

**MOYNE PLANNING SCHEME AMENDMENT C69
INTRODUCTION OF THE PORT FAIRY
STRUCTURE PLAN, 2018**

NO. 4 BOWKER COURT, PORT FAIRY (SUBMITTER 20)

STATEMENT OF EVIDENCE PREPARED BY STUART MCGURN

URBIS

INTRODUCTION

1. My name is Stuart Andrew McGurn and I am a Director of Urbis Pty Ltd. My qualifications and experience are described in **Appendix A**. I have been instructed by Best Hooper Solicitors (on behalf of the land owner) to provide my opinion in respect of the proposed Amendment C69 to the Moyne Planning Scheme in relation to the land at No. 4 Bowker Court Port Fairy.
2. The subject land comprises an irregular area of open rural land of approximately 11.2 hectares, located approximately 1.4 km south west of the Port Fairy Town Centre. The land is within the General Residential Zone in the Moyne Planning Scheme.
3. Amendment C69 proposes to implement the Port Fairy Structure Plan (2018) and undertake a range of corresponding rezoning, overlay and policy changes which relate to the Structure Plan.
4. Key components of proposed Amendment C69 which affect the subject land are the introduction of the Port Fairy Structure Plan 2018 (Hansen Partnerships) as a background document, application of a new Design and Development Overlay and application of the Floodway Overlay and Land Subject to Inundation Overlay. The introduction of the flood overlays affecting the land reflects a revised Port Fairy Floodplain Development Plan and adoption of a 1.2 metre high benchmark in modelling Sea Level Rise (SLR).
5. My review of the proposed Amendment has been informed having regard to:
 - An inspection of the subject sites and the surrounding area.
 - The Moyne Planning Scheme and reference documents of relevance.
 - Exhibited materials comprising Moyne Planning Scheme Amendment C69. This material includes both the exhibited Planning Scheme clauses and relevant background material as described in the Explanatory Report.
 - The Port Fairy Coastal Structure Plan 2018, Hansen Partnerships (an adopted document of Council).
 - The town planning submission of St Quentin on behalf of the land owner in relation to the proposed Amendment.
 - Council meeting agenda 1 March 2022 recommending the matter be referred to an Independent Panel.
 - Planning Practice Note 36 'Implementing a Coastal Settlement Boundary' (November 2016).
 - Additional materials identified by Moyne Shire Council as background to the Amendment including 'Economic and Tourism Land Use Analysis 2017, Urban Enterprise' and '*Port Fairy Coastal and Structure Plan – Issues and Opportunities Paper May 2017*'.
6. For completeness I note that I have also been engaged in respect C69 as it affects land at 183 Princes Highway Port Fairy. Given the common subject matter there are similarities in elements of my statements.
7. A summary of my opinion in relation to proposed Amendment C69 in relation to the subject land is:
 - **The Port Fairy Structure Plan (and associated documents) identify increasing demand for housing in Port Fairy and a need for increased diversity to support an ageing population and housing for key workers and families.**
 - **Residential development within Port Fairy is constrained by flood risk and heritage, reducing the apparent future supply. Consequently there is a need to consider land which is suitable for future residential development.**
 - **The subject site is well located in the context of the township, is contiguous with existing residential subdivision and proximate to township services.**

- **The subject land has enjoyed residential zoning for a period in excess of 20 years and there is an expectation for a significant contribution to residential opportunities in the township.**
- **The consideration of flood risk is a detailed matter which is addressed in the advice of Mr Warwick Bishop of Water Technology and I defer to him in this regard. I rely on his advice that the land can be suitably managed through the application of the Land Subject to Inundation Overlay and detailed and reasonable design outcomes.**
- **In the face of a major infill opportunity in a highly constrained township there is a need for development opportunities to be determined on their merits and capable of being addressed through detailed investigation and design.**

8. I declare that I have made all the enquiries that I believe are desirable and that no matters of significance which I regard as relevant have, to my knowledge, been withheld from the Panel.

SUBJECT SITE AND SURROUNDS

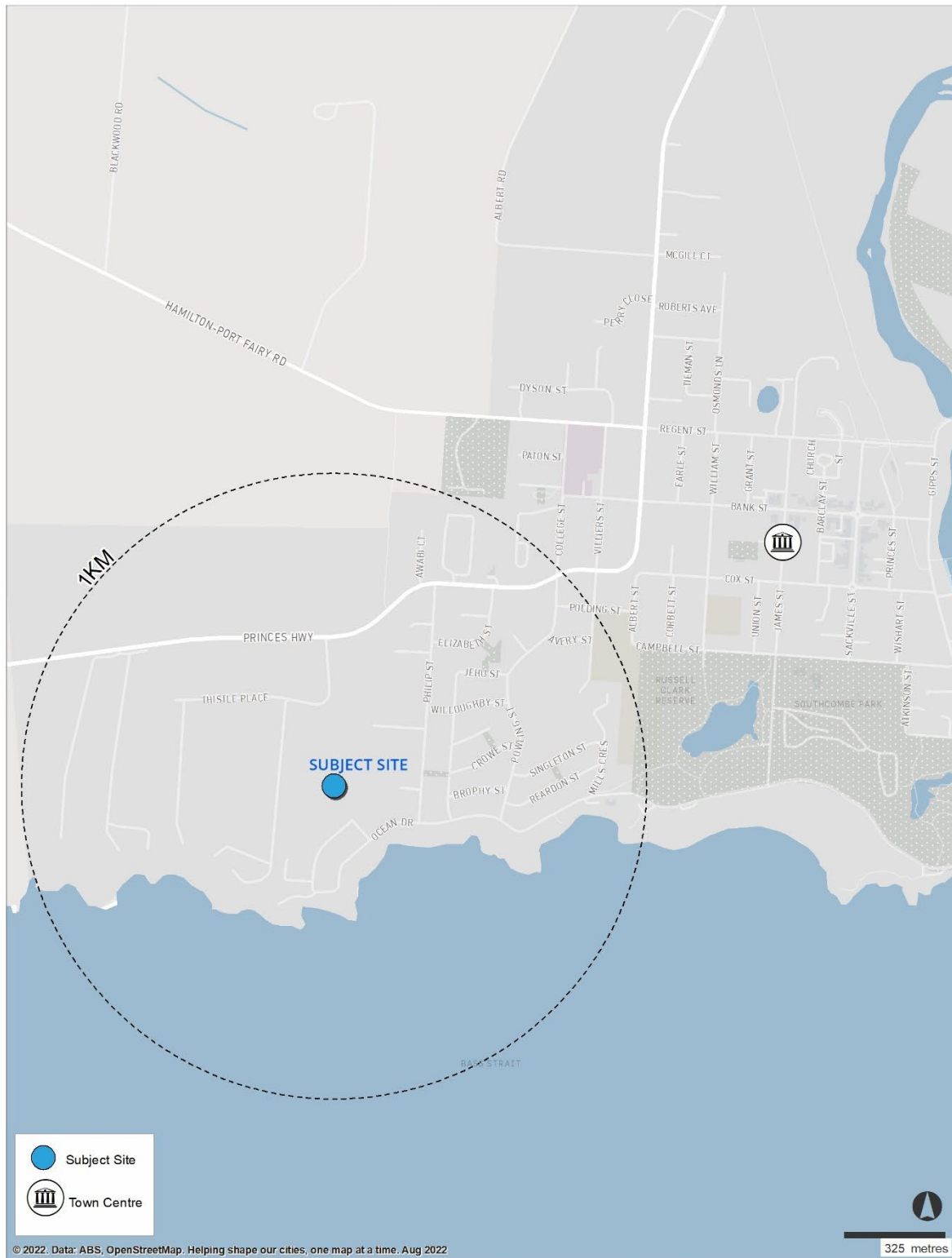
9. The subject land comprises an irregular 11.2 ha area of land, located approximately 1.4 km south west of the Port Fairy Town Centre. The land is known as 4 Bowker Court and is located between recent residential subdivisions in the vicinity of Bowker Court, Anna Catherine Drive, Melford Drive and Martin Laurence Place. The land forms the current western edge of residentially zoned land in the township.
10. The land is presently open vacant rural land which is undulating but generally falling toward the coast to the south. A scattering of vegetation is present across the land. The land include frontage to a laneway to the west, and Anna Catherine Court to the south west. Access is also gained from Phillip Street and Melford Drive. The land is approximately 100 metres from Ocean Drive and the beach at its closest point.
11. An aerial photo of the subject land is included at **Figure 1**. A location plan is included at **Figure 2**.
12. Surrounding land includes the following:
 - To the north west are rural residential style properties with an address to Thistle Place located in the Low Density Residential Zone.
 - To the north east are conventional residential dwellings lots located in Martin Laurence Drive.
 - To the east are conventional residential lots and dwellings located along Phillip Street and Anna Catherine Drive.
 - To the south are conventional residential lots and dwellings located along portions of Anna Catherine Drive and Bowker Court as well as Anna Catherine Drive.
 - To the west is an unmade rural laneway. Land to the west is included in the Rural Living Zone.



4 BOWKER COURT, PORT FAIRY

SITE LOCATION

Figure 1.



URBIS

4 BOWKER COURT, PORT FAIRY

SITE LOCATION

Figure 2.

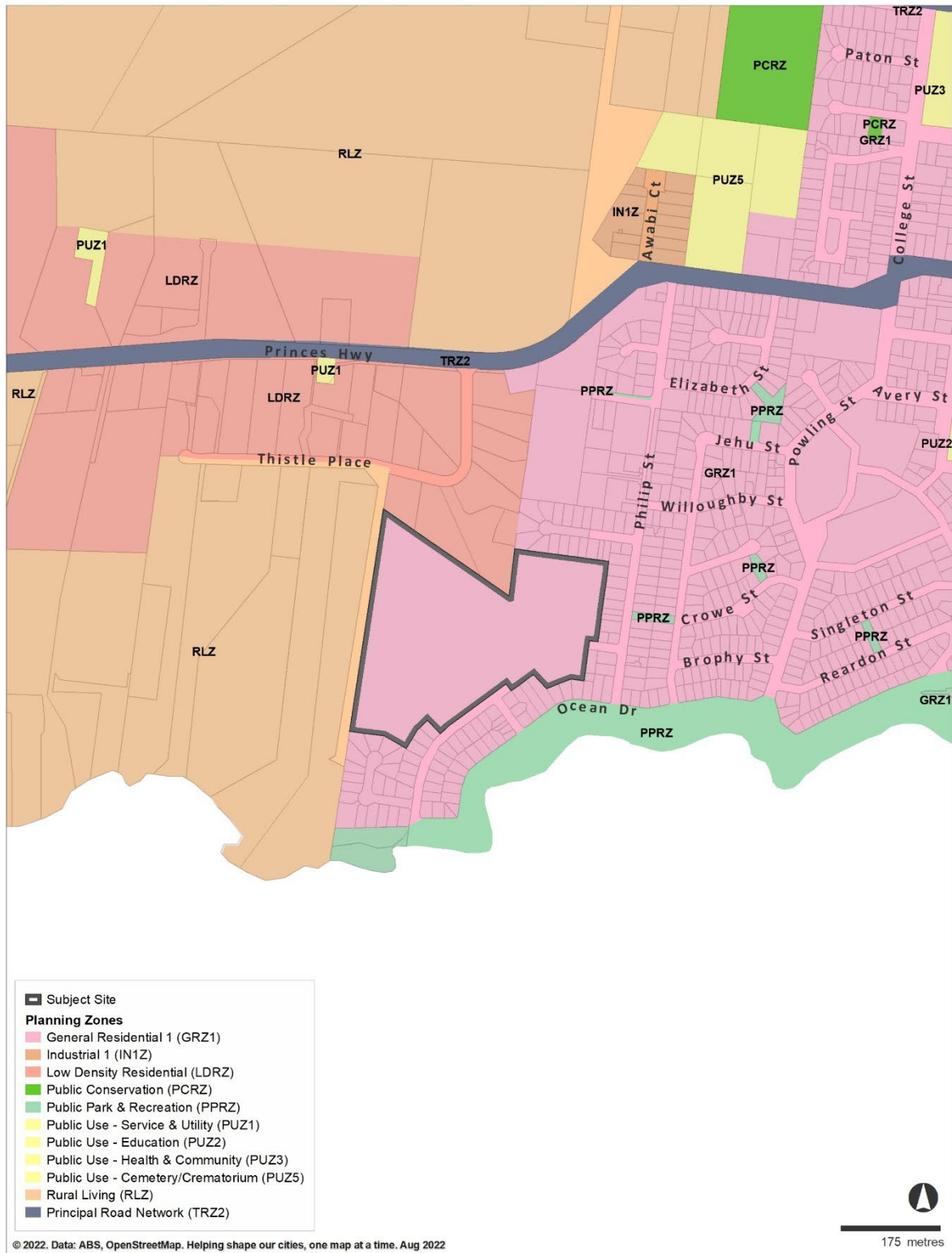
MOYNE PLANNING SCHEME

ZONES AND OVERLAYS

13. The subject site falls within the Moyne Planning Scheme and is contained in the General Residential Zone 1 (**Clause 35.07**). **Figure 3** includes the zoning map extract.
14. The broad purposes of the General Residential Zone are to *'encourage development that respects the neighbourhood character of the area'* and to *'encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport'*.
15. Land in the surrounding area is variously zoned as follows:
 - Land to the east, north east and south is subdivided and largely developed with single dwellings in the General Residential Zone.
 - Land to the north is in the Low Density Residential Zone
 - Large lot open rural areas to the west are in the Rural Living Zone.

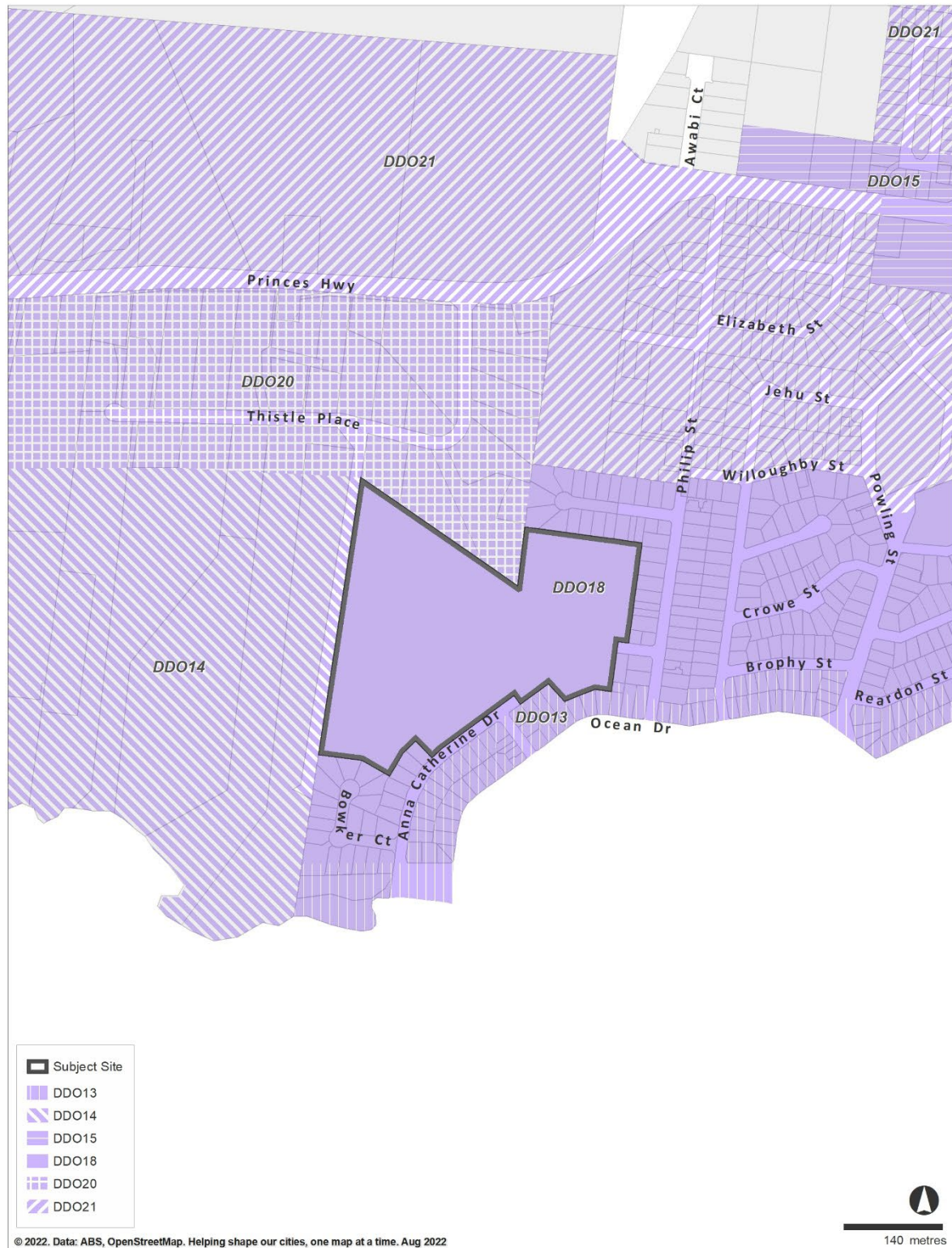
OVERLAYS

16. The subject site is affected by the following Overlays:
 - The subject site and surrounding land to the north and east is included in the Design and Development Overlay 18 'South Beach Behind Foreshore – Port Fairy Design Guidelines Character Area 11'. The extent of the overlay is identified at **Figure 3**. The design objectives broadly seeks to reduce visual intrusion of buildings in the natural setting and encourage development that reflects the coastal location through controls on scale, colours and materials. The design guidelines include a requirement that a *'permit should not be granted to construct a building...which exceed a Design Guidelines Height of 7 metres'*.
 - Land to the north west and west is included in the Design and Development Overlay 20 'Thistle Place – Port Fairy Design Guidelines Character Area 13' and DDO4 'South Beach West - Port Fairy Design Guidelines Character Area 7' respectively.
 - Land to the south west which is in the Rural Living Zone (and beyond this the Farming Zone) is included in the is included in the Environmental Significance Overlay 1.
17. The land is also identified as an area of **Aboriginal Cultural Heritage Sensitivity** and is part of a broader designated **Bushfire Prone Area**.



URBIS 4 BOWKER COURT, PORT FAIRY PLANNING ZONES

Figure 3.



4 BOWKER COURT, PORT FAIRY DESIGN AND DEVELOPMENT OVERLAY

Figure 4.

PLANNING POLICY FRAMEWORK

18. Key elements of the State and Regional Planning Policy Framework include;

- **Clause 11.01-1S** 'Settlement' – to ensure regions are planned in accordance with the regional growth plan – in this case the 'Great South Coast Regional Growth Plan' (Victorian Government 2014). Planning is to *'create and reinforce settlement boundaries'* and to *'provide for growth in population and development of facilities and services across a regional or sub-regional network.'* Port Fairy is identified as a 'District Town' in the Great South Coast Regional Growth Plan'.
- **Clause 11.01-1R** – Settlement – Great South Coast seeks to plan for a network of settlements around Warrnambool, Hamilton and Portland and 'district towns' (including Port Fairy). Key strategies include (selected relevant):
 - *'Support the role of Warrnambool as the key population and employment centre for the region with key links to Geelong and Melbourne.'*
 - *'Facilitate the district towns of Allansford, Camperdown, Casterton, Cobden, Coleraine, Dunkeld, Heywood, Koroit, Mortlake, Port Campbell, Port Fairy, Terang and Timboon to support local communities, industry and services.'*
 - *'Support development and investment in small towns that are facing economic and population challenges.'*
 - *'Support growth and economic opportunities throughout the region, especially along the north-south (Henty Highway) and east-west (Princes Highway) corridors.'*
 - *'Support higher economic and population growth along the east-west primary growth corridor by capitalising and building on existing connections, strengths and infrastructure.'*
- **Clause 11.02-1S** 'Supply of Urban Land' seeks to provide a sufficient supply of land for residential commercial, retail, industrial, recreational, institutional and other community uses. Policy is to provide for projected population growth over at least 15 years at a municipal level and to provide clear direction about where growth should occur.
- **Clause 11.03-4S** 'Coastal Settlement' seeks to plan and manage for sustainable coastal development to protect coastal values by limiting urban sprawl, protecting non urban breaks and protecting eco systems and water quality.
- **Clause 12.02-1S** 'Protection of Marine and Coastal Environment' has the objective *'To protect and enhance the marine and coastal environment'*. Strategies include:
 - *'Maintain the natural drainage patterns, water quality and biodiversity in and adjacent to coastal estuaries, wetlands and waterways.'*
 - *'Maintain and enhance water and soil quality by minimising disturbance of sediments.'*
 - *'Protect and enhance natural features, landscapes, seascapes and public visual corridors.'*
- **Clause 12.05-2S** 'Landscapes' has the objective *'To protect and enhance significant landscapes and open spaces that contribute to character, identity and sustainable environments.'* The strategies seek to ensure that *'development does not detract from the natural qualities of significant landscape areas'*.
- **Clause 13.01-1S** 'Natural hazards and climate change' objective is *'To minimise the impacts of natural hazards and adapt to the impacts of climate change through risk-based planning.'* Strategies include:
 - *'Ensure planning controls allow for risk mitigation and climate change adaptation strategies to be implemented.'*
 - *'Site and design development to minimise risk to life, health, property, the natural environment and community infrastructure from natural hazards.'*
 - *'Consider as relevant: Climate change data and information maintained by the Department of Environment, Land, Water and Planning. Adaptation action plans'*

prepared under Division 2 of Part 5 of the Climate Change Act 2017. Policy documents Consider as relevant: Climate science report prepared under Part 6 of the Climate Change Act 2017.'

- **Clause 13.01-2S** 'Coastal Inundation and erosion' – seeks to plan for the potential coastal impacts of climate change in areas susceptible to inundation, erosion and other factors. Relevant strategies include:
 - *'Plan for sea level rise of not less than 0.8 metres by 2100 and allow for the combined effects of tides, storm surges, coastal processes and local conditions such as topography and geology when assessing risks and coastal impacts associated with climate change.'*
 - *'Ensure that land subject to hazards is identified and appropriately managed to ensure that future use and development is not at risk.'*
 - *'Avoid use and development in areas vulnerable to coastal inundation and erosion. Respond to marine and coastal processes in the context of the coastal compartment type.'*
 - *'Assess the effectiveness, costs, benefits, impacts (direct, cumulative and synergistic) and path dependency of available adaptation options in the following order: 1. non-intervention 2. avoid 3. nature-base methods 4. accommodate 5. retreat 6. Protect'*
 - **Clause 13.02-1S** 'Bushfire Planning' takes a risk based approach to bushfire and communities to direct population and development to low risk locations and prioritise human life.
 - **Clause 13.03-1S** 'Floodplain management' has the objective:

'To assist the protection of:

 - *Life, property and community infrastructure from flood hazard, including coastal inundation, riverine and overland flows.*
 - *The natural flood carrying capacity of rivers, streams and floodways.*
 - *The flood storage function of floodplains and waterways.*
 - *Floodplain areas of environmental significance or of importance to river, wetland or coastal health.'*
 - **Clause 15.03-2S** 'Aboriginal cultural heritage' seeks to *'ensure the protection and conservation of places of Aboriginal cultural heritage significance'*. Strategies include ensuring the protection of pre and post contact Aboriginal cultural heritage places.
 - **Clause 16** 'Housing' notes that *'Planning should provide for housing diversity, and ensure the efficient provision of supporting infrastructure.'* Housing should have good access to services, walkability to activity centres, public transport schools and open space. **Clause 16.01-1S** 'Housing Supply' seeks to facilitate well located and diverse housing supply that meets community needs.
 - **Clause 17.01-1R** 'Diversified economy - Great South Coast' supports agriculture as a primary source of economic prosperity in contribution to the food production.
19. **Clause 21** of the Moyne Shire Planning Scheme identifies Port Fairy as a 'major town' in the Shire. A landscape character assessment 'Great Ocean Road Landscape Assessment Study, 2003 identified Port Fairy as part of a significant landscape along the coast extending from Port Fairy to Warrnambool.
20. **Clause 21.03** outlines key 'Factors influencing future planning and development', including (selected):
- *'The population of Moyne is relatively stable with some population decline in the northern area of the Shire.'*
 - *'The population in the Shire's townships and settlements is ageing and this trend is likely to continue as older people remain in the townships, people retire from farms to towns, and retirees move to the Shire from other areas.'*

- *The development of housing in sensitive locations, such as the coastline is an issue.*
- *The Shire has a high quality historic built environment, a wide range of heritage places in towns and rural areas, towns of distinctive urban character, farmland of historic and landscape interest and rich aboriginal heritage.*
- *The importance of landscape character to the economy of the Region and the need to relate new development to landscape character.*
- *The importance of containing township development within defined boundaries, and of managing development on the fringes of townships so that it enhances the character of the town's landscape setting.*

21. **Clause 21.03** also identifies that under the 'Coastal Recommendations Report (2006) Port Fairy has the 'classified role and function' of:

'Port Fairy – District Town with moderate growth capacity with some growth potential beyond existing urban zoned land or through infill but within defined settlement boundaries;'

22. Port Fairy is also recognised as an 'activity node' in the Victorian Coastal Strategy and is identified as exhibiting the following values:

- *'Natural and cultural values including sites of indigenous and non-indigenous significance, scenic landscapes, wildlife viewing and wetlands and ecosystems;*
- *Commercial fishing, shipping and boat harbour activities and residential development; and*
- *Tourism and recreation values including swimming and surfing beaches, recreational fishing and boating and a range of accommodation types.*

23. 'Settlement and Housing' at **Clause 21.05** recognises Port Fairy as *'an historic coastal town that offers a high quality of life for its residents and is a popular tourist destination'*. A key issue for Port Fairy is an increasing number of older residents along with character. This clause notes *'Port Fairy contains a range of natural and built elements which contribute to a unique Neighbourhood Character and which is being threatened by intensive forms of new development'*. Also, *'Development in Port Fairy is placing pressure on views from the public domain on the coast and river environment, which contribute to the character of the town and are sensitive to the height of development'*.

24. Relevant objectives in relation to 'Settlement and Housing' include:

- *'To define a sustainable urban/non urban edge to the main townships and settlements within the Moyne Shire. To maintain compact urban forms that will allow for the ease of service delivery and minimal infrastructure costs. Unplanned developments that have potential to adversely affect the landscape and environmental qualities of the municipality, will not be supported.*
- *To protect the Neighbourhood Character of Port Fairy. To ensure that 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.*
- *To identify flood prone land and ensure that new development is compatible with flood hazard*
- *To recognize that views form an important part of the amenity of a property and to provide for a reasonable sharing of views of significant landscape features, including views of the ocean, coastal shoreline, estuaries, wetlands and notable cultural features.'*

25. Corresponding strategies include (selected relevant):

- *Provide for a diverse range of housing opportunities that do not detrimentally impact on the residential amenity of an area.*

- *To encourage population growth within all areas of the Shire.*
- *To encourage a range of accommodation opportunities in urban areas including medium density housing to suit the various and changing needs of the Shire's residents.*
- *To introduce mandatory building height controls to ensure that new development will not dominate the coastal and Moyne River estuary surroundings and viewlines of Port Fairy.*
- *To introduce discretionary building height controls to ensure that new development will respect the Neighbourhood Character in the established areas of Port Fairy away from the coast and the Moyne River estuary.*
- *To encourage residential development within existing serviced areas and established settlements.*
- *To encourage aged and special care accommodation within the Shire.*
- *Protect residential amenity by encouraging a reasonable sharing of views between new and established properties, particularly where the view is of a significant landscape feature, including views of the ocean and coastal shoreline, coastal cliffs and sand dunes, rivers and estuaries and notable cultural and scenic landscape features.*

26. **Clause 21.06** relates to 'Environment' and notes the significance of the coastal environment and associated wetlands and estuaries. Issues include sprawling development at the edges of Port Fairy which 'spills' into the natural landscape. Landscape character and significance identifies:

'Port Fairy to Warrnambool Coast – Regional Significance, which is evident by the contrasting landscape views between the open farming areas and coastal edge at Killarney from Tower Hill and the Princes Highway encompassing the coastal dunes and waterways'.

27. Key issues are identified in relation to the protection of vegetation, protection of environmental features, habitat protection and flood plain management. Relevant objectives include:

- *'To integrate 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.*
- *For urban infill development in Port Fairy, a projected sea level rise of 0.2 metres over current 1 in 100 year flood levels by 2040 will be used to assess development.*
- *To implement the requirements of the Port Fairy Local Floodplain Development Plan 2013 Incorporated Document.*
- *To ensure that appropriate risk assessment is undertaken to consider the impact and hazards of sea level rise and climate change impacts. To avoid impacting the environment from the exposing of acid sulphate soils.'*

28. The Local Area Policy for Port Fairy is at **Clause 21.09- 3**. It includes the Port Fairy Structure Plan. Key elements of the local area policy include:

- *To retain coastal and river character of Port Fairy, including vegetation and new works which respect the areas coastal landscapes and heritage.*
- *A range of residential opportunities is facilitated which protect and reflect the important historical and amenity values present in Port Fairy. Smaller lot subdivision and higher density types of residential development compatible with the character and appearance of the area be encouraged.*
- *Infill residential development should be encouraged to strengthen the population base within walking distance of the commercial area.*

- Port Fairy should remain the retailing, service and cultural centre for the surrounding districts.
- Significant environmental features which contribute to the appeal of Port Fairy, including the coastline, the Moyne River, the Lough and the significant areas of open space should be protected and promoted.
- Minimise development on land liable to flooding and, where development is permitted, ensure that the siting of buildings and works takes into account the potential depth of flooding, the route of major floodways and the impact on the operation of the Moyne River floodplain and its tributaries.
- Ensure that all new development permitted on the floodplain maintains the free passage and temporary storage of floodwater, minimises flood damage and is compatible with flood hazard and local drainage conditions.
- Strongly discourage the filling of land which is liable to flooding unless balanced cut and fill can be achieved as per the Glenelg Hopkins Catchment Management Authority Guidelines for Floodplain Cut and Fill.

29. The Port Fairy Framework Plan at **Clause 21.09-3.1** is included at **Figure 5**

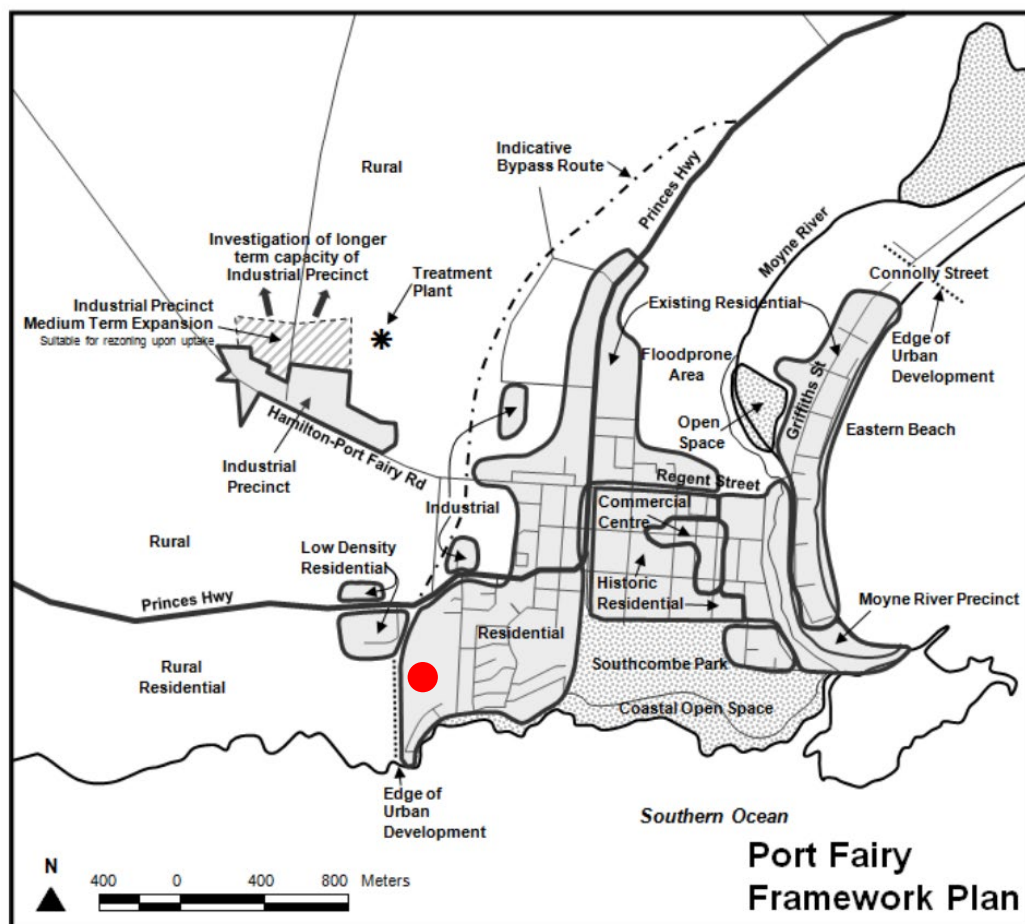


Figure 5: Extract from Clause 21.09-3.1 'Port Fairy Framework Plan' (Subject Site ●)

PROPOSED AMENDMENT C69

30. Amendment C69 seeks to implement the recommendations of the 'Port Fairy Coastal and Structure Plan 2018'. The amendment makes a suite of changes to Local Policy, implements new zone and overlay controls and updates operational provisions. The Amendment – through reference to the Structure Plan and in the Port Fairy Policy at **Clause 21.09** will identify a settlement boundary for the township. The Structure Plan also identifies two 'Growth Areas' to address residential demand.
31. The Amendment was exhibited in May and June 2020. Following submissions, further hydrological modelling was prepared by Hydrology and Risk Consulting Pty Ltd on behalf of Council. The work was completed in August 2021 and available for public consultation between December 2021 and January 2022. Council considered Amendment C69 at the Council meeting on 1 March 2022 and resolved to refer submissions (128 in total) to an independent Panel.
32. In respect of the subject site the Amendment proposes the following relevant changes:
- Revising the Local Areas Policy for Port Fairy at **Clause 21.09**, including identifying a settlement boundary for the township as identified in the 'Port Fairy Coastal and Structure Plan 2018'.
 - Within the Structure Plan identify the subject site as:
 - Within the Settlement Boundary
 - Depicted in Figure 8 'Settlement and Housing' Plan as '*existing residential infill area*' and '*assess appropriate residential density*'.
 - Introducing the relevant background documents at **Clause 21.11**:
 - '*Port Fairy Coastal and Structure Plan 2018*'
 - '*Translation of Port Fairy Coastal Hazard Assessment - Port Fairy Coastal and Structure Planning Project (Cardno) 2019*'
 - Update the list of Incorporated Documents in the Schedule to **Clause 72.04** to introduce:
 - An updated '*Port Fairy Local Floodplain Development Plan 2019*'; and
 - '*Glenelg Hopkins Catchment Management Authority Guidelines for Fencing in Flood Prone Areas 2015*'.
 - Revise the existing DDO18 into a new DDO4 including a requirement that '*building height must not exceed 9 metres*' and separation setbacks of 6 metres on at least one side boundary from adjoining dwellings.
 - Applying Floodway Overlay 3 and Land Subject to Inundation Overlay 4 to identify areas subject to coastal inundation and a 1.2 metre sea level rise based on the report 'Translation of Port Fairy Coastal Hazard Assessment' Cardno, 2019.
 - Rezone the land from the General Residential Zone 1 to the Neighbourhood Residential Zone 1. This includes a maximum mandatory building height of 9 metres and 2 storeys.
 - Amend the policy at **Clause 21.06** and **Clause 21.11** to reflect a 1.2 metre sea level rise benchmark as proposed in the new Floodway Overlay and a Land Subject to Inundation Overlay provisions.
33. The impact of these amendments is addressed in my assessment.

ASSESSMENT

EXISTING RESIDENTIAL CONTEXT

34. The subject site is located within 1.4 kilometres of Port Fairy town centre and at its closest point is within 100 metres of the beach and Ocean Drive. The land sits at the western edge of existing residentially zoned land within Port Fairy.
35. The General Residential Zone, enables a permit application to be sought for a residential subdivision of the land. The land is also subject to the Design and Development Overlay 18 but is not subject to any existing flood controls in the Planning Scheme. DDO18 'South Beach Behind Foreshore – Port Fairy Design Guidelines Character Area 11' broadly seeks to reduce visual intrusion of buildings in the natural setting and encourage development that reflects the coastal location through controls on scale, colours and materials'. The design guidelines include a requirement that a *'permit should not be granted to construct a building...which exceed a Design Guidelines Height of 7 metres'*.
36. The land owner has developed residential subdivisions to the north and the south of the subject land. Where developed, these areas comprise largely two storey contemporary homes of varying architectural styles. I am instructed that a planning permit application for a residential subdivision of the subject land was previously lodged with Council. However, the application lapsed during the time for response to the further information request - while investigation into water management and flood risk was undertaken.

OVERVIEW OF PORT FAIRY STRUCTURE PLAN 2018

37. Amendment C69 proposes to introduce the Port Fairy Structure Plan and implement its recommendations within the Planning Scheme. The Structure Plan was prepared by Hansen Partnership on behalf of Moyne Shire and was adopted by Council in 2018. The Structure Plan is intended to enable a translation of the recommendations of the Port Fairy Local Coastal Hazard Assessment 2013 and provide a long-term strategic framework to guide and manage land use and development in Port Fairy and the surrounding area.
38. The Structure Plan is intended to support Port Fairy in fulfilling its role as a 'district town' within the Great South Coast Region. The town is recognised as having a valuable economic and social role and displays significant landscapes with high quality residential and heritage environments. The Structure Plan provides guidance for future development, residential growth areas and the commercial centre (amongst other things). A strong theme of the Structure Plan is to manage the demand for housing having regard to the established character and heritage and environmental constraints.
39. The Structure Plan recognises the historic village character and environmental sensitivity of Port Fairy. The Structure Plan identifies 13 Key Directions for the Township:
 - *'Respond to the housing needs of existing and future residents*
 - *Recognise the critical importance of Port Fairy's character and heritage*
 - *Protect the settlement's sensitive coastal surrounds*
 - *Recognise the regional importance of Port Fairy's tourism industry*
 - *Plan for future local employment opportunities*
 - *Prioritise the creation of a walkable and cycle-able town*
 - *Develop a network of diverse open spaces*
 - *Support equitable access to services and facilities for all*
 - *Plan for a resilient and engaged community*
 - *Be pragmatic but use the precautionary principle in responding to flooding impacts*
 - *Adopt best practice in response to climate challenges*

- *Protect the rural surrounds and improve town centre approaches*
- *Connect and embrace the wharf environs'*

40. The subject land forms part of the 'layered growth' opportunities identified at Page 25 of the Structure Plan. Other opportunities within the Structure Plan are identified as including:

- **Growth Area A** (west of the existing urban area) – requiring rezoning from the Rural Living Zone. This area is seen as the greatest opportunity for 'greenfield' residential development.
- **Growth Area B** along the Albert Road ridgeline, providing opportunities within the Mixed Use Zone and land currently in the Rural Living Zone. This area is recognised as being in fragmented ownership and therefore not a short term opportunity.
- A '**potential residential expansion area**' nominated in relation to existing rural and at No. 183 Princes Highway subject to consideration under Amendment C75.
- Other nominal **infill housing areas** such as along the future bypass alignment or infill in established areas which are capable of yielding only limited additional residential lot outcomes.

41. As noted the subject land is already residentially zoned and is identified in the Structure Plan as '*existing residential infill area*'. An extract of the 'Settlement and Housing Plan' from the Structure Plan is included at **Figure 6**. This is consistent with the Port Fairy Framework Plan **Clause 21.09-3.1** which notes the land as at the edge of the western 'edge of urban development'.

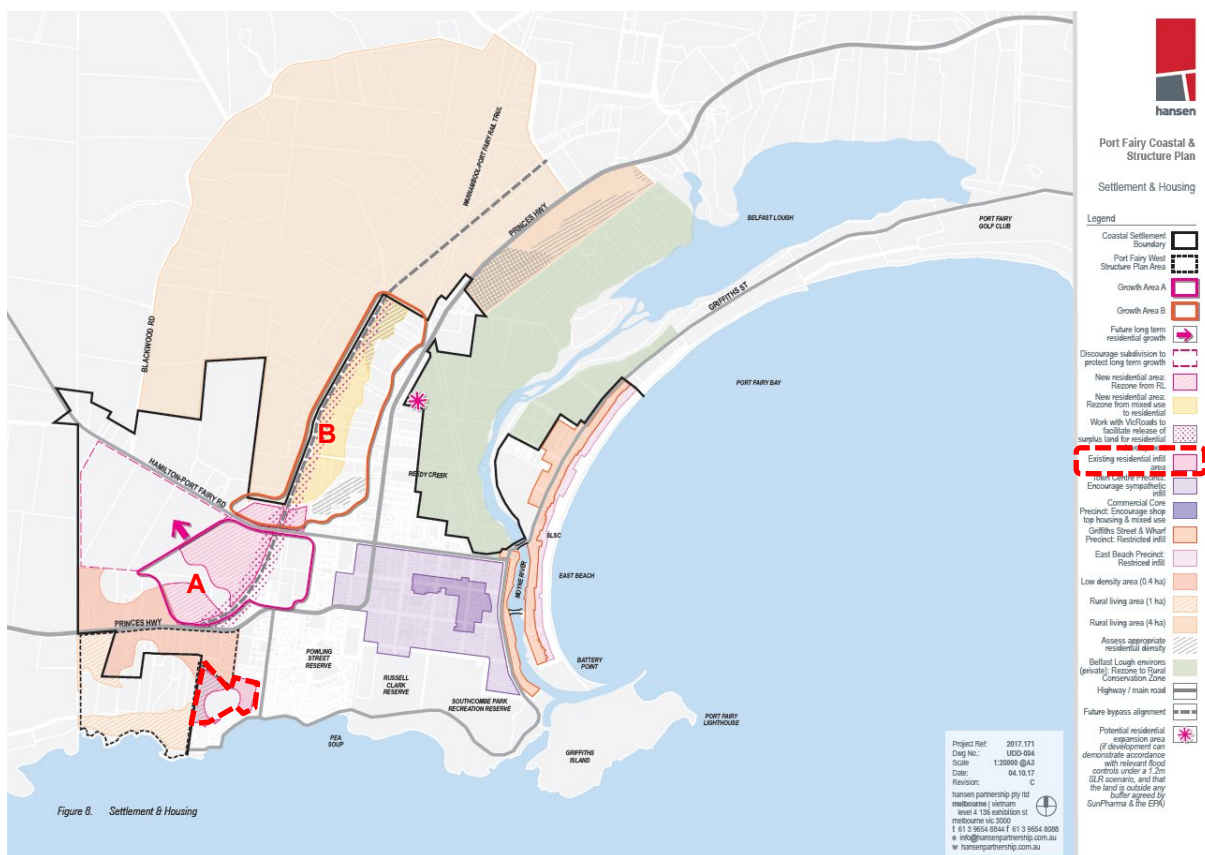


Figure 7. Extract from Figure 8 Settlement and Housing Plan (subject site identified in red dash) .

42. In addition to the 'existing residential infill' designation the 'Settlement and Housing' Plan it notes the western portion of the site marked as 'assess appropriate residential density'. This reflects a key component of the Structure Plan (and C69) to implement updates to the Port Fairy Local Coastal Hazard Assessment. Hydrological modelling is a key element of the Structure Plan and has given

rise to the proposed application of the Floodway Overlay and Land Subject to Inundation Overlay to the subject land - where none presently apply.

43. The extent of the proposed 'updated flood modelling' prepared for Port Fairy and affecting the subject site is included at **Figure 8**. This shows a large central portion of the land as affected by the Floodway Overlay, with peripheral areas included in the Land Subject to Inundation Overlay. To the extent that Amendment C69 proposes to implement flood modelling and the 'Port Fairy Local Coastal Hazard Assessment' this is a highly technical matter and I defer to the advice of Mr Warwick Bishop in respect of the suitability of the modelling and appropriateness of the proposed overlays. I have addressed the potential role of the subject land in providing for growth in Port Fairy in more detail below.

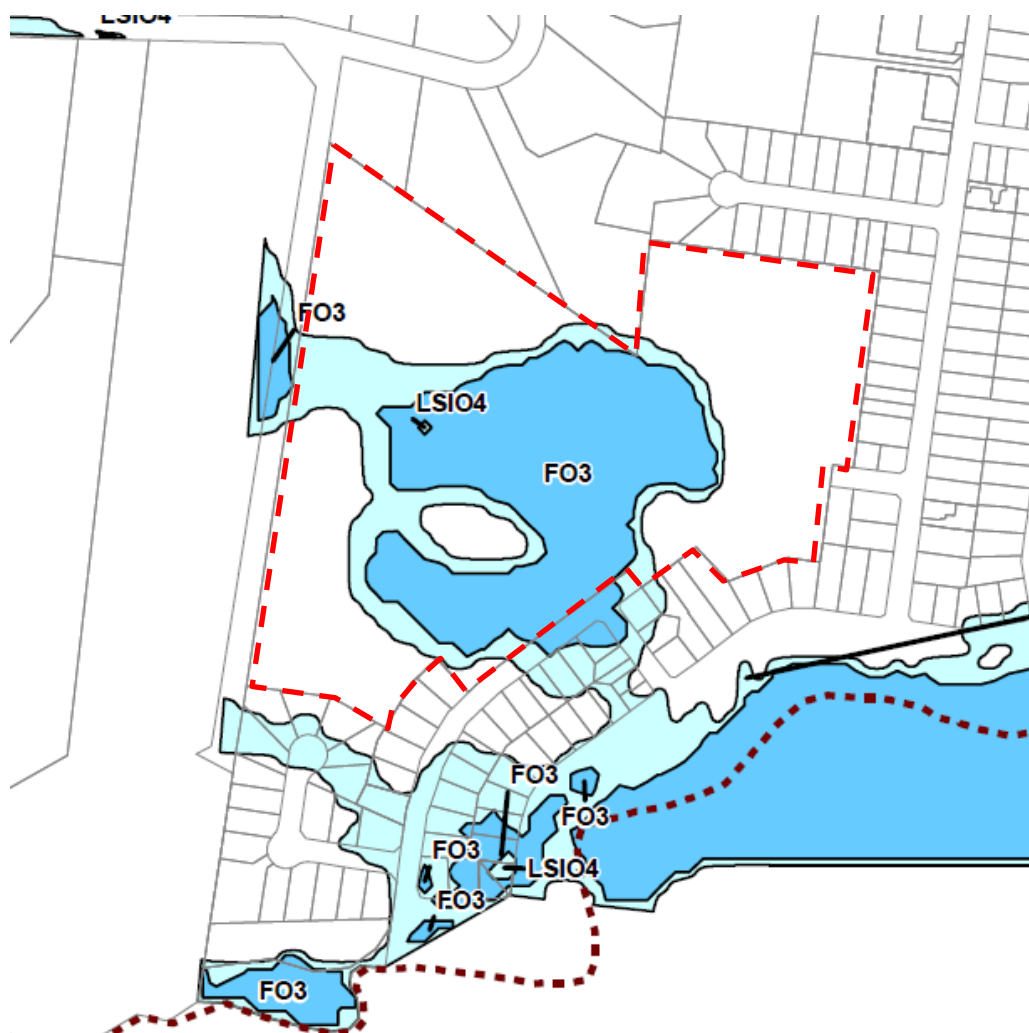


Figure 8: Updated Proposed Floodway Overlay and Land Subject to Inundation Overlay (Site red dashed) – Exhibited January 2022.

44. Additionally within the Structure Plan, the 'Connectivity' Plan at Figure 15 identifies a 'future key pedestrian linkage' applying across the northern boundary of the subject site. While the location of the pedestrian link across the northern boundary of the site will aid connectivity, a detailed design may lead to alternative appropriate east west connections and provision should be made in the Structure Plan for suitable alternative outcomes. As such I consider that it should be labelled 'indicative pedestrian link'.
45. The Structure Plan is a major step in setting future opportunities for growth and development in Port Fairy. Given the constraints to growth identified within the Town, care should be taken to ensure that

the Structure Plan does not unreasonably constrain opportunities that exist across the township. I have addressed these considerations in more detail below.

MANAGING RESIDENTIAL GROWTH IN PORT FAIRY

46. Port Fairy is identified within the State Planning Policy Framework and 'Great South Coast Regional Plan, 2014' as a 'district town'. District Towns are identified as having potential for a 'medium' level of growth. Housing supply and affordability are identified as urgent issues in the Moyne Shire Council Plan 2021-2025, but particularly within Port Fairy where there is an elevated median housing price on account of its desirability for 'lifestyle' choice and the high proportion of 'holiday rentals' (which are vacant for the majority of the year).
47. 'Key issues' associated with 'Settlement and Housing' identified at p.16 of the Structure Plan observe *'The availability of land for residential development is highly constrained and the coastal location means that there are environmental considerations which must guide the location of development'*. Together these strategies emphasise the multiple pressures where demand conflicts with the opportunities for supply. The themes of environment, flood and character constraints are repeatedly emphasised in the existing Planning Policy Framework (as well as the Structure Plan) and inform planning permit applications and Planning Scheme Amendments.
48. This is contrasted with demand for dwellings in Port Fairy being 'reasonably high' (p.16) and identification of Port Fairy as one of the fastest growing regional settlements in Victoria. Multiple housing market pressures have been identified in Port Fairy including the need to support an aging population, adequate provision of affordable long term rental accommodation for key workers and provision of affordable accommodation suitable for families.
49. The demand projections for residential development were informed by demographic analysis prepared by Urban Enterprise (on behalf of Moyne Shire) as part of the 'Economic and Tourism Land Use Analysis Report, 2017'. It is envisaged that the growth areas and a high growth scenario for infill areas will meet associated residential demand until the year 2040.
50. It is noted however that given the Structure Plan was prepared in 2018 it was informed by 'pre covid' population estimates and information available from the 2016 census. At this time it was already observed that there was an accelerating growth rate in Port Fairy of 1.33% per annum between 2011 – 2016 - relative to an average rate of 1.22% from 2001- 2016.
51. By contrast, the growth rate identified for Port Fairy in the 2021 ABS census is 2.5 % per annum between 2016 and 2021. The recording of an increased growth rate is consistent with regional migration trends stemming from heightened 'lifestyle' desirability and increased workplace flexibility as a result of the Covid 19 pandemic.
52. In addition to the above development areas the Structure Plan identifies a long term residential growth area in the Rural Living Zone north of Princes Freeway (also on the west side of town). The purpose of this designation within the Coastal Settlement Boundary is to protect it from subdivision. This land is not accounted for in the supply and demand analysis table in the Structure Plan and it was *'not anticipated this further area will be required before at least 2050 unless there are significant shifts in growth rates'* (p.25) (my emphasis).
53. Increasing acceleration in population change as already observed, may in time prove to be significant shifts in growth rates. In particular the dwelling demand projections in the Urban Enterprise Report nominate a 'High Growth Rate' as 1.5% per annum (based on the Census population growth rate between 2006 and 2016 of 1.54% - p. 57).
54. When considering the factors affecting residential growth in Port Fairy I consider that there remains a need to explore all potential options for future housing supply that are suitably located in the context of the township. This is recognising the need to support residential opportunities on 'multiple fronts' which are contiguous with, and make logical connections with established urban areas. This is not only a need in terms of allocating suitable area, but also giving consideration to the timeframes in which land may be available and ready for this purpose.

WHAT ROLE CAN THE SUBJECT LAND PLAY IN PROVIDING FOR RESIDENTIAL GROWTH IN PORT FAIRY?

55. The subject land is over 11 hectares in area and is well located with respect to the Town Centre and established community and commercial services. Further it is contiguous with existing recent subdivision supporting access to services and infrastructure and is in single ownership by a party with proven delivery of residential development in this setting. In this context it provides a meaningful opportunity to contribute to housing in Port Fairy in a manner which does not adversely affect established character.
56. The contribution of the land to the 'pool' of available residential lots is significant in its ability to support the 'district town' and envisaged medium level of growth. Additionally it supports the Structure Plan objectives for 'Settlement and Housing' to provide 'residential growth across a range of growth fronts and formats to reflect the diversity of demand' (p.28).
57. In relation to 'preferred housing outcomes' in the Structure Plan it is noted that 'the majority of 'conventional' residential development' will be accommodated in the 'residential growth areas'. These areas are to provide 'greenfield' development to ensure that Port Fairy remains accessible to younger families' – with the Key area for this purpose being 'Growth Area A'. It seems that the subject land while not identified as a 'Growth Area' in the Structure Plan has characteristics aligned with growth areas on account of its scale and absence of established character. By contrast other opportunities in the township which are counted as 'infill' are highly constrained by character and amenity considerations and will make only a limited contribution to future housing availability.
58. The 'Economic and Tourism Land Use Analysis 2017' prepared by Urban Enterprise considered the land as comprising a growth area or greenfield opportunity, noting that:
- 'Site A, Shown in Figure 12, is the only greenfield site within the GRZ that is not affected by planning overlays that would restrict development. Under the current controls, it is estimated that the site could be subdivided to create in the order of 168 lots, comprising 52% of the total potential residential lot capacity identified across Port Fairy.'*
- Although the site is not currently affected by the FO or LSIO, the Coastal Hazard Assessment (see Appendix B) shows that this site is subject to flooding and coastal inundation based on a present Day 50 year Average Occurrence Interval (AR). If changes to planning controls reduce the potential lot supply available on this site, due to flooding risk, this would significantly affect the overall residential land supply available in Port Fairy'.*
59. Given the importance of the subject land in responding to residential demand in the short term (as opposed to land holder constraints on some of the identified growth areas) there is a need to ensure that it is not unreasonably encumbered. The submission of the landholder is that the constraints imposed by the proposed flood modelling in concert with the requirements of the proposed DDO will significantly impact the development opportunity of the land. '
60. Like the subject site there are other areas of zoned land (such as along Eastern Beach) which are now considered potentially more constrained (or with less capacity) than previously considered. This is also noting that Amendment C69 proposes to rezone land in the General Residential Zone and the Mixed Use Zone to the Neighbourhood Residential Zone, embedding more restrictive zoning regime (in addition to heritage and environmental overlays).
61. The land has been zoned for residential purposes (Residential 1 Zone) since at least January 2000 when the New Format Planning Scheme was introduced. To this end there has been an expectation for the land to form part of the available land for redevelopment for over 20 years. Also since this time there have been other reviews of flood modelling including in 2013 and 2017.
62. The adoption of a 1.2 metre as the basis for Sea Level Rise in the hydraulic flood modelling prepared in the Port Fairy Local Coastal Hazard Assessment 2017 and 2019 is one of the principal reasons for the proposed extent of change in flood controls affecting the subject land. I defer to the expert advice of Mr Warwick Bishop of Water Technology in this regard and rely on the conclusions in his statement that;

- *'The adoption of 1.2 m SLR for Port Fairy is not appropriate and is inconsistent with planning levels along the rest of Victoria and Australia.'*
 - *An allowance of 0.8 m SLR is appropriate for the designation of areas at risk of future flooding in Port Fairy.*
 - *A minimum freeboard of 0.3 m should be applied in all areas of Port Fairy including areas of riverine and coastal flooding mechanisms.*
 - *The coastal boundary conditions used in the modelling supporting the amendment is uncertain and likely conservative. This means the mapped flood extents are likely overestimated.*
 - *The Floodway Overlay is not an appropriate planning control over areas of coastal inundation (where there is no waterway impact). In these areas the LSIO can adequately capture inundation risk and allow for appropriate conditions on development through the referral process.'*
63. In Mr Bishop's assessment he indicates at p.42 *'the date by which the 1.2 SLR will be exceeded could range from 2120 to 2270. That is in 00 – 250 years. Whilst many models suggest the dates could be earlier than this, an equal number suggest it could be later.'*
64. The State Planning Provision in respect of 'Coastal Inundation and erosion' **Clause 13.01-2S** adopts a rate of 0.8 metre sea level rise by 2100. This approach is set by Planning Practice Note 53 'Managing coastal hazards and the coastal impacts of climate change' states that there is a need to *'Plan for sea-level rise of not less than 0.8 metres by 2100, and allow for the combined effects of tides, storm surges, coastal processes and local conditions such as topography and geology when assessing risks and impacts associated with climate change.'* Given the implications for development (particularly on existing zoned land) adoption of levels beyond this should be rigorously justified if adopted as part of Amendment C69.
65. Further I note the advice of Mr Bishop that manageable flood risk outcomes would be achievable on this land with accepted mitigation measures and detailed design. This outcome would be effectively stymied by application of the Floodway Overlay, Local Floodplain Development Plan and proposed revised Policy at **Clause 21.09**. In particular the extent of the Floodway Overlay would prevent subdivision of a large portion of the land, and the policy would discourage suitable mitigation measures from occurring on land in the LSIO area.
66. I consider that an approach of management and response, rather than 'prohibition' should be adopted in the policy to support suitable development outcomes. This is consistent with strategies at **Clause 13.01-2S** *'Coastal Inundation and Erosion to ensure that land subject to coastal hazard is identified and appropriately managed to ensure that future development is not at risk' (my emphasis)*. Acknowledging Mr Bishops concerns (and alternative suggestions) the approach to sea level rise proposed appears onerous and does not reasonably balance policy considerations.
67. The rezoning of the land from the General Residential Zone to the Neighbourhood Residential Zone is by its nature more restrictive given the purposes of the zone and the relative heights imposed in each case. In addition there will be a complicated interplay between the 'garden area' and site coverage requirements, mandatory and discretionary heights controls and other requirements of the DDO (such as setbacks) and Rescode. It is also not apparent that a detailed assessment has been undertaken in relation to the character controls of the DDO (being largely more prescriptive than the existing DDO control). This includes the requirement for a 6 metre front setback and 6 metre side 'separation' which (notwithstanding they are discretionary) appear relatively onerous in this setting.
68. Given the relatively limited 'interface' issues as well as the detail of flood considerations, I consider that a more flexible approach to controls should be taken to play a facilitative role in the development of the land. This will support it being utilised in a manner which best meets the challenges of the population and housing demands identified by the Structure Plan.
69. In the face of a major infill opportunity and a highly constrained township I consider that there is a necessity to keep the options for development 'open' and capable of being addressed through detailed investigation and design. These are complex matters and will be suitably addressed on a 'case by case' basis informed by expert advice. To this end, the zoning and overlay regime should not minimise or prevent what may otherwise be suitable outcomes on land which clearly has a significant role to play in addressing the housing demand and diversity issues facing Port Fairy.

CONCLUSION

70. In summary my conclusion is that:

- **The Port Fairy Structure Plan (and associated documents) identify increasing demand for housing in Port Fairy and a need for increased diversity to support an ageing population and housing for key workers and families.**
- **Residential development within Port Fairy is constrained by flood risk and heritage, reducing the apparent future supply. Consequently there is a need to consider land which is suitable for future residential development.**
- **The subject site is well located in the context of the township, is contiguous with existing residential subdivision and proximate to township services.**
- **The subject land has enjoyed residential zoning for a period in excess of 20 years and there is an expectation for a significant contribution to residential opportunities in the township.**
- **The consideration of flood risk is a detailed matter which is addressed in the advice of Mr Warwick Bishop of Water Technology and I defer to him in this regard. I rely on his advice that the land can be suitably managed through the application of the Land Subject to Inundation Overlay and detailed and reasonable design outcomes.**
- **In the face of a major infill opportunity in a highly constrained township there is a need for development opportunities to be determined on their merits and capable of being addressed through detailed investigation and design.**

71. I declare that I have made all the enquiries that I believe are desirable and that no matters of significance which I regard as relevant have, to my knowledge, been withheld from the Committee.

APPENDIX A STATEMENT OF QUALIFICATIONS AND EXPERIENCE

NAME AND ADDRESS

Stuart Andrew McGurn
Director
Urbis Pty Ltd
Level 12, 120 Collins Street
MELBOURNE VIC 3000

QUALIFICATIONS

- Bachelor of Arts 1984
- Graduate Diploma Urban Planning 1986

PROFESSIONAL EXPERIENCE

- Current Position: Director, Urbis Pty Ltd
- 2010-2015: Partner, Environmental Resources Management Australia Pty Ltd
- 1998 – 2010: Director, Fulcrum Town Planners Pty Ltd
- 1986 – 1998: Town Planner in local government – Cities of Broadmeadows and Melbourne, including role as Principal Planner – City of Melbourne

AREA OF EXPERTISE

- Statutory planning for local and state government on a range of residential, commercial and industrial issues.
- Consulting advice to a wide range of commercial and local government clients addressing the management of urban development and the statutory planning process.
- Extensive planning advice to architects, project managers and other professionals involved in a range of projects and the built form and visual impact issues associated with the development of land.

EXPERTISE TO PREPARE THIS REPORT

Professional qualifications and expertise in town planning both in the public and private sectors.

INSTRUCTIONS WHICH DEFINED THE SCOPE OF THE REPORT

My instructions required me to undertake a town planning assessment of proposed Amendment C69 to the Moyne Planning Scheme and its relevance to the land at No. 4 Bowker Court, Port Fairy. In so doing, I have relied upon those matters set down below.

FACTS, MATTERS AND ASSUMPTIONS RELIED UPON

I have relied upon the following in the preparation of this report:

- Inspection of the subject site and surrounds.
- Review of the Moyne Planning Scheme and strategic policies of relevance.
- Planning Practice Note 46 Strategic Assessment Guidelines for Planning Scheme Amendments
- Documents and materials listed in the introduction to my statement.

DOCUMENTS TAKEN INTO ACCOUNT

Relevant documents are described above.

IDENTITY OF PERSONS UNDERTAKING THE WORK

Stuart McGurn, Director, assisted by Christina McRae, Director.

SUMMARY OF OPINIONS

A summary of my opinions in relation to this matter is included at paragraph No. 70 of my evidence.

I have made all the inquiries that I believe are desirable and appropriate and no matters of significance which I regard as relevant have to my knowledge been withheld from the Panel.



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