

Date: 25 August 2022

Moyne Planning Scheme Amendment C69

Part A Submission on behalf of Moyne Shire Council

Planning Panels Victoria

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INTRODUCTION

1. This Part A submission is made on behalf of Moyne Shire Council (**Council**) as planning authority for C69moyn (**Amendment**) to the Moyne Planning Scheme (**Scheme**).
2. The Amendment applies to land within the Port Fairy township and surrounds and proposes to implement the recommendations of the *Port Fairy Coastal and Structure Plan 2018 (the Structure Plan)* by making changes to the local planning policy framework, zone and overlay controls and updating operational provisions. The detail of the Amendment is set out below.
3. As described in the Explanatory Report, the Amendment is required '*to update the local policy and appropriate planning provisions to guide and manage land use and development within Port Fairy in accordance with the strategic directions of the Port Fairy Coastal and Structure Plan 2018*'.
4. A chronology of events is set out at **Appendix 5**. A summary of submissions received in response to exhibition of the Amendment, Council's responses to those submissions is contained in **Appendix 3**. Council's 'day 1' version of the Amendment documents is contained in **Appendix 6**.

PANEL DIRECTIONS

5. This Part A submission responds to Direction 13 of the Panel Direction dated 10 August 2022 (**Panel Directions**) requiring Council to circulate a Part A submission that includes:
 - a) *background to the Amendment including chronology of events*
 - b) *strategic context and assessment*
 - c) *issues identified in submissions*
 - d) *Council's position on the exhibited Amendment as a result of consideration of submissions and evidence including a track change version of revised 'Day 1' Amendment documentation.*

6. Concurrently with the circulation of its Part A submission, Council will file flood modelling maps which show a 0.8m sea level rise (**SLR**) scenario and the difference between a 0.8m and 1.2m SLR scenario. These maps are in the form of model outputs rather than planning scheme maps.
7. Council's Part B submission will:
 - 7.1. address the matters set out in Direction 25 of the Panel Directions;
 - 7.2. provide Council's response to submissions and evidence.

OVERVIEW OF THE AMENDMENT AND CONTEXT

8. The Amendment is broad in its proposed application. In short, it proposes to:
 - 8.1. implement the Structure Plan by:
 - (a) applying Neighbourhood Residential Zone – Schedule 1 (**NRZ1**) to all areas currently zoned General Residential Zone (**GRZ**) and Mixed Use Zone (**MUZ**), Growth Area A identified in the structure Plan;
 - (b) applying the Rural Conversation Zone – Schedule 2 (**RCZ2**) to area surrounding Belfast Lough;
 - (c) replacing existing Design and Developments Overlays (**DDOs**) with 7 new DDOs which apply to:
 - (d) applying a Development Plan Overlay – Schedule 4 (**DPO4**) to Growth Area A and Growth Area B identified in the Structure Plan;
 - 8.2. introduce new flood controls to areas subject to coastal inundation and a 1.2m SLR based on the *Translation of Port Fair Coastal Hazard Assessment (2019)* (confirmed by the *Flood Summary Report 2021*). The proposed controls comprise:
 - (a) schedule 3 to the Floodway Overlay (**FO**); and
 - (b) schedule 4 to the Land Subject to Inundation Overlay (**LSIO**);
 - 8.3. extend the application of the Erosion Management Overlay (**EMO**) to areas along the primary coastal dunes in South Beach and East Beach.

9. The exhibited Amendment also proposed, in summary, to apply:
 - 9.1. the Environmental Significance Overlay – Schedule 7 (**ESO7**) to a 500m buffer around the Wannon Water – Port Fairy Reclamation Plant; and
 - 9.2. the Parking Overlay – Schedule 1 to the commercial town centre area in accordance with the recommendation of the *Port Fairy Car Parking Strategy 2017*.
10. At its Ordinary Meeting on 1 March 2022, Council resolved to abandon the parts of the Amendment related to the ESO7 and the Parking Overlay following its consideration of submissions to exhibition of the Amendment. The Council resolved to refer all submission to a Planning Panel except those related to abandoned parts of the Amendment.¹
11. In accordance with section 24 of the *Planning and Environment Act 1987* (**the PE Act**), it is therefore Council's position that the submissions before the Panel are those relating to matters other than the application of ESO7 to the Reclamation Plant and the Parking Overlay.

Role of Council

12. Council is:
 - 12.1. the planning authority for the Moyne municipal district and is responsible for preparing planning scheme amendments in accordance with the PE Act;
 - 12.2. the responsible authority for the administration and enforcement of the Planning Scheme under the PE Act;
 - 12.3. the municipal council for the Moyne local government area under the *Local Government Act 2020* (**the LG Act**).
13. Council must ensure that that long-term adverse consequences of climate change for future generations are incorporated into council planning, decisions and actions. As

¹ Ordinary Council Meeting Minutes of 1 March 2022, Item 4.

provided under the LG Act, the role of councils is to '*provide good governance in its municipal district for the benefit and wellbeing of the municipal community.*'²

14. Council must perform its role based on the overarching governance principles. Section 8 of the LG Act provides that a council is considered to provide 'good governance' where it performs its role in accordance with the overarching governance principles. These principles are defined in s9(1) and relevantly include:
 - 14.1. Councils must promote the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks.³
 - 14.2. Councils must give priority to achieving the best outcomes for the municipal community, including future generations.⁴
 - 14.3. Regional, state, and national plans and policies must be taken into account during Council's strategic planning.⁵
15. Under the PE Act, the objectives at section 4 include:
 - (a) *to provide for the fair, orderly, economic and sustainable use, and development of land;*
 - (b) *to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;*
 - (c) *to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;*
 - (d) *to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;*
 - (e) *to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;*

² LG Act, s 8(1).

³ LG Act, s 9(2)(c).

⁴ LG Act s 9(2)(b).

⁵ LG Act, s 9(2)(h).

(f) *to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e);*

.....
(g) *to balance the present and future interests of all Victorians.*

16. The similarities between these principles and objectives is self evident.
17. In preparing an amendment to a planning scheme, a planning authority '*must take into account any significant effects which it considers the scheme or amendment might have on the environment or which it considers the environment might have on any use or development envisaged in the scheme or amendment*'.⁶

The Structure Plan

18. The Structure Plan provides for the long term future land use and development of Port Fairy township to 2041 by:
 - 18.1. establishing a framework for future residential, commercial and industrial land use;
 - 18.2. maintaining 15+ years of housing growth, including infill and greenfield developments across the municipality;
 - 18.3. recognising the town's vulnerability to coastal and riverine flooding; and
 - 18.4. recognising the significant landscape, environmental, aboriginal cultural and heritage features of the township and its surrounds.
19. The Structure Plan is discussed in more detailed below.

⁶ Section 12(1A)(b).

New flood overlays

20. Port Fairy is vulnerable to riverine and coastal inundation due to its location on the coast and the Moyne River estuary (including Belfast Lough). At a broad level, this vulnerability will only increase as sea levels rise.⁷ It is a current problem, not a future theoretical one.⁸
21. Failure to plan for and adapt to these increased risks will further expose the township to potentially severe and long-term consequences, such as loss of life, property and financial losses, health issues, and the loss of unique and essential natural systems and species.
22. The proposed FO3 and LSIO4 adopt on a 1.2m SLR scenario based on the findings of the Translation of Port Fairy Coastal Hazard Assessment (Cardno, 2019) and the *Flood Summary Report* (HARC, 2021), discussed below.

BACKGROUND TO THE AMENDMENT

Amendment Land

23. The Amendment applies to land within and around the Port Fairy township, depicted on Figure 1 below.

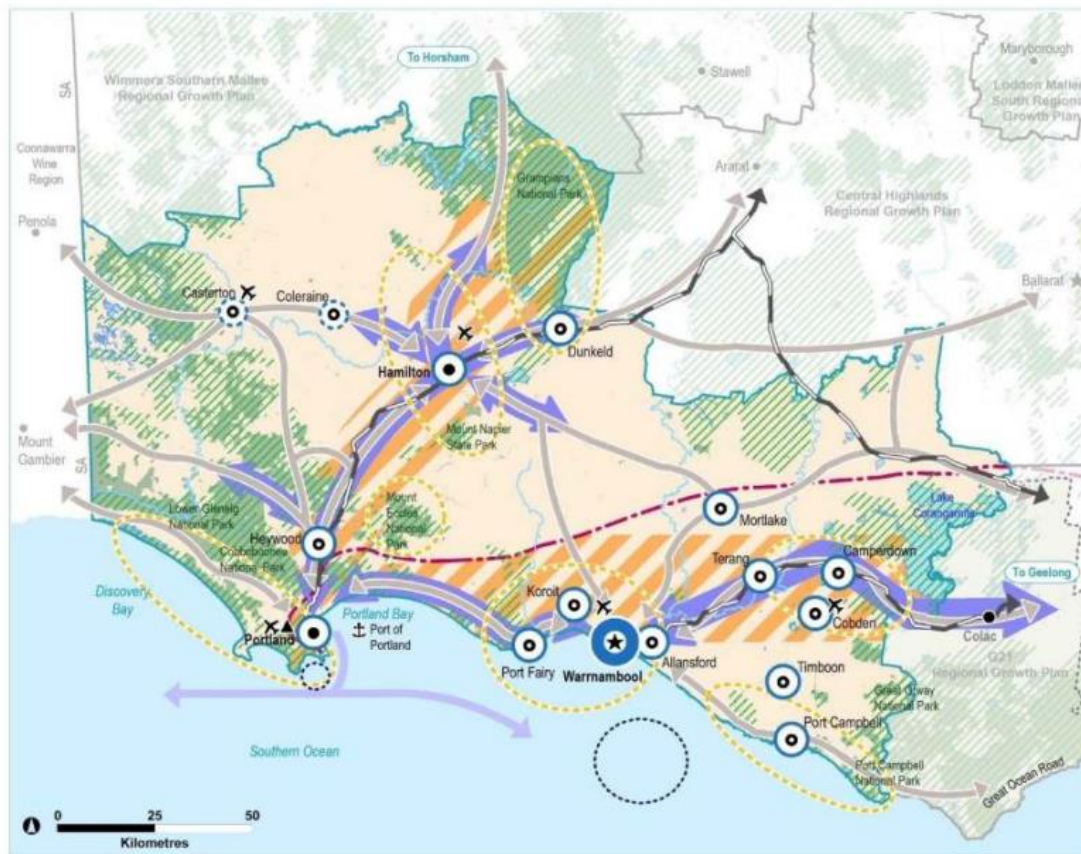
⁷ For example, *Summary for Policymakers. In: IPCC Special Report on the Ocean and Cryosphere in a Changing Climate* 2019, and *Victoria's Climate Science Report* 2019.

⁸ <https://www.abc.net.au/news/2020-06-07/port-fairy-citizen-scientists/12308344>.



Figure 1: Amendment Area (extracted from Structure Plan, Figure 7).

24. As identified in Clause 21.05 of the Planning Scheme, Port Fairy is ‘*an historic coastal town that offers a high quality of life for its residents and is a popular tourist destination*’. It was settled by Europeans in 1828 and funded on whaling and sealing. A key part of the town’s character is its heritage places and places, particularly historic buildings in the town centre, the Moyne River and Belfast Lough, the port, Griffith Island and coastal areas.
25. Port Fairy is also the largest town in Moyne Shire. The *Great South Coast Regional Plan*, at clause 11.01-1R of the Planning Scheme, identifies Port Fairy as a ‘District town’ with ‘medium’ growth potential, extracted below at Figure 2.



SETTLEMENT ROLE AND GROWTH



CONNECTIVITY



ECONOMIC DEVELOPMENT



ENVIRONMENT



Figure 2: Great South Coast Regional Plan

26. Port Fairy is an attractive, liveable coastal town which enjoys:⁹
- 26.1. Its unique coastal environment and broader rural landscape setting.
 - 26.2. Its township environment comprising informal streetscapes, street trees, heritage buildings and coastal vegetation.
 - 26.3. Its relatively wide variety of employment opportunities, including industrial businesses like SunPharma and Bamstone, the fishing industry, retail and hospitality / tourism industry and health related jobs. It is also proximate to Warrnambool which provides other employment opportunities.
 - 26.4. Its biodiversity values, including habitat for endangered species, such as the Hooded Plover and Latham's Snip.
 - 26.5. Its community infrastructure and open space.
27. The land use and development of Port Fairy faces challenges, including:¹⁰
- 27.1. Coastal hazards, including coastal erosion, coastal inundation including combined coastal and riverine inundation.
 - 27.2. Maintaining township character and protecting heritage values.
 - 27.3. Maintaining good connectivity, including walkability and ensuring new growth areas are well connected.
 - 27.4. Providing for and encouraging additional employment opportunities, as well as driving broader economic growth.
 - 27.5. Maintaining good provision of community infrastructure and open space.

⁹ See Clause 21.09-3 and the Structure Plan.

¹⁰ See Clause 21.09-3.

Relevant strategic documents

28. The Amendment was informed by/proposes to implement into the Scheme the following key documents:
- *Port Fairy Coastal and Structure Plan* (August 2018) (**the Structure Plan**);
 - *Translation of Port Fairy Coastal Hazard Assessment* (18 August 2019);
 - *Flood Summary Report* (2021);
 - *Port Fairy Local Floodplain Development Plan*; and
 - *Fencing in Flood Prone Areas Guidelines* (July 2015).¹¹
29. Other strategic documents relevant to the Amendment are summarised in **Appendix 2**.

The Structure Plan

30. The Structure Plan was prepared by Council, department of Environment, Land, Water and Planning (**DELWP**), Glenelg Hopkins Catchment Management Authority (**GHCMA**) and a consultant team comprising Hansen Partnership, Martyn Transport, Cardno and Urban Enterprise. On 28 August 2018, Council at its Ordinary Meeting resolved to adopt the Structure Plan.
31. The preparation of the Structure Plan was informed by:
- 31.1. the *Translation of Port Fairy Coastal Hazard Assessment August 2019* prepared by Cardno;
 - 31.2. the *Economic and Tourism Land Use Analysis 2017* prepared by Urban Enterprise.
32. The Structure Plan contains a land use and development framework for Port Fairy township until 2041. The key directions of the Structure Plan provide the overarching vision for the settlement:¹²
- 1. *Respond to the housing needs of existing and future residents*
 - 2. *Recognise the critical importance of Port Fairy's character and heritage*
 - 3. *Protect the settlement's sensitive coastal surrounds*

¹¹ A subsequent version was issued in 2021.

¹² Structure Plan, p 21.

4. *Recognise the regional importance of Port Fairy's tourism industry*
5. *Plan for future local employment opportunities*
6. *Prioritise the creation of a walkable and cycle-able town*
7. *Develop a network of diverse open spaces*
8. *Support equitable access to services and facilities for all*
9. *Plan for a resilient and engaged community*
10. *Be pragmatic but use the precautionary principle in responding to flooding impacts*
11. *Adopt best practice in response to climate challenges*
12. *Protect the rural surrounds and improve town centre approaches*
13. *Connect and embrace the wharf environs*

33. The Structure Plan contains objectives and strategies, and actions which implement the objectives and strategies. Objectives and strategies are arranged under the following themes:

- 33.1. Settlement and housing;
- 33.2. Economic development;
- 33.3. Built environment and heritage;
- 33.4. Connectivity;
- 33.5. Coastal hazards;
- 33.6. Landscape and environment;
- 33.7. Liveability.

34. To guide settlement and housing growth, the Structure Plan specifies:

- 34.1. A coastal settlement boundary based on the principles contained in *Planning Practice Note No. 36: Implementing a Coastal Settlement Boundary*. The boundary is outlined in black on Figure 1 above.

- 34.2. Preferred housing outcomes for precincts within Port Fairy.

- 34.3. Locations for infill housing within the existing township.

- 34.4. Growth Areas A and B, which are greenfield areas for the delivery of housing. Growth Area A is located to the west of the existing township between Princes

Highway and Hamilton-Port Fairy Road. It has capacity for approximately 378 lots at an average lot size of 500sqm. Growth Area B is located along the Albert Road Ridgeline. It has capacity for approximately 211 lots at an average lot size of 500sqm.

35. From page 76, the Structure Plan provides an overview of how it will be implemented, including that implementation will occur over time and require an amendment to the Planning Scheme in relation to planning policy and applicable zone and overlay controls.
36. The Structure Plan has taken into account a possible future bypass, identified by the Department of Transport (formerly VicRoads). Council understands that a bypass is a long term proposition. It will be considered as part of the Commonwealth funded *Princes Highway Corridor Strategy*.

Translation of Port Fairy Coastal Hazard Assessment (18 August 2019)

37. The *Translation of Port Fairy Coastal Hazard Assessment* (18 August 2019), prepared by Cardno, was commissioned by Council to expand storm tide and riverine flood modelling and datasets that had been created as part of the *Port Fairy Coastal Hazard Vulnerability Assessment* to identify coastal risks for planning purposes based on the best available information.
38. The project involved:
 - Preparing additional hydrodynamic modelling of the township of Port Fairy with comprehensive data for depths, velocities, flow paths and estimated length of time for inundation for the Port Fairy township.
 - Mapping present day 1% AEP (Annual Exceedance Probability) and the 0.2m SLR scenario storm tide flood levels and a range of various SLR and catchment flooding scenarios.
39. The scenarios mapped comprise:
 - Present Day (2% Ocean AEP, 10% catchment AEP)
 - Present Day (1% Ocean AEP, 10% catchment AEP)

- Present Day (1% Ocean AEP, 1% catchment AEP)¹³
- 2030 (1% Ocean AEP with 0.2 m SLR rel. 1990, 10% catchment AEP)
- 2050 (1% Ocean AEP with 0.4 m SLR rel. 1990, 10% catchment AEP)
- 2080 (1% Ocean AEP with 0.8 m SLR rel. 1990, 5% catchment AEP)
- 2100 (1% Ocean AEP with 1.2 m SLR rel. 1990, 5% catchment AEP)
- Future Conditions 1 (1% Ocean AEP with 0.8 m SLR rel. 1990, 1% catchment AEP)¹⁴
- Future Conditions 2 (1% Ocean AEP with 1.2 m SLR rel. 1990, 1% catchment AEP).¹⁵

40. The mapping generated is contained in Appendix of that report.

41. The work preceding the *Translation of Port Fairy Coastal Hazard Assessment* is summarised in **Appendix 2** to this submission.

Flood Summary Report (2021)

42. Following consideration at officer level of submissions to the exhibition of the Amendment, Council commissioned HARC to undertake further flood modelling and prepare the *Flood Summary Report 2021*.

43. In summary, the additional flood modelling involved the following:¹⁶

- a change in ocean boundary level estimates based on best available information;
- consideration of the appropriate river/storm tide coincident events in the Moyne River estuary (including Belfast Lough);
- an analysis of relative dominance of storm tide versus riverine flood risk in the Moyne River estuary portion of the floodplain;
- further modelled scenarios as requested by GHCMA; and
- updated mapping.

¹³ Prepared at the request of GHCMA.

¹⁴ Prepared at the request of GHCMA.

¹⁵ Prepared at the request of GHCMA.

¹⁶ Page 5.

44. Based on the further modelling, the report recommends planning for a ‘1.2m sea level rise case adopting an envelope of the maximum flood extent from the 1% River and 5% Ocean AEP events and the 5% River and 1% Ocean AEP events as the planning flood extent defined by the LSIO.’¹⁷
45. Importantly, in support of the adoption of a 1.2m SLR, the report states:¹⁸
The level of the maximum 0.8m SLR cases plus a 300mm freeboard level is unlikely to provide protection against flood levels likely to occur in the area when sea level rise exceeds the 0.8m threshold, noting that the latest IPCC report (Sept. 2019) for the Oceans and Cryosphere has revised upward the projected global average increase in sea level to 1.1 metres by 2100.

Port Fairy Local Floodplain Development Plan

46. The draft *Local Floodplain Development Plan 2019 (LFDP 2019)* was exhibited with the Amendment in 2020.
47. Following the consideration at officer level of submissions to the exhibition, Council undertook further work in consultation with the GCHMA. This further work included updating the LFDP 2019. The draft *Local Floodplain Development Plan dated December 2021 (LFDP 2021)*.
48. As explained in *Planning Practice Note 12: Applying the Flood Provisions in the Planning Scheme*, the purpose of the LFDP is:
- *to provide a set of requirements and guidelines for development in a particular area. It should address local circumstances and record local flooding information.*
 - *to simplify and streamline the consideration of planning permit applications and avoid the need to prepare a flood risk report.*
49. Consistent with PPN12, the Amendment proposed to incorporate the LFDP into the Planning Scheme. The LFDP works in conjunction with the FO and LSIO. The

¹⁷ Page 26.

¹⁸ Page 26.

requirements in the LFDP prevail over the FO and LSIO. This allows the controls to target local requirements.

50. Before the *Flood Summary Report 2021*, land forming part of inland Port Fairy (the LSIO2 area) was given the same treatment as land impacted by coastal and riverine flooding. As this area is not influenced by coastal processes, the *Flood Summary Report 2021* modelling correctly excluded coastal inundation. The modelled flood extent for this area is based on riverine flooding only. The updated LDPF 2021 recognises that this area should still be subject to freeboard provisions.

Fencing in Flood Prone Areas Guidelines (July 2015)¹⁹

51. The *Fencing in Flood Prone Areas Guidelines* (July 2015) prepared by the GHCMA is proposed to be:
 - 51.1. incorporated into the permit requirements at Section 3.0 of the LSIO4 and FO3 so that a permit is not required for a fence if it meets the guidelines;
 - 51.2. inserted as an incorporated document in the Schedule to Clause 72.04 (Documents Incorporated in this Planning Scheme).
52. The Guidelines provide direction as to the appropriate fence type and design depending on the type of flooding and the applicable Planning Scheme zone or overall control.

Chronology of Events

53. A chronology of key events relevant to the Amendment is contained in **Appendix 4**.

Strategic work prior to the Amendment

54. Since 2008, various flood modelling projects have been carried out for Port Fairy. The outputs of these projects are set out in **Appendix 2**.

¹⁹ A subsequent version was issued in 2021.

55. The *Port Fairy Local Coastal Hazard Assessment 2013 (the PFLCHA)*, discussed in further detail in **Appendix 2**, identified Port Fairy at risk to two natural hazards, coastal erosion and coastal inundation. It was adopted by Council in 2013.
56. In the same year, Council received funding through a State government pilot project to translate local coastal hazard information into the planning scheme. In 2014, Council received a State government grant under the Community Asset Improvement Planning Program to prepare the Structure Plan. The translation and preparation of the Structure Plan were carried out as an integrated strategic project. Both were informed by the PFLCHA.
57. The project involved the following broad stages:
 1. Project management and process design – including establishing a Project Control Group (**PCG**) comprising representatives from Department of Environment, Land, Water and Planning (**DELWP**), GHCA and Council officers. A representative from VicRoads was added to the PCG membership at Stage 4.
 2. Background, literature review and mapping, and undertaking an issues and opportunities analysis.
 3. Community Consultation on the issues and opportunities analysis.
 4. Preparation of and community consultation on the draft Structure Plan.
 5. Adoption of the final Structure Plan.
 6. Implement the final Structure Plan via Planning Scheme Amendment (current).
58. At its Ordinary Meeting on 28 August 2018, Council resolved to adopt the Structure Plan (completed stage 6 above) and seek authorisation from the Minister for Planning to prepare and exhibit an amendment to the Planning Scheme to implement the Structure Plan.

Authorisation of the Amendment

59. On 4 March 2020, the Amendment was authorized by DELWP under delegation from Minister for Planning. The authorisation was subject to the following conditions:
 1. *Confirm the consistency of rezoning residential areas in Port Fairy to the Neighbourhood Residential Zone (NRZ1) with planning practice notes PPN90 and PPN91, and any council housing strategic directions.*

2. *Review the water reclamation plant buffer approach (ESO7) in the context of the State Government's proposed amendments to the Victoria Planning Provisions for buffers and separation distances (Planning for buffers and separation distances).*
3. *Update the current LSIO Schedule 2 and FO Schedule 2 to clarify their application and ensure consistency with the new flood provisions to be introduced by Amendment C69moyn.*
4. *Include Design and Development Overlay (DDO) deletion maps to delete the existing DDOs applying to Port Fairy.*
5. *Include an amendment to the Schedule to Clause 72.03 to record the insertion of new planning scheme maps 36EMO and 36PO.*
6. *Correct mapping and ordinance errors and inconsistencies as per attached tables.*
7. *Redraft the Explanatory Report and Instruction Sheet to reflect above changes.*

60. A copy of the authorisation letter is contained in **Appendix 5**.

61. The conditions of authorisation were addressed prior to exhibition.

Exhibition

62. The Amendment was exhibited between 14 May and 28 June 2020 in accordance with the PE Act.

63. The exhibition involved:

63.1. sending letters to affected land owners and occupiers;

63.2. sending letters to prescribed Ministers and relevant government bodies and agencies;

63.3. placing notices in the local newspaper, the Government Gazette, and on the DELWP and Council's websites.

Submissions

64. In response to exhibition, Council received 86 submissions. A key concern raised by some submitters related to the basis for the application of FO3 and LSIO4, and the draft *Local Floodplain Development Plan 2019*.

65. After preliminary consideration of submissions by Council officers and consultation with GHGMA, Amendment was placed on hold in August 2020 to enable additional flood

modelling to be undertaken. The further flood modelling was to ensure that the Amendment was based on robust and the best-available information.

66. In 2020, Council appointed Hydrology and Risk Consulting Pty Ltd (**HARC**) to undertake the further modelling. The further modelling prepared by HARC was finalised following consultation with the GHCMA. HARC produced the *Flood Summary Report 2021*, discussed in **Appendix 2**. Based on the further flood modelling maps, revised FO and LSIO maps were prepared.
67. During the same period, Council in collaboration with GHCMA prepared the *draft Local Floodplain Development Plan 2021*, which updated the *draft Local Floodplain Development Plan 2019* initially exhibited.
68. Between 16 December 2021 and 31 January 2022, Council conducted a further non statutory consultation process to allow the community to make submissions in relation to:
 - 68.1. the additional work undertaken in relation to the Amendment; and
 - 68.2. all Amendment documentation previously exhibited.
69. In response to the further consultation, 64 submissions were received (including 22 submissions from persons who made a submission in response to the exhibition in 2020). Following the appointment of a Planning Panel, two supplementary submissions from submitter nos. 4 and 69 have been received.
70. At its Ordinary Meeting on 1 March 2022, Council resolved to refer all submission to a Planning Panel except those related to abandoned parts of the Amendment,²⁰ as detailed above.
71. A summary table of submissions and Council's initial responses to issues raised in submissions is in **Appendix 3**. Council will expand on the issues raised in its Part B submission.

²⁰ Ordinary Council Meeting Minutes of 1 March 2022, Item 4.

THE AMENDMENT

72. As exhibited, the Amendment proposes to:

Planning Scheme Maps

- Rezone all land currently in the General Residential Zone (**GRZ**) and the Mixed Use Zone (**MUZ**) to Neighbourhood Residential Zone (**NRZ1**).
- Rezone the Rural Living Zone land in Growth Area A identified in the Structure Plan to NRZ1.
- Rezone land in the Farming Zone (**FZ**), Low Density Residential Zone (**LDRZ**) and one site in the Industrial 1 Zone (**IN1Z**) around Belfast Lough and outside the town settlement boundary to the Rural Conservation Zone (**RCZ2**).
- Apply the Commercial 1 Zone (**C1Z**) to properties identified for expansion of the town centre commercial area and that are currently in the GRZ.
- Amend zone maps to correct historical mapping anomalies within the Port Fairy settlement boundary.
- Apply a Development Plan Overlay (**DPO4**) to Growth Area A and part of Growth Area B identified in the Structure Plan.
- Replace the existing 19 Design and Development Overlays with seven (7) Design and Development Overlays to areas identified in the Structure Plan.
- Apply an Environmental Significance Overlay (**ESO7**) to a 500 metre buffer around the Wannon Water – Port Fairy Water Reclamation Plant.
- Introduce a Land Subject to Inundation Overlay (**LSIO4**) and Floodway Overlay (**FO3**) to the Port Fairy Township to identify areas subject to coastal inundation and a 1.2 metre SLR as per the findings of *the Translation of Port Fairy Coastal Hazard Assessment (Cardno, 2019)*.

- Extend the Erosion Management Overlay (**EMO**) currently applicable in Port Fairy West to areas along the primary coastal dune in South Beach and East Beach.
- Apply the Parking Overlay (**PO1**) to the commercial town centre area in accordance with the recommendation of the *Port Fairy Car Parking Strategy 2017*.

Planning Scheme Ordinance

- Amend Clause 21.06 to reflect a 1.2 metre SLR benchmark as proposed in the new FO and LSIO provisions.
- Amend Clause 21.09 to replace the existing Local Areas Policy for Port Fairy. This includes identifying a settlement boundary as identified in the *Port Fairy Coastal and Structure Plan 2018*.
- Amend Clause 21.11 to introduce the following background documents:
 - *Port Fairy Coastal and Structure Plan 2018*
 - *Translation of Port Fairy Coastal Hazard Assessment - Port Fairy Coastal and Structure Planning Project (Cardno) 2019*
 - *Port Fairy Car Parking Strategy 2017*
- Insert Clause 32.09 Neighbourhood Residential Zone and a new Schedule 1.
- Number the Schedule to Clause 35.06 Rural Conservation Zone to Schedule 1 and insert a new Schedule 2.
- Insert a new Schedule 7 to Clause 42.01 Environmental Significance Overlay.
- Delete existing Schedules 1 to 21 (inclusive) to Clause 43.02 Design and Development Overlay, and insert new Schedules 1 to 7 (inclusive).
- Insert a new Schedule 4 to Clause 43.04 Development Plan Overlay.
- Amend Schedule 2 to Clause 44.03 Floodway Overlay and insert a new Schedule 3.

- Amend Schedule 2 to Clause 44.04 Land Subject to Inundation Overlay and insert a new Schedule 4.
- Insert Clause 45.09 Parking Overlay and new Schedule 1.
- Amend the Schedule to Clause 72.03 What Does This Planning Scheme Consist Of? to insert Planning Scheme Map Nos 36EMO.
- Amend the Schedule to Clause 72.04 Documents Incorporated in this Planning Scheme to replace the existing *Port Fairy Local Floodplain Development Plan 2013* introduced by Amendment C54 with the *Port Fairy Local Floodplain Development Plan 2019* and incorporate the *Glenelg Hopkins Catchment Management Authority Guidelines for Fencing in Flood Prone Areas 2015*.

73. Having considered submission received in response to exhibition and further consultation, Council, at its Ordinary Meeting on 1 March 2022, resolved to abandon the following parts of the Amendment and not refer to a Planning Panel any submission on these issues:

73.1. Insert a new Schedule 7 to Clause 42.01 Environmental Significance Overlay and apply ESO7 to a 500 metre buffer around the Wannon Water – Port Fairy Water Reclamation Plant.

73.2. Insert Clause 45.09 Parking Overlay and new Schedule 1 and apply PO1 to the commercial town centre area in accordance with the recommendation of the *Port Fairy Car Parking Strategy 2017*.

73.3. Amend Clause 21.11 to introduce the *Port Fairy Car Parking Strategy 2017*.

STRATEGIC CONTEXT AND ASSESSMENT

74. This section provides an overview of the strategic basis for the Amendment, including relevant planning policies.

75. The Explanatory Report exhibited with the Amendment includes a strategic assessment in accordance with *Ministerial Direction No. 11 – Strategic Assessment of Amendments*. That assessment is adopted for the purposes of Council's submission and is not replicated below.
76. Strategic issues raised in submissions will be addressed in Council's Part B submission.

Objectives of Planning in Victoria

77. The Amendment implements the following objectives of planning in Victoria:²¹
- (a) *to provide for the fair, orderly, economic and sustainable use, and development of land;*
 - (b) *to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;*
 - (c) *to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;*
 - (d) *to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;*
 - (e) *...*
 - (f) *to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d)...*
 - (g) *to balance the present and future interests of all Victorians.*
78. The Amendment implements these objectives by:
- 78.1. Establishing a long terms land use and development framework which provides direction for residential, commercial and industrial growth as well as accommodating projected future growth.
 - 78.2. Directing growth to areas that avoid or minimise exposure to existing and future natural hazards (coastal and riverine flooding and coastal erosion).

²¹ These objectives are contained in s 4(1) of the PE Act.

78.3. Protecting neighbourhood and streetscape character and heritage values of the township.

78.4. Ensuring that future growth is designed to complement the existing urban fabric.

78.5. Supporting the efficient use of land, infrastructure and services.

Planning Policy Framework

79. The Amendment enjoys strong strategic support from the Planning Policy Framework (**PPF**) in the Planning Scheme.

80. The key clauses in the PPF relevant to the Amendment are contained in **Appendix 1**.

Local Planning Policy Framework

81. The Amendment enjoys strong strategic support from the Local Planning Policy Framework (**LPPF**) in the Planning Scheme.

82. The Amendment supports and implements the Municipal Strategic Statement by:

82.1. In relation to settlement and land use:

- Accommodating future population growth.²²
- Defining a sustainable urban/non-urban edge to Port Fairy, a main townships.²³
- Maintaining a compact urban form that will allow for the ease of service delivery and minimal infrastructure costs.²⁴
- Avoiding rural living and low density residential development, except in areas zoned for those purposes.²⁵

82.2. In relation to flooding and SLR:

²² Clause 21.05, Objective and Clause 21.09-3, Objective.

²³ Clause 21.05, Objective.

²⁴ Clause 21.05, Objective.

²⁵ Clause 21.05, Objective.

- Avoiding any increased risk to human life and property from flood damage.²⁶
- Identifying flood prone land and ensuring that new development is compatible with flood hazard.²⁷
- Ensuring appropriate risk assessment is undertaken to consider the impact and hazards of SLR and climate change impacts.²⁸
- Maintaining the integrity of the existing urban floodways and to identify new floodway areas outside the urban areas.²⁹
- Integrating the effects on flood hazard from both a 100-year ARI flood event and storm tide with a 0.8 metre rise in sea levels projected to the year 2100 in assessing development of greenfield sites in Port Fairy.³⁰
- Using a projected SLR of 0.2 metres over current 1 in 100-year flood levels by 2040 to assess urban infill development in Port Fairy.³¹
- Considering the risks to the township associated with flooding from the Moyne River and ensuring the use of the floodplain is not excessively intensified in strategic planning.³²

82.3. In relation to built form, neighbourhood and landscape character, and heritage:

- Protecting the preferred character for significant coastal landscapes.³³
- Encouraging high quality residential development.³⁴
- Ensuring new development in Port Fairy respects built form and/or the coastal and riverine location of the area, including existing character, the integrity of the dune formations, maintenance of floodplains, native vegetation and significant view lines to and from the coast.³⁵
- Protecting heritage values in Port Fairy.³⁶

²⁶ Clause 21.09-3, Objective.

²⁷ Clause 21.05, Objective.

²⁸ Clause 21.06, Objective.

²⁹ Clause 21.06, Objective.

³⁰ Clause 21.06, Objective.

³¹ Clause 21.06, Objective.

³² Clause 21.09-3, Objective.

³³ Clause 21.06, Objective.

³⁴ Clause 21.05, Objective.

³⁵ Clause 21.05, Objective and Clause 21.09-3, Objective.

³⁶ Clause 21.05, Objective, Clause 21.09-3, Objective and Clauses 22.01-2, 22.01-3

- 82.4. Protecting the natural and man-made assets,³⁷ including significant environmental features in Port Fairy, including the coastline, Moyne River and Belfast Lough.³⁸

SUMMARY OF SUBMISSIONS TO THE AMENDMENT

83. Council has received:

83.1. 86 submissions in response to the exhibition of the Amendment between 14 May and 21 June 2020;

83.2. 64 submissions in response to the further consultation which occurred between 13 December 2021 and 31 January 2021;³⁹ and

83.3. 2 supplementary submissions from Submitter Nos. 4 and 69 following the appointment of the Panel.

84. In summary, common issues raised in submissions are:

84.1. In relation to flood controls:

- Objection to the application of flood provisions to particular properties.
- Objection to rezoning properties in Model Lane to RCZ.
- Support for less development in the floodplain.
- Requests for drafting changes to the FO and LSIO schedules and the Local Floodplain Development Plan.

84.2. In relation to rezoning:

- Objection to rezoning land to NRZ.
- Requests for specific properties to be rezoned/excluded from the Amendment.
- Support for rezoning land to RCZ.

³⁷ Clause 21.05, Objective.

³⁸ Clause 21.09-3, Objective.

³⁹ Submissions received in response to the further public feedback process related to a submission made in response to exhibition were allocated the same submission number with a suffix.

84.3. In relation to Growth Area A, objection to rezoning land for residential development based on:

- flood hazard associated with the land;
- the impact to Companion Lagoon and Latham's Snipe, an endangered species of long-billed wader birds, found at the lagoon;
- proximity to proposed Port Fairy Bypass;
- absence of a Development Contributions Plan Overlay.

84.4. In relation to the DDOs:

- Objection to specific aspects of the DDOs.
- Requests for drafting changes to the schedules.
- Support for rationalisation and clarification of the DDOs.

84.5. In relation to the EMO:

- Requests to extend EMO7 north of the East Beach sea wall.
- Objection to the extension of the EMO7.
- Requests for drafting changes to the schedule.

84.6. Request to amend to the Port Fairy Framework Overall Structure Plan and related maps in the Structure Plan to remove an indicative road from south of Bowker Court, and the indicative pedestrian thoroughfare from private properties in Baxter Street.

84.7. Request to amend Clause 21.09-3 Local Areas – Port Fairy to clarify and consolidate policy.

85. **Appendix 3** contains a summary table of submissions and Council's initial responses to issues raised in submissions.

86. Council's response to submissions will be presented in its Part B submission.

PROPOSED POST EXHIBITION AND FURTHER CONSULTATION CHANGES TO THE AMENDMENT

87. **Appendix 6** contains the 'Day 1' version of the Amendment documents. These documents show in 'tracked changes', the amendments recommended by Council officers in response to submissions.

CONSLUSION

88. This concludes Council's Part A submission.
89. Council will circulate a Part B submission that addresses the matters raised in Panel Direction 25 and focus more directly on the issues raised in submissions, and expert witness statements. As the Part B submission will precede the hearing, Council will make closing submissions once it had heard the submissions and evidence of the parties. Council will provide an updated table of responses to submissions at that stage, if necessary.

Greg Tobin and Allison Tansley

HARWOOD ANDREWS

on behalf of

Moyne Shire Council

LIST OF APPENDICES

Appendix 1	Planning Policy Framework relevant to the Amendment
Appendix 2	Summary of relevant strategic documents
Appendix 3	Summary of submissions
Appendix 4	Chronology of events
Appendix 5	Authorisation letter
Appendix 6	Post Exhibition Proposed Changes to Amendment Documentation