainment and recreation facilities that help reinforce Mansfield's competitive advantage in the tourism sector can negatively impact the built and natural environment and landscape character of the area.</p>
02.03-1 Mansfield Township	<p>The <i>Hume Regional Growth Plan 2014</i> identified Mansfield Township a sub-regional moderate growth centre in the Central Hume sub-region that is serviced by larger regional towns further west and north. It is the only urban centre with significant growth potential in the Shire and provides all major services and infrastructure for the community. Commercial and retail growth will occur within and around the shopping centre. There is a need for more industrial land to service demand. Existing infrastructure is capable of servicing growth however there is a need to increase water storage capacity.</p>
02.03-6 Housing	<p>A diversity of housing opportunities is an important part of providing housing for all. As the major urban centre of the Shire, the majority of housing growth will take place in Mansfield Township, where aged care, infill and medium density housing development will be key for the community to be able to age in place.</p>



Clause	
02.03-7 Economic development - Industrial development	<p>Mansfield Township is the only location that provides significant industrial development opportunities. There are 90 hectares of industrial zoned land. The industrial areas are relatively fragmented and poorly connected by suitable heavy vehicle routes.</p> <p>There has been very little recent activity in Mansfield Township's industrial land sector, reflecting the existing situation in which any latent demand cannot be realised because of the lack of available industrial land for sale or lease.</p>
02.03-7 Tourism	<p>With the significant visual, cultural and environmental value of many areas in the Shire, tourism is a key local economic driver, particularly around nature-based, food and wine, (on- and off-road) bicycle tourism.</p> <p>Council's strategic directions for economic development are to:</p> <ul style="list-style-type: none"> <li>- Diversify the economic base, particularly to reinforce the role of the Shire as a year-round tourism destination.</li> <li>- Provide sufficient retail/commercial and industrial land to meet demand.</li> <li>- Support commercial and retail development that complements anticipated urban growth and infrastructure improvements.</li> <li>- Support viable industrial business opportunities.</li> </ul>
02.04 Strategic Framework Plan	<p>The Mansfield Strategic Framework Plan identified Mansfield Township as the focus of most residential, industrial and commercial development (refer Figure 1).</p>

Figure 1 Mansfield Strategic Framework Plan



Source: Mansfield Strategic Framework Plan

**(iii) Planning Policy Framework**

Table 3 summarises State, regional and local planning policies relevant to the Amendment.

**Table 3 Relevant planning policy clauses**

Clause	Objectives
11 Settlement	<p>Planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure.</p> <p>Planning is to prevent environmental, human health and amenity problems created by siting incompatible land uses close together.</p>
11.01-1S Settlement	To facilitate the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.
11.01-1R	(Strategy) Support growth and development in other existing urban settlements and foster the sustainability of small rural settlements.
11.01-1L-01 Mansfield Township	<p>(Applies to all land identified in the Mansfield Township Strategic Framework Plan and Mansfield Central Business District (CBD) Framework Plan to this clause)</p> <p>To support the growth of Mansfield township as the focus of development in the Shire.</p> <p>To consolidate the Mansfield CBD shopping centre.<sup>3</sup></p>
11.02-1S Supply of urban land	To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.
11.03-6S Regional and local places	To facilitate integrated place-based planning.
15.01-1S Urban design	To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.
17.01-1S Diversified economy	To strengthen and diversify the economy.
17.02-1S Business	To encourage development that meets the community's needs for retail, entertainment, office and other commercial services.
17.03-1S Industrial land supply	To ensure availability of land for industry.
17.03-2S Sustainable Industry	To facilitate the sustainable operation of industry.
17.04-1S Facilitating tourism	To encourage tourism development to maximise the economic, social and cultural benefits of developing the state as a competitive domestic and international tourist destination.

<sup>3</sup> Council submitted that the 'CBD Shopping Centre' is identified in the 'CBD Framework Plan' at Clause 11.01-1L.

## 2.2 Other relevant planning strategies and policies

### (i) Hume Regional Growth Plan

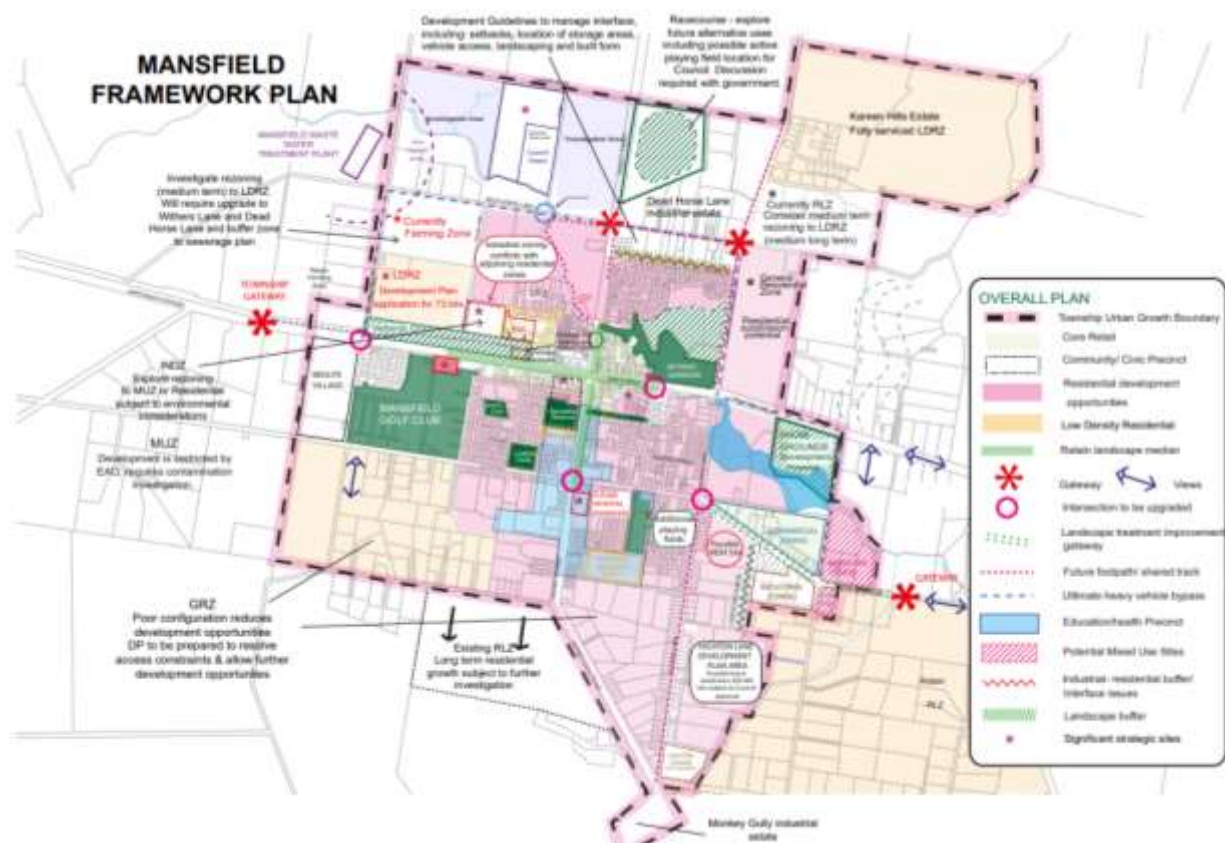
The Hume Regional Growth Plan provides broad direction for land use and development across the Hume region, as well as more detailed planning frameworks for the key regional centres. Mansfield Township is identified as a sub-regional, moderate growth centre in the Central Hume sub-region.

### (ii) Mansfield Structure Plan

The *Mansfield Structure Plan, 2015* (Mansfield Structure Plan) provides key principles and directions relating to:

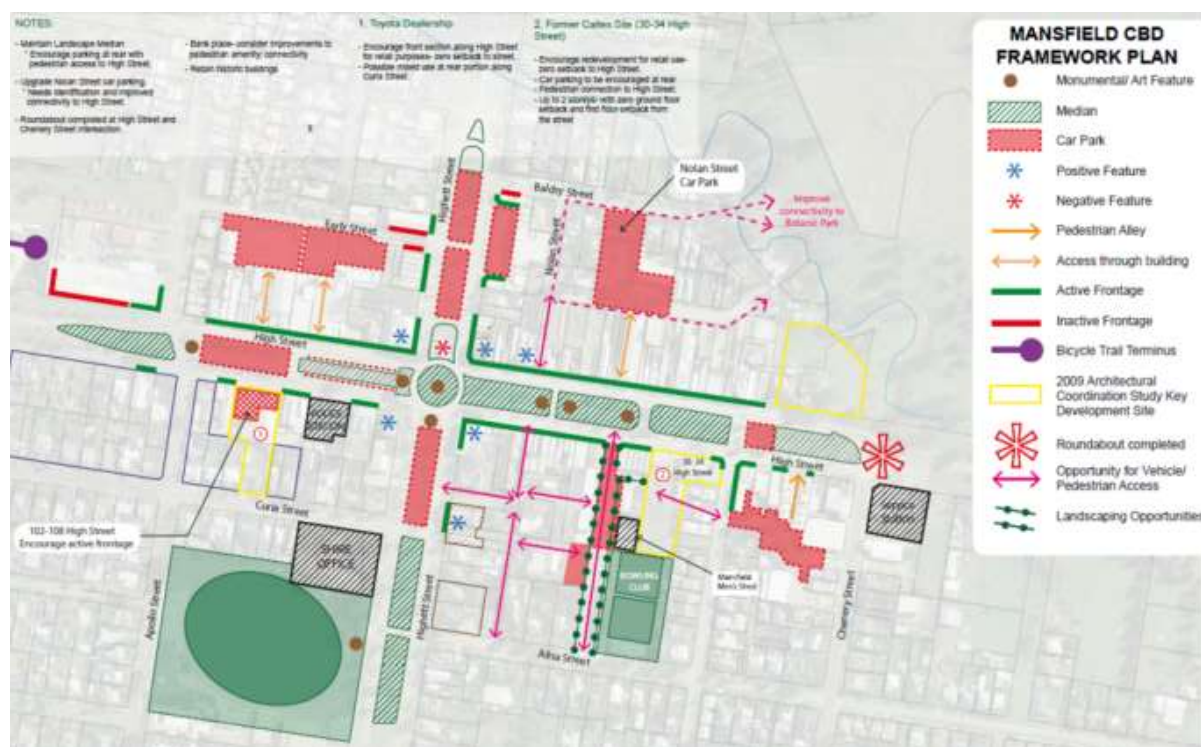
- settlement and housing
- economic development and employment
- open space and recreation community services and facilities
- town centre urban design framework
- overall Mansfield Framework Plan (Figure 2).

Figure 2 Mansfield Framework Plan



The Mansfield Structure Plan also includes the *Mansfield Township CBD Framework Plan* (Figure 3) which provides guidance on the development of the land in the in Mansfield's CBD.

Figure 3 Mansfield Township CBD Framework Plan



## 2.3 Planning scheme provisions

### (i) Zones

A common zone and overlay purpose is to implement the MPS and the PPF. The purposes of zones relevant to the Amendment are included in Table 4.

Table 4 Zone purposes

Zone	Purposes
C1Z	To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses. To provide for residential uses at densities complementary to the role and scale of the commercial centre.
C2Z	To encourage commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services. To ensure that uses do not affect the safety and amenity of adjacent, more sensitive uses.
GRZ	To encourage development that respects the neighbourhood character of the area. To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport. To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.
LDRZ	To provide for low density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater.

Zone	Purposes
MUZ	<p>To provide for a range of residential, commercial, industrial and other uses which complement the mixed use function of the locality.</p> <p>To provide for housing at higher densities.</p> <p>To encourage development that responds to the existing or preferred neighbourhood character of the area.</p> <p>To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.</p>

## (ii) Overlays

The Design and Development Overlay Schedule 1 (DDO1) applies to land at the western entrance Mansfield. It extends over land in Curia Street between Elvins Street and Ultimo Street. The purposes of the DDO1 are set out in Table 5.

Table 5 Overlay purposes

Overlay	Purposes
DDO	To identify areas which are affected by specific requirements relating to the design and built form of new development
DDO1 - Alpine approaches and township gateways	<p>Ensure that building siting, design, form, height, appearance, scale and materials that are compatible with the role of land as an alpine approach or gateway to and from the Mansfield or Merrijig townships.</p> <p>Ensure that buildings and other development meet the recommendations of the <i>Mansfield Urban Design Framework 2005</i>.</p>

## 2.4 Ministerial Directions and Practice Notes

### (i) Ministerial Directions

The Explanatory Report and Council's Part A submission discusses how the Amendment meets the relevant requirements of:

- Ministerial Direction 11 - Strategic Assessment of Amendments
- Ministerial Direction 15 – The Planning Scheme Amendment Process
- *Ministerial Direction on Form and Content of Planning Schemes*
- *Planning Practice Note 46: Strategic Assessment Guidelines*, August 2018.

That discussion is not repeated here.

The following Planning Practice Notes also apply:

- *Planning Practice Note 13: Incorporated and Background Documents*, March 2020
- *Planning Practice Note 30: Potentially Contaminated Land*, July 2021
- *Planning Practice Note 37: Rural Residential Development*, June 2015
- *Planning Practice Note 91: Using the Residential Zones*, December 2019
- *Planning Practice Note 92: Managing buffers for land use compatibility*, March 2021.

**(ii) A Practitioner's Guide to Victorian Planning Schemes**

*A Practitioner's Guide to Victorian Planning Schemes* (Practitioner's Guide) sets out key guidance to assist practitioners when preparing planning scheme provisions. The guidance seeks to ensure that:

- the intended outcome is within scope of the objectives and power of the PE Act and has a sound basis in strategic planning policy
- a provision is necessary and proportional to the intended outcome and applies the VPPs in a proper manner
- a provision is clear, unambiguous and effective in achieving the intended outcome.

The Practitioners Guideline's states that the C1Z is applied in mixed use commercial centres for retail, office, business, residential, entertainment and community uses. C1Z allows a wide range of commercial and accommodation uses without a permit, including a supermarket or shop.

## 3 Strategic justification

### 3.1 Evidence and submissions

Council submitted:

Amendment C51 has been strategically assessed and justified ... to meet the requirements of Ministerial Direction 11, *Strategic Assessment of Amendments*, and accompanying *Strategic Assessment Guidelines*, through the preparation and implementation of the adopted *Mansfield Commercial and Industrial Land Use Strategy, 2021*.

Council noted the Planning Scheme supports the growth of Mansfield as the focus for development in the Shire as well as consolidation of the Mansfield CBD. The Amendment expands on these objectives by identifying the need to activate both High and Highett Streets for retail and commercial development at the same time as protecting residential amenity in and near commercial areas.

140 High Street Pty Ltd submitted that the Commercial and Industrial Strategy does not provide a sound basis to justify the Amendment, noting:

- it contains no rigorous empirical assessment of the longer term commercial land supply and demand for the township, or any substantive analysis of the impact of removing C1Z land from the commercial land supply
- without this assessment, it does not properly consider the effect of the removal of commercially zoned land, in the longer term, in an adequate way.

Mr Barnes gave evidence for 140 High Street Pty Ltd. Mr Barnes stated:

...all relevant background reports and strategic planning and economic strategies prepared in relation the municipality, the town and the town centre, refer positively to the significant growth prospects of the town. They also refer to the need for more retail, for more commercial, and more industrial land within Mansfield.

...

I do not consider that the Commercial and Industrial Strategy provides adequate detail regarding the supply and demand of commercial zoned land in Mansfield and within the town centre in the longer term, to justify a rezoning that will reduce the supply of readily developable Commercial 1 zoned land within the town centre.

I consider it to be short sighted and poor planning, to back zone existing commercial zoned land, when a clear need has been identified for retain existing commercial zoned land to accommodate anticipated future retail and commercial floor space requirements in Mansfield.<sup>4</sup>

Mr Barnes characterised the proposal to rezone land Curia Street as 'back zoning' because it removes development rights. He noted:

- the existing C1Z provides considerably greater development rights than a residential zone and a change would impact on land value and future land use opportunities
- the owner of the land has been actively pursuing commercial development proposals for the land via planning permit applications, and currently has a live planning permit application with Council, that could not proceed if the land was rezoned before the permit was granted

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<sup>4</sup> Document 17



- the back zoning would be contrary to the objectives of planning in Victoria which are to provide for orderly, orderly, economic and sustainable use and development of land
- insufficient strategic justification has been provided to justify the back zoning of the land.

Council explained that the Commercial and Industrial Strategy relied on the supply and demand analysis contained in the Mansfield Structure Plan. This projected that an additional 7,400 square metres of retail floor space would be needed over the period 2013 to 2031.<sup>5</sup> Council noted that the required level of retail development would be accommodated within existing zoned land, having regard to existing vacant sites, opportunities for more intensive use of land and the replacement of some serviced industry uses by retailing and other town centre activities. In addition, existing residential properties located in the C1Z may be displaced by mixed use opportunities.

In response to questions from the Panel during the Hearing, Council confirmed that a revised supply and demand assessment was not commissioned to inform the Commercial and Industrial Strategy, nor any analysis undertaken to calibrate demands forecast in 2015 with present day requirements.

Submissions from other parties did not address commercial and industrial land supply issues in detail, however, gave the opinion:

- there is an acute housing shortage in the township
- increased online commerce will impact on future commercial floorspace requirements
- land use in the town centre is dynamic and more sites are becoming available as service industries increasingly locate to larger format retailing areas, like the Mount Buller Road precinct
- there will be increased commercial opportunities in the Station Precinct.

Some parties put forward the view that the Amendment simply recognises existing land uses and the rezoning is a “no-brainer”.

On the housing supply issue, 140 High Street Pty Ltd noted:

It is also relevant in this case that there is no shortage of residential land which would require the conversion of this commercial land to residential purposes. That is, a lack of residential land does not provide a valid reason to support the Amendment.<sup>6</sup>

## 3.2 Discussion

The Planning Scheme sets a clear obligation for planning to anticipate and respond to future commercial and industrial needs of the Mansfield township. Matters of supply of urban land are addressed in the PPF at Clause 11.02-1S, where an assessment of land sufficiency is tied to a forecast demand period of 15 years.

The Commercial and Industrial Strategy is not based on a contemporary supply and demand analysis, which the Panel considers to be a significant flaw and one which impacts on the credibility of the Strategy. This analysis is needed to lead the strategic justification of the Amendment and should have underpinned proposals to reset the commercial and industrial policy framework for

<sup>5</sup> The projected required increase would add to the existing 16,410 square metres of retail floor space of at July 2013.

<sup>6</sup> Document 19.

Mansfield and to rezone land. This is particularly critical given the case that existing local policy explicitly states the current supply of C1Z land should be retained.

The Panel accepts that the various factors identified by community submitters all influence supply and demand and considers that these will be material to a future commercial and industrial needs analysis. Unfortunately, this analysis has not informed the Amendment. As discussed further in Chapter 4, the Panel is not satisfied that a commercial-residential interface is so misaligned and the potential negative amenity impacts are so great, as to warrant rezoning in the absence of a supply and demand analysis.

Overall, the Panel cannot determine if the Amendment delivers a net community benefit and sustainable development as required by Clause 71.02-3, because critical information that would inform that assessment is not available.

The lack of the supply and demand analysis has consequential impacts for assessment of the issues raised in submissions. The Panel has provided a brief discussion and conclusion in relation to these issues in following chapters to assist Council with future resolution.

### 3.3 Conclusions and recommendation

The Panel concludes:

- The Amendment is not strategically justified and is premature.
- Further strategic work is required to properly anticipate and respond to future commercial and industrial needs of the Mansfield township.

The Panel recommends:

1. **Mansfield Planning Scheme Amendment C51mans Part 2 be abandoned.**

## 4 Curia Street General Residential Zone

### 4.1 The issues

The issues are whether:

- the rezoning land in Curia Street from C1Z to GRZ1 is appropriate
- part of the land at 2-4 Station Street should be included in the Amendment.

### 4.2 The proposal

The Amendment proposes to rezone land on the northern side of Curia Street between Elvins and Apollo Streets from C1Z to GRZ1 as indicated by the 'pink' highlighted area shown in Figure 4.

The exhibited Amendment did not include the southern part of 2-4 Station Street, however Council noted its intention to change the Amendment to include the site at adoption, and sought a recommendation from the Panel supporting this change.

Figure 4 Future commercial uses Mansfield Township



Source: PPV adapted from Commercial and Industrial Strategy

### 4.3 Evidence and submissions

Council explained the Commercial and Industrial Strategy set out the following framework for the placement of commercial uses around the town centre:

- Main road locations are preferred for all forms of retail use, strata titled office uses and all general commercial uses.
- Non-main road commercial land is preferred for commercial office uses for single enterprises as well as health care, education and recreation uses.
- All forms of retail are discouraged in non-main road residential environments.
- Non-main road commercial land that is (a) exclusively residential and (b) remote from the township's core commercial area is not supported for future commercial uses.

Specifically, the dwellings along the western section of Curia Street that are currently zoned for commercial purposes are not supported for future commercial uses based on their residential context and distance from the township's core commercial area (the land is more than 500 metres from the intersection of High and Highett Street).<sup>7</sup>

Council advised that this approach serves the following purposes:

- retail growth is directed to main street locations best able to support the accessibility requirements and traffic impacts of retail uses
- establishes a policy basis to discourage commercial uses in commercial zoned residential streets
- encourages large format multi-tenant office uses to be located in main road locations.

The potential amenity impacts of commercial uses opposite houses was the primary concern for many of the Curia Street submitters. They considered the C1Z zoning with related future development would be entirely incompatible with existing neighbourhood amenity.

MCHAC focussed on complementary benefits that increased activity along High Street would have on integrating the Station Precinct within the town. It noted that commercial activity is focussed east of the roundabout (at the intersection of High and Highett Streets) which will need to change for the Station Precinct to become part of, and integrated into, the central Mansfield township. It offered the following example:

A prime example of why this change is needed are these residential uses along High Street. This is an example of an area the strategy seeks to activate by removing the Commercial zoning along Curia Street west to concentrate commercial activity along the major roads, rather than in back streets which have long been urban... The photo below (Figure 5) shows these High Street residences, which are blocking the activation of the street between Apollo and Station Streets.<sup>8</sup>

**Figure 5** High Street residences in the Commercial 1 Zone



Source: Mansfield Cultural Heritage and Arts Centre Inc

Ms Quigley (submitter 17) addressed the misalignment between the zoning and current land use, and the prospect of change, noting:

The considerable number of residential homes built in the commercially zoned area shows that it has naturally evolved into the residential area it is, commercial enterprises in this quiet area doesn't quite fit in with the feel of the area.

There are a few commercial businesses scattered within homes along High Street and back on to the houses on the north of Curia Street. These businesses do not attract large amounts of customers and some shops experience high turnover of leasers, I assume this is because there is very little foot traffic reaching this isolated part of the High Street.<sup>9</sup>

<sup>7</sup> Document 43

<sup>8</sup> Document 46

<sup>9</sup> Document 49

Activating High Street west in the ‘right’ way was a key concern for MMG who noted that land at 2-4 and 8-10 Station Street is at the gateway entrance to the town and provide the ‘welcome mat’ opposite the Information Centre.<sup>10</sup>

140 High Street Pty Ltd addressed the preferred location of commercial use on two fronts; firstly that leakage of commercial uses to non-main locations is an indicator of a supply issue, and secondly that directing retail uses away from non-main road locations could be achieved by means other than rezoning. It submitted:

...if Council is finding that they are encountering commercial uses seeking to set up in non-main road locations, then perhaps this is a sign that more commercial land should be retained – not less – because it is beginning to be needed.

In any event, if Council is correct that there needs to be some control over this circumstance, then seeking to direct *retail* uses away from non-main road locations on limited appropriate sites could be achieved by something lesser than a rezoning, for example, by way of the approach that is proposed to be applied elsewhere in Mansfield, closer to the core, by amending the C1Z schedule to require consent for all retail use in non-main road locations to discourage retail use with a preference for commercial uses for single enterprises as well as health care, education and recreation uses. Alternatively, policy could be added to address this particular issue.<sup>11</sup>

Mr Barnes added:

The western edge of the town centre, including the review site, includes some of the more significant redevelopment opportunities that remain within the centre. I consider that these opportunities should be protected from rezoning, to ensure the potential remains to accommodate the future retail and commercial needs of Mansfield into the future.<sup>12</sup>

As an alternative to rezoning all the land on the north side of Curia Street between Elvins and Ultimo Streets, Mr Barnes considered the Amendment could be limited to land west of 39 Curia Street. He said:

The land [2-4 and 8-10 Station Street] is of sufficient size to provide an appropriate interface to the adjoining property at 39 Curia Street to avoid an unreasonable amenity impacts.

I see no planning disbenefit in retaining the whole of the review site within a Commercial 1 Zone, should adjoining land to the west in Curia Street be rezoned to a residential zone.

In response to Panel directions 140 High Street Pty Ltd provided written feedback on the translation version of the Amendment. It submitted that Council had changed the intent of the exhibited drafting of Clause 21.09-1 (Mansfield Township) by substituting the term ‘town centre’ with ‘CBD’ because the CBD area is mapped and is more confined than the town centre. It also submitted that locating strategies for High Street (West) under proposed Clause 15.01-1L (Urban Design in Mansfield CBD) was similarly confining.

## 4.4 Discussion

The Panel discussed strategic justification for the Amendment in Chapter 3 and concluded this has not been established. A supply and demand analysis would have equipped Council with the detail to consider the preferred locations for commercial, industrial and housing supply issues holistically and comprehensively. It would have anchored an assessment of the relative benefits and disbenefits of taking Curia Street north out of the commercial land supply equation.

<sup>10</sup> Document 47

<sup>11</sup> Document 19

<sup>12</sup> Document 17

The Panel acknowledges the genuinely held community concerns about commercial development in Curia Street and the impacts this may have on residential amenity. However, the Panel agrees with 140 High Street Pty Ltd that rezoning is not the only method to manage interface issues. For instance:

- there are general amenity protections contained in the C1Z at Clause 34.01-2 which require that a use must not detrimentally affect the amenity of a neighbourhood through the transportation of materials or goods, appearance of buildings and works or through emission of noise, light, smell or the like
- overlays can be applied to manage the design and built form of new development and can set requirements for building setback, landscaping and car parking, amongst other matters
- policy guidelines can be provided in the PPF to supplement zone and overlay provisions.

The Panel observes that DDO1 is already in place to manage development of High Street sites between Station and Elvins Streets, to protect the design integrity of the township approaches as is desired by MCHAC and MMG.

A commercial-residential interface is common around the Mansfield town centre, and indeed most activity centres. The transition from commercial to residential largely occurs via a street rather than mid-block as is proposed by the Amendment. The Panel is conscious that transitioning uses mid-block will add additional constraints on remaining commercial land uses. It is the Panel's view that this has not been properly considered by Council.

The Panel supports the objective of the Commercial and Industrial Strategy to activate the western end of High Street and strengthen the link with between the Station Precinct and the town centre. The Panel sees no reason why this outcome would be compromised by extending commercial development to Curia Street and considers that activation would be aided through the availability of full block development sites.

The Panel agrees with 140 High Street Pty Ltd that substituting 'town centre' with 'CBD' does change the effect of the strategies exhibited in Clause 21.09. The Panel considers the exhibited intent should be maintained if the Amendment proceeds.

## 4.5 Conclusions

The Panel concludes:

- Rezoning of land in Curia Street from C1Z to GRZ1 is not strategically justified and not appropriate.
- Land at 2-4 Station Street should be retained in the existing C1Z.

## 5 Schedule to Commercial 1 Zone

### 5.1 The issue

The issue is whether the floorspace cap is needed and appropriate.

### 5.2 The proposal

The Amendment proposes to modify the Schedule to the C1Z to set a maximum leasable floor area for 'Shop (other than Restricted retail premises)' of 0 square metres for land identified as "preferred single enterprise commercial office, recreation and health" as shown in Figure 6.

Figure 6 Commercial 1 Zone Schedule Map 1



Source: Exhibited Schedule to Commercial 1 Zone

### 5.3 Evidence and submissions

Submitters 10 and 14 objected to the zoning of land in Chenery and Collopy Streets respectively from C1Z to GRZ1, noting:

- Mansfield has a growth population which has increased the viability of new commercial developments
- properties are well located close to existing shops in the town centre.

Council submitted that the adopted strategy recognises that main road retailing may be weakened by locating commercial and retail uses in residential streets outside of the township's main road retail environment. Main road locations are preferred for all forms of retail use, strata titled office uses and general commercial uses. Non-main road commercial land is preferred for single enterprise commercial offices, as well as health care, education and recreation uses.

Council noted that under the proposed changes to the C1Z schedule, a planning permit may be sought to use land for a shop in the "preferred single enterprise commercial office, recreation and

*health*” area, which Council would consider on its merits based on compliance with the Planning Scheme, the suitability of the land for the use and the merits of the individual proposal.<sup>13</sup>

In response to questions from the Panel, Council acknowledged that recreation and health are not defined uses within Clause 73.03 of the Planning Scheme. Council clarified that ‘single enterprise’ is intended to relate to single-tenanted buildings.

## 5.4 Discussion

The Panel notes that the Amendment does not propose to rezone either submitter’s property, but to set a floor space cap for “Shop”. It appears the submitters have misunderstood the Amendment. The proposed change to the Schedule to C1Z would act as a default planning permit trigger for all shops in the mapped area.

Council has not adequately provided a rationale for the proposed change, nor adequately considered the implications for the land use zone. The Panel disagrees with Council that retail should be discouraged, and preference should be given to single enterprise commercial office, recreation and health in the selected interface areas. This approach undermines and is at odds with the purpose of the C1Z which is to provide for a vibrant mix of uses, including shops in core commercial areas.

With respect to whether the floor space cap is appropriate, the Panel is cognisant of the broad approach to planning for retail areas implemented through Amendment VC100 which introduced the reformed commercial zones into the VPP. There has been a distinct move away from micromanaging retail floorspace towards a more market driven approach, but in the context of a hierarchy of retail centres. Floor space caps can, and are, strategically applied to maintain the integrity of the retail hierarchy across multiple centres in regional cities. However, this Amendment would result in a level of intervention that undermines the flexibility desired and current best practice within commercial areas.

Residential-commercial interface issues are discussed in previous chapters. The Panel observes that these are commonplace around the Mansfield town centre and concludes there are effective zone and overlay tools to manage these interfaces.

While not the focus of the submissions, the Panel is not satisfied that the proposed policy and schedule changes to the C1Z schedule have been fully considered in the context of the existing Planning Scheme, and with the drafting requirements set out in the Practitioner’s Guide and the *Ministerial Direction on the Form and Content of Planning Schemes* for the following reasons:

- the “*Preferred single enterprise commercial office, recreation and health*” area is identified as part of the ‘core retail’ area in Mansfield Framework Plan (Figure 2) and as part of the Mansfield CBD (Figure 3)
- use of undefined land use terms including ‘recreation’, ‘health’ and ‘single enterprise’ may create uncertainty and confusion.

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<sup>13</sup> Document 28



## 5.5 Conclusion

The Panel concludes:

- The proposed floor space cap for 'Shop' would undermine the proper operation of the C1Z in the Mansfield town centre.

## 6 Dead Horse Lane Mixed Use Zone

### 6.1 The issue

The issue is whether the rezoning is strategically justified.

### 6.2 The proposal

The Amendment proposes to rezone land at 264-282 Dead Horse Lane, Mansfield from LDRZ to MUZ.

Figure 7 Proposed Mixed Use Zone at 264 and 282 Dead Horse Lane, Mansfield



Source: Commercial and Industrial Strategy

### 6.3 Context

The Commercial and Industrial Strategy recommendation to rezone five hectares of land in Dead Horse Lane from LDRZ to MUZ is proposed to have the following benefits:

- enabling the land to support a range of commercial activities in keeping with its context which is exclusively focused on commercial activity
- enabling the land to benefit and support commercial activity along the future Heavy Vehicle Alternate Route
- providing continued planning support for existing residential uses while enabling the land to transition toward a more commercial focus
- providing a commercial buffer between industrial uses to the north and west and residential subdivisions to the location's south and east.

Site specific subdivision controls that limit residential expansion are recommended for this land as part of the rezoning.

## 6.4 Submissions

Council submitted:

- the MUZ is considered compatible with existing residential uses and a suitable transition between industrial uses to the north and west and conventional residential use to the south
- the MUZ is within the suite of residential zones
- the MUZ allows dwelling and other low-key commercial activities without a permit. Industry is prohibited
- existing dwellings will continue indefinitely in line with existing use right provisions
- the implementation of buffers at the rear of lots at 264 to 282 Dead Horse Lane would be through the introduction of actual commercial use and development on these lots. This situation is considered adequate to provide some buffering protection and aesthetic separation at the time of development between potential commercial and residential uses
- buffers do not presently exist along most of the Dead Horse Lane industrial area which borders residential areas on the southern side.

The submission from the Environment Protection Authority sought to ensure conflicts between residential, commercial and industrial land uses are avoided and noted that Buffer Area Overlay or Development Plan Overlay could be applied to manage this issue.

Community submitters variously noted:

- the land was zoned Rural Residential in 1997 as part of the new format Planning Scheme. Use of the land has not changed since that time
- the large lots in the LDRZ act as a transition between industrial land to the north and west, and residential land to south
- future uses in the proposed MUZ would compromise the amenity of residents in Cambridge Drive and Galway Court
- the MUZ has no minimum lots size which could yield a much a higher density than is suitable for the area
- future MUZ development will impact on significant vegetation and result in loss of habitat
- acoustic and visual buffering around a future MUZ would be essential
- Dead Horse Lane needs to be upgraded to support increased commercial activity.

Anne Foster (submitter 13) submitted:

Rezoning to a Mixed Use Zone will, according to the Strategy, “provide continued planning support for existing residential uses while enabling the land to transition to a more commercial focus.” However, the transition process could take many years relying on the current long term residents passing away or a future decision to downsize. As each property is sold and changes to a commercial use, this area will certainly not be a uniform zoned area for a very long period of time.<sup>14</sup>

## 6.5 Discussion

The Panel shares concerns raised by community submitters about the outcome that will be achieved by the rezoning.

<sup>14</sup> Document 53

The Panel observed many of interface issues raised by submitters during its site inspection. It appears that the large area of LDRZ, combined with the visual buffer provided by significant vegetation, contribute to the amenity that these properties accept and enjoy. In this context, the LDRZ appears to be performing well as a transition zone between industrial and residential zones. The Panel acknowledges the future amenity of LDRZ lots may be impacted by increased heavy track on the alternate truck routes, although it these routes do not avoid all residential areas including land in Dead Horse Lane west of the Midland Highway.<sup>15</sup>

The Panel notes an objective of the Commercial and Industrial Strategy is to integrate 264-282 Dead Horse Lane with the remainder of the Dead Horse Lane industrial precinct. Council's approach to achieving integration relies on the merits assessment of future planning permit applications, rather than actively setting a minimum lot size or buffer requirements as recommended by the Commercial and Industrial Strategy. The Panel prefers the approach recommended in the Strategy, noting that both tools (minimum lot size and buffers) would have increased certainty for all residential and industrial landowners. This proactive approach is also consistent with the advice of the Environment Protection Authority.

The Amendment does not take a strategic approach to protecting native vegetation, which would have commenced with a vegetation assessment. This, in itself, is not fatal to the Amendment but is another indicator that the impact of the rezoning has not been fully considered.

The Panel is surprised that Council has not thought that development guidelines addressing lot size, buffers and vegetation were needed for the Dead Horse Lane Industrial Precinct given they are already called for in Mansfield Framework Plan (Figure 2), which includes the notation:

Development Guidelines to manage interface including: setback, location of storage areas, vehicle access, landscaping and built form.

Development Guidelines would be of benefit to the precinct irrespective of whether the rezoning proceeds.

Overall, the Panel is not convinced there is a compelling strategic reason to rezone the land from its existing LDRZ to MUZ or that the Amendment has been constructed in a way that is responsive to the Planning Scheme or the Commercial and Industrial Strategy.

## 6.6 Conclusions

The Panel concludes:

- Rezoning land in Dead Horse Lane from LDRZ to MUZ is not strategically justified.
- Development guidelines for the Dead Horse Lane Industrial Precinct should be prepared consistent with the recommendations of the Mansfield Township Strategic Framework Plan (Clause 11.01-1L-01).

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<sup>15</sup> Document 36

## Appendix A Submitters to the Amendment as exhibited

No.	Submitter
1	Goulburn Valley Water
2	Environment Protection Authority
3	Mansfield Cultural Heritage and Arts Centre Incorporated
4	Mansfield Historical Society Incorporated
5	Mansfield Matters Group Incorporated
6	Joan Tehan
7	Bronwyn Purcell
8	Aunty Bernadette Franklin
9	Sarah Stegley
10	Ross Elstrek
11	Elisa Fraser and Peter Jackson
12	K Magnay and Matthew Adams
13	Anne and David Foster
14	Maria and Mark Walsh
15	Peter Grey
16	Louise and Laurie Jacob
17	Rhiannon Quigley
18	140 High Street Pty Ltd

## Appendix B Parties to the Panel Hearing

Submitter	Represented by
Mansfield Shire Council	Melissa Crane, Manager Planning and Environment and Simon Micmacher of Charter Keck Cramer
140 High Street Pty Ltd	<ul style="list-style-type: none"> <li>Emma Pepler of Counsel instructed by Robbie McKenzie of Ratio Consultants, who called David Barnes of Hansen Partnership on town planning</li> </ul>
Mansfield Cultural Heritage and Arts Centre Incorporated	Dr William Twycross
Rhiannon Quigley	
Joan Tehan	
Sarah Stegley	
Peter Grey	
Anne Foster	
Mansfield Matters Group	Kim Lynch

## Appendix C Document list

No.	Date	Description	Presented by
1	20/4/2022	Panel Directions and Hearing Timetable	Planning Panels Victoria (PPV)
2	21/4/2022	Full Set of Amendment documents as exhibited	Mansfield Shire Council (Council)
3	“	Full Set of Amendment Documents post split	“
4	“	Full Set of Amendment Documents post PPF Translation	“
5	“	Mansfield Commercial and Industrial Issues Paper 2020	“
6	27/4/2022	Distribution List Version 2	PPV
7	3/5/2022	Map of private submitters and list of submitters sequentially numbered	Council
8	5/5/2022	Site visit itinerary	“
9	9/5/2022	Site visit itinerary revised	“
10	17/5/2022	Council Part A submission with attachments (Documents 11-16)	“
11	“	Attachment 1 – C51mans as exhibited	“
12	“	Attachment 2 – Council Meeting Minutes 15 February 2022	“
13	“	Attachment 3 – C51mans Part 2 combined amendment documentation	“
14	“	Attachment 4 – Mansfield Commercial and Industrial Land Use Strategy 2021	“
15	“	Attachment 5 – Strategic Assessment Guidelines checklist	“
16	“	Attachment 6 – Summary of submissions	“
17	“	Town Planning expert evidence of David Barnes	140 High Street Pty Ltd
18	20/5/2022	Further Panel Directions	PPV
19	23/5/2022	140 High Street Pty Ltd submission with attachments (Documents 20 – 27)	140 High Street Pty Ltd
20	“	Attachment 1 – Titles	“
21	“	Attachment 2 – Application Plans for original convenience restaurant (2019)	“
22	“	Attachment 3 – 140 High Street Pty Ltd v Mansfield CC [2021] VCAT 291	“
23	“	Attachment 4 – Latest plans for repeat convenience restaurant application	“
24	“	Attachment 5 – Latest plans for Mansfield Common	“

No.	Date	Description	Presented by
25	“	Attachment 6 – Latest plans for service station at 140 High Street	“
26	“	Attachment 7 – Map of nearby Council approved developments	“
27	“	Attachment 8 – 2003 Zoning map of Mansfield	“
28	“	Council Part B submission with attachments (Documents 29 to 42)	
29	“	Attachment 1 – Suggested Part 2 content recommended for adoption	
30	“	Attachment 2 – Mansfield Township Structure Plan May 2015	
31	“	Attachment 3 – Mansfield Urban Design Framework June 2005	
32	“	Attachment 4 – Township Housing Strategy 2018	
33	“	Attachment 5 – Mansfield Shire Economic Development Strategy 2020-25	
34	“	Attachment 6 – Hume Regional Growth Plan 2014	
35	“	Attachment 7 – Mansfield Shire Council Plan 2017-2021	
36	“	Attachment 8 – Mansfield Shire Road Strategy 2017	
37	“	Attachment 9 – Mansfield Heavy Vehicle – Alternative Routes Planning Study Final Report November 2010	
38	“	Attachment 10 – Mansfield Economic Development Strategy 2013-2017	
39	“	Attachment 11 – Mansfield Shire Business Recovery Plan 2020	
40	“	Attachment 12 – Rural Living Strategic Study 2003	
41	“	Attachment 13 – C51mans Part 1 submitted to the Minister for Planning for approval	
42	“	Attachment 14 – C51mans Part 1 translated to current Planning Policy Framework	
43	24/5/2022	Mansfield Commercial and Industrial Strategy 2021 Panel Presentation	Council
44	“	Council Planning Panel Presentation	“
45	“	Joan Tehan Panel Hearing Submission	Ms Tehan
46	“	Mansfield Cultural Heritage and Arts Centre Inc Panel submission	Mansfield Cultural Heritage and Arts Centre Inc
47	“	Mansfield Matters Group submissions	Mansfield Matters Group (MMG)
48	“	Peter Grey submission	Mr Grey



No.	Date	Description	Presented by
49	“	Rhiannon Quigley submission	Ms Quigley
50	“	Sarah Stegley submission	Ms Stegley
51	“	David Barnes Brief	140 High Street Pty Ltd
52	“	140 High Street Pty Ltd v Mansfield SC [2021] VCAT 1103	MMG
53	25/5/2022	Anne Foster Address to Panel	Ms Foster
54	“	Mansfield Matters Group introduction to submission	MMG
55	“	Council Part B submission presentation notes	Council
56	“	Council additional information requested	“
57	“	Council proposed Ordinance with Track Changes pre VC148	“
58	“	Council proposed Ordinance with Track Changes post VC148	“
59	“	Council C44mans combined Amendment documentation	“
60	30/5/2022	Further Panel Directions	PPV
61	31/5/2022	140 High Street Pty Ltd response to further directions	140 High Street Pty Ltd
62	6/6/2022	Email from Council querying if further information is required	Council
63	8/06/2022	Confirmation all information received	PPV