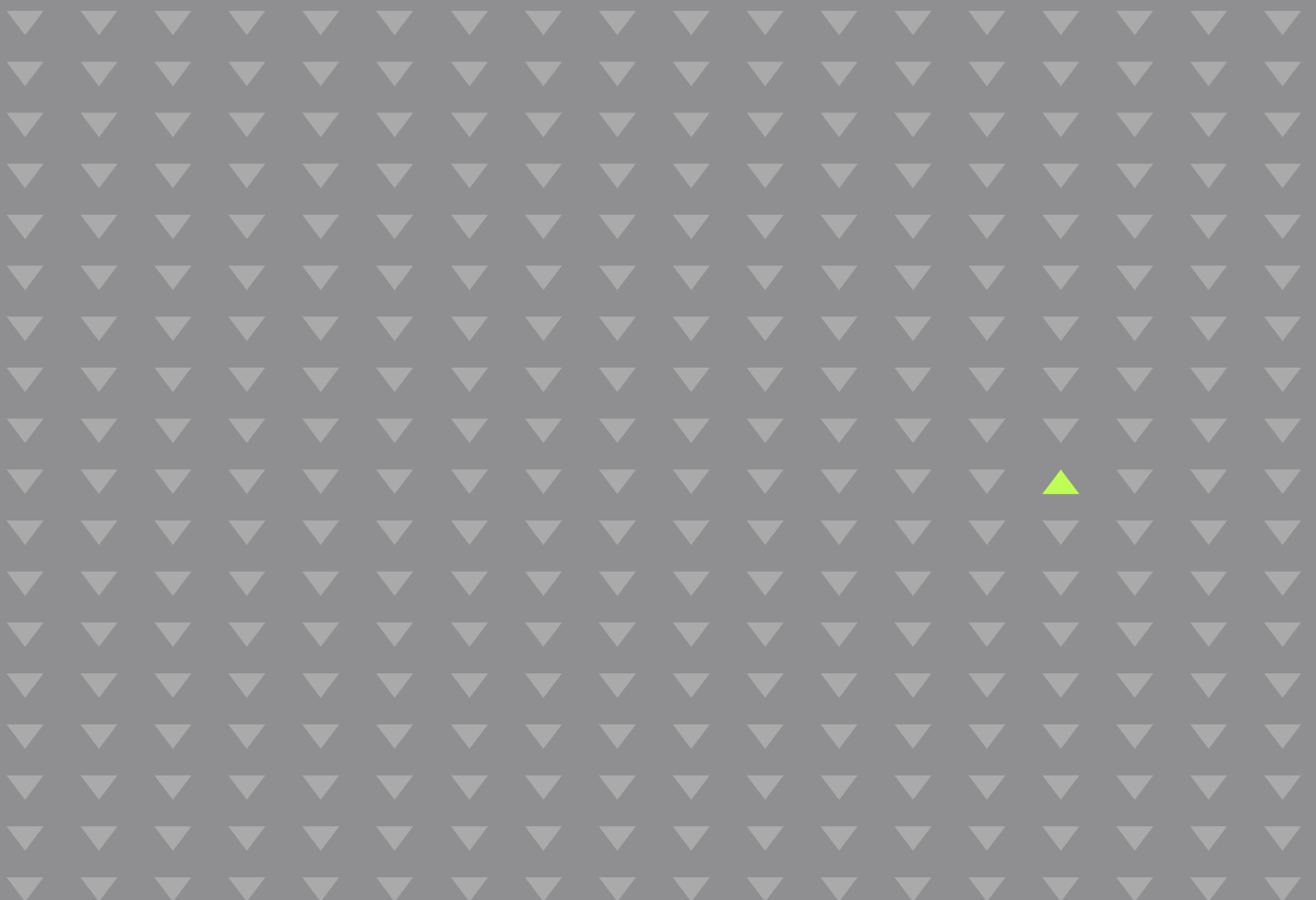




Urban Planning Collective

Statement of Evidence

Prepared on behalf of Sun Pharmaceuticals
by Amanda K Ring
Amendment C69 Moyne Planning Scheme
August 2022



Statement of Evidence

Amendment C69 Moyne Planning Scheme

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1.0 EXECUTIVE SUMMARY

This report has been prepared for Sun Pharmaceuticals which owns and occupies two parcels of Industrial zoned land at 195 and 199 Princes Highway, Port Fairy.

Sun Pharmaceuticals' land stands to be affected by the Shire of Moyne's Amendment C69 to the Moyne Planning Scheme which seeks to implement the recommendations of the *Port Fairy Coastal and Structure 2018*. This plan provides a long-term land use and development framework for the Port Fairy township and its surrounds to 2041.

In summary, Sun Pharmaceuticals seeks to ensure that the amendment takes appropriate account of the industrial activities occurring at the site so that its future at the site is not unreasonably compromised.

This report explains what Sun Pharmaceuticals does on the land it owns in Port Fairy and how the amendment for the most part contemplates a level of protection for these activities so as to prevent land use incompatibilities and the ramifications that can arise from them.

It includes recommendations for consideration and review of some aspects of amendment, mostly in relation to what is proposed as the new local policy for Port Fairy at Clause 21.09-3 of the Moyne Planning Scheme.

2.0 INTRODUCTION

2.1 NAME, QUALIFICATIONS AND EXPERIENCE

My name is Amanda Kite Ring, and I am the Managing Director of SJB Planning which conducts business from premises located at 80 Dorcas Street, Southbank.

I hold a Bachelor of Town and Regional Planning obtained from the University of Melbourne and have been practising as a Town Planner since 1986.

I have an employment history that includes positions with the former Shire of Melton, the City of Melbourne, the former Ministry of Planning and the former Historic Buildings Council (now the Heritage Council).

I have been a practising planning consultant since 1991, advising public sector and private clients on a wide range of planning and development matters. Most of that time was spent at SJB Planning in senior roles.

My area of expertise is urban and regional planning and heritage planning.

2.2 INSTRUCTIONS

Rigby Cooke Lawyers (Rigby Cooke), acting on behalf of Sun Pharmaceuticals (Sun Pharma) approached me about this matter in mid July 2022.

By letter dated 20 July 2022, I was requested to review Sun Pharma's submissions to Amendment C69 to the Moyne Planning Scheme and, subject to my preliminary opinion, prepare a report and present expert town planning evidence at a panel hearing scheduled in the first half of September 2022.

I accepted those instructions and promptly arranged to review the briefing materials provided to me and inspect Sun Pharma's Port Fairy sites and the surrounding areas. My inspection took place on 02 August 2022 when the weather was fine, but with strengthening blustery winds.

For reasons related to occupational health and safety, the inspection was undertaken in the company of Mr Chris Quadroy, Sun Pharma's Head of Environmental Health Safety, Supply Chain & Customer Service, who has a very good knowledge of Sun Pharma's business and its Port Fairy base. My visit also involved a brief introduction to Ms Neola McKinley, Sun Pharma's Head of Operations. It should be noted that I was not allowed to carry (or use) my mobile phone on the inspection.

After my review of briefing materials and visiting Port Fairy, I advised Rigby Cooke that I would be able to prepare a report for the Panel outlining my opinions about the amendment to the extent that it relates to Sun Pharma's sites, the activities conducted on them and its submissions about the amendment.



2.3 FACTS, MATTERS & ASSUMPTIONS

In preparing this report, and in forming my opinions about this matter, I have had regard to:

- My visit to Port Fairy on 02 August 2022 and the various observations that I made during my visit.
- Title information for the Sun Pharma land known as 195 and 199 Princes Highway, Port Fairy.
- Current planning scheme controls affecting the Sun Pharma sites, abutting land and other land generally in the vicinity of the sites.
- Amendment C69 exhibition documents, including but not limited to:
 - Proposed map and ordinance amendments.
 - The Translation of Port Fairy Coastal Hazard Assessment (18 August 2019).
 - The Port Fairy Floodplain Development Plan (2019).
 - Guidelines for Fencing in flood-prone areas (July 2015).
 - The Port Fairy Coastal & Structure Plan (August 2018).
- Amendment C69 supporting documents, including but not limited to:
 - The Port Fairy Local Floodplain Development (2021)
 - Flood Summary Report by HARC (V1.2)
 - Proposed FO/LSIO Map – Port Fairy
 - Proposed FO/LSIO Map Port Fairy West
 - Proposed FO/LSIO Map Port Fairy East
- Two submissions to Amendment C69 by Sun Pharma – the first prepared and lodged by Sun Pharma (13 July 2020) and the second, prepared by Centrum Town Planning on behalf of Sun Pharma (31 January 2022).
- The submission to Amendment C69 lodged on behalf of Rivers Run Estate Pty Ltd (15 June 2020) as well as a later submission (date amongst other matters redacted) with further submissions in respect coastal hazard issues and the proposed controls responding to coastal hazards.
- The EPA submission to Amendment C69 (24 February 2021) and Publication 1518 relating to recommended separation distances for industrial residual air emissions.
- A Buffer Assessment prepared by Peter J Ramsay & Associates (28 June 2021).
- Ministerial Direction No.11 – Strategic Assessment of Amendments.

- Considered a number of Planning Practice Notes including:
 - No.12 relating to *Applying the Flood Provisions in the Planning Scheme*
 - No.36 relating to *Implementing a Coastal Settlement Boundary*
 - No.42 relating to *Applying the Rural Zones*
 - No.53 relating to *Managing coastal hazards and the coastal impacts of climate change*
 - No.90 relating to *Planning for housing*
 - No.92 relating to *Managing buffers and land use compatibility*
- The Agenda of the Ordinary Council Meeting of 28 August 2018 wherein Council adopted the *Port Fairy Coastal and Structure Plan*, and the Minutes of that meeting.
- The Agenda of the Ordinary Council Meeting of 01 March 2022 wherein the Council considered submissions in relation to Amendment C69, and the Minutes of that meeting.
- A pictorial plan of Sun Pharma's Port Fairy operations (titled *Welcome to Sun Pharma Port Fairy*) which is provided to visitors to the site. It is a helpful plan to cross reference with descriptions and or discussion in various sections of this report. For convenience I have attached a copy of it at Attachment 1.
- The *Explanatory Report* for Amendment C75 to the Port Fairy Planning Scheme and other exhibition documents, as well as the Sun Pharma's submission to it prepared by Centrum Town Planning (31 January 2022).
- The *Victorian Coastal Strategy* (2014), Victorian Coastal Council.
- The *Marine and Coastal Policy* (March 2020), State Government of Victoria.

I have read the *Expert Evidence – PPV Practice Note 1* and understand my duty to the Panel considering submissions about the amendment.

My report proceeds on the basis of my expertise in urban planning and heritage planning matters, and it has been prepared to comply with the *Practice Note*.

I have been assisted with background tasks by others in my office, but this report is all my own work and, except where stated, the views expressed in the report are my own opinions and are not provisional opinions.



3.1 SOME HISTORY

Industry at the subject sites in Port Fairy began in the 1920s when a dairy style business was purchased by Glaxo (now Glaxo Smith Kline) and commenced production of dried milk product for baby food.

Operations expanded to the manufacture of antibiotic products, such as penicillin in the post WWII years and through the 1960s.

By the late 1960s and 70s, the factory-based business had diversified and commenced the production of morphine.

3.2 THE PRESENT

Sun Pharma is the present owner and operator of the plant, equipment and operations at the subject sites, purchasing the land, plant and equipment in 2015. So far as I have been able to ascertain, it operates with existing use rights.

Sun Pharmaceuticals Australia Limited manufactures globally significant amounts (around 500 tonnes annually or 25-30%) of starting material for opiate based pain relief medicines which are known and described as Narcotic Raw Materials.¹

It is noted that production of controlled substances, including the growing of medicinal poppies (as opposed to field poppies), requires licences from both Federal and State governments.

Sun Pharma manufactures from two main production buildings within a compound that is not subject to operating time restrictions, and which mostly manufacture on 24 hour/5 day and, from time to time, a 24 hour/7 day basis.

Likewise, deliveries to and from the site are not time constrained although, to the extent possible, typically occur during normal business hours. I am instructed that Sun Pharma anticipates retention of this flexibility into the future to account for existing activities and possible changes to the business which are contemplated into the future and arising from research and development in the pharmaceutical field.

The opiate production industry is highly regulated – including to the extent of the amount of starting material which can be manufactured (and hence the number of poppies that can be grown) for worldwide consumption, because of the industry's susceptibility to compromise by illegal activity and the highly addictive nature of the medicines produced from the raw material.

For these reasons (and numerous other regulatory requirements in relation to health and safety), Sun Pharma's activities are the subject of comprehensive

¹ Production of Narcotic Raw Materials, for reasons which can be considered obvious, are only permitted in countries / states with highly developed regulatory frameworks where potential for compromises of those production environments is minimised.

regulation and obligations which, as one would expect, the company takes very seriously. To this end, multiple areas of plant and equipment are banded to contain spillage that might arise from equipment failure from time to time, the factory and the whole of the site is secured with fencing and secondary measures within the site including but not limited to localised fencing and electronic controlled entry to buildings, plant, and equipment.

There are comprehensive plans in place for both occupational and wider community health and safety and these are subject to regular review and update as required.

There is provision for water storage and pumping at the site, in the event of fire.

Public address and fire alarm systems are tested on a weekly basis.

Employees are subject to strict protocols and visitors to the site are recorded and escorted to ensure the integrity of security measures and production at the site. Security at the site, understandably, is a crucial aspect of Sun Pharma's ability to operate and sign its own transport and aviation security clearance certificates which allows its product to flow through airport security with minimal delays.

I am instructed that this Known Consigner accreditation was in part achieved because of the site's lower risk status; attributed, in part, to the site's remote location (in regional Victoria) and limited number of neighbours. For similar reasons, Sun Pharma is also an Australian Trusted Trader, a program operated by the Australian Customs Service.

3.3 A SIMPLE SUMMARY OF THE PRODUCTION PROCESS

As the Sun Pharma submissions (x2) to Amendment C69 explain, the starting material for opiate based pharmaceuticals is extracted from medicinal poppies which the company grows in Tasmania. Some processing of the poppies occurs in Tasmania² before being delivered to Port Fairy by sea and road freight where the poppy 'straw' arrives in bulk, in compressed pellet form and packed in 1 tonne bales.

The extraction of alkaloids process at the Port Fairy factory is a complicated technical, and highly regulated process which, in addition to 'straw' pellets (in the order of 1,000 tonnes per year) uses and requires storage of liquid nitrogen and liquid carbon dioxide (100k litres), various fine and toxic chemicals (50-60 tonnes), flammable liquids (600k litres), acids and caustics (150k litres), heat generation and water.

The end product, akin to the physical qualities and appearance of soft brown sugar, is eventually extracted from an industrial autoclave (which extracts

² For example, poppy seeds are extracted from the poppy capsules and are directed, principally, into the food industry.

remaining liquid from the extraction process to this point), and finally bagged in 10-, 15-, 20- and 25-kilogram plastic bags (depending on customer preferences).

When bagged, the product leaves the site as road freight for shipping (by air) to global pharmaceutical companies (in other countries) permitted to manufacture medical grade opiates (capsule and liquid forms) for pain relief and drug abuse medications.

Waste product such as damp 'straw' and calcium (from the first stages of the extraction process) is bulk stored in an open corral environment on site until enough of the material accumulates to justify efficient removal from the site and distribution to local agricultural businesses as fertiliser.

Wastewater (from multiple of the stages in the process) is temporarily stored (detained) and treated in a fully enclosed tank and (when required) a calamity overflow tank at the southern end of the site, before controlled release to the Port Fairy Water Treatment Plant³ in accordance with an agreement Sun Pharma has with Wannon Water. Solvent fumes (a biproduct of solvents used in the intermediate and final stages of the extraction process) are managed through a biofilter located in the north-east quadrant of the site.

On inspection of the site, it is apparent that there has been significant investment in the plant and its equipment over 100 years – including \$25 million on the last major expansion in 2005. Based on the size of the sites and the zoning of the land, there is scope for further investment and expansion in the years ahead as pharmaceutical research and development conducted at the site facilitates diversification of production at the site.

3.4 OFF-SITE IMPACTS

Sun Pharma is a highly regulated operation which has a number of off-site impacts that it is constantly seeking to control.

While it presently has no immediately abutting residential neighbours, Sun Pharma is conscious of conventional urban density neighbours to the west and southwest of its sites, the low-density community to the north (with something of a buffer created by other industrial activity operating to the north side of Sandspit Road) and to the handful of neighbours to the east occupying houses in the Farming Zone.

Off-site impacts include:

- A combination of light and heavy vehicles entering and leaving the site through the car parking area at the site's southwest boundary.

³ To the north of Hamilton-Port Fairy Road west of the proposed alignment of the Princes Highway Bypass.

- Forklift and elevated platform equipment movements around site (with operational safety beepers), transferring bulk product deliveries to the various storage areas and production buildings around the site.
- Noise, including the constant noise generated by the production machinery, the cooling tower and weekly testing of the operation's public address and fire safety systems.
- Odour, generated throughout the production process including during the first stages of the production process, from the initial soaking of the poppy straw pellets (to make a deep brown liquid) and then the bulk storage of the discarded wet 'straw' and, later in the production process, odour generated by the use of solvents.

These off-site impacts, particularly related to noise and odour, are the subject of complaints from people who live in the area. My instructions in this regard are that the complaints are sporadic throughout the year and presently low in number.

In relation to spread of noise and odour, I am instructed that it tend to be influenced by weather conditions and complaints typically coincide with equipment failures that inevitably occur from time to time, and which are necessarily attended to and restored as quickly as practically possible.

With best practice management understood to be in place at the site, Sun Pharma has so far been able to minimise complaints and diplomatically manage them when they do occur.

3.5 CONTRIBUTION TO PORT FAIRY

Sun Pharma presently employs in the order of 120 people (and a further 30 people in other locations). Approximately half of the company's staff is understood to be skilled trade and production staff. The balance is professionals in management and administration, advanced manufacturing, research and development⁴.

The business is also understood to contract with another 50 people and businesses in the area.

I am instructed that Sun Pharma injects in the order of \$14.5 million dollars annually in wages and salaries to staff employed at its Port Fairy enterprise and generates sales revenue in the order of \$44.7 million dollars.

The planning scheme presently recognises Glaxo (Sun Pharma's predecessor) as one of three of well-established, larger businesses in Port Fairy. *The Port Fairy and*

⁴ Most employees or contractors are understood to live in Port Fairy or in locations within a 20-30 minute drive of the plant.

Coastal Structure Plan 2018 (PFCSP) recognises Sun Pharma as one of the town's major employers.

From a regional Victorian perspective, it is a type of business that I expect would be highly valued by any number of district towns, or smaller towns, experiencing the consequences of diminishing, readily accessible job opportunities.

4.1 PORT FAIRY'S INDUSTRIAL AREAS

Sun Pharma's business operates in an 'industrial area' on the eastern side of the Princes Highway, the east of the Warrnambool-Port Fairy Rail Trail and to either side of Sandspit Road.

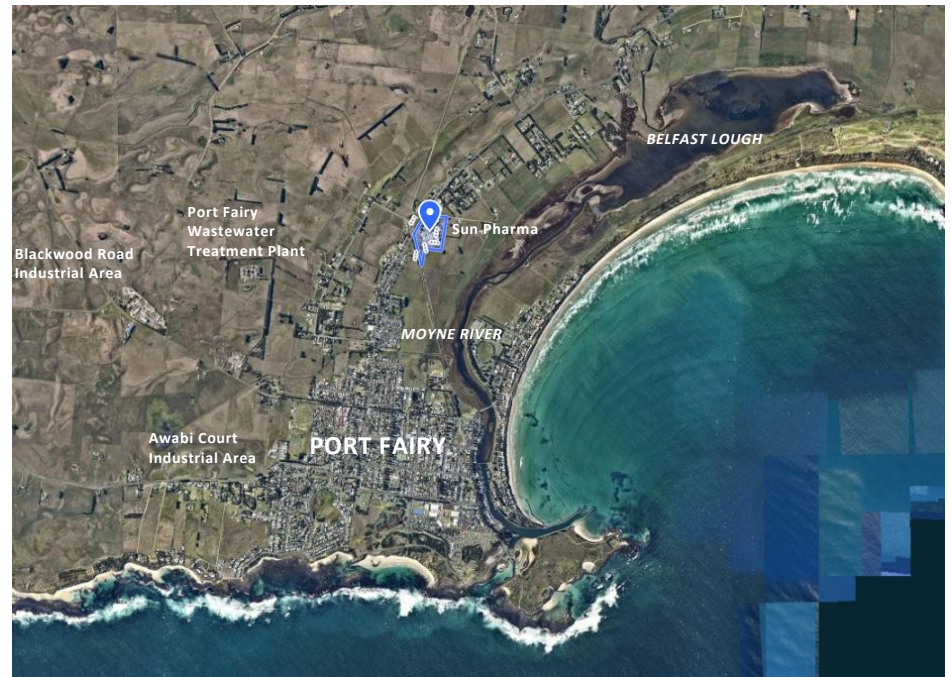


Figure 1: Aerial view of Port Fairy and the location of the Sun Pharma land and operations
Source Nearmap



Figure 2: A closer aerial view of the Sun Pharma site in the northern part of Port Fairy.
Source: Nearmap

A smaller industrial area is located off the Princes Highway (at the southern entrance to the town) around Awabi Court and the largest of the town's industrial

It is also noted that the larger of the two Sun Pharma sites is in part impacted by the Land Subject to Inundation Overlay (Schedule 2).

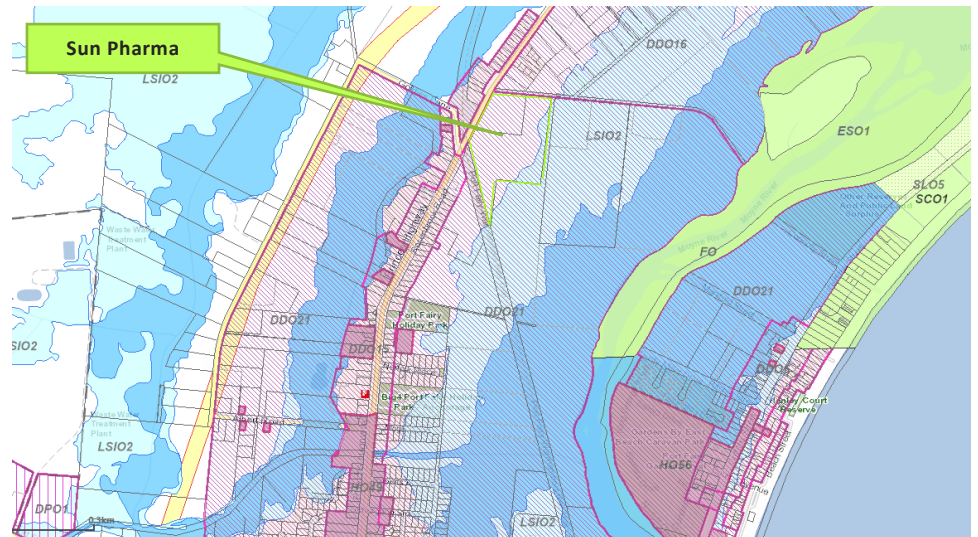


Figure 4: Overlays impacting Sun Pharma land and surrounding land.

4.3 NEIGHBOURING AND NEAR LAND

The northern 'industrial area' of Port Fairy, of which Sun Pharma is a part, is surrounded by land attributed different zones and being used in different ways (Refer to Figure 3).

Land to the east and south

Neighbouring land to the east and south of Sun Pharma's larger 199 Princes Highway lot (50 Sandspit Road) is also in an Industrial 1 Zone. It is not owned by Sun Pharma. The land is presently vacant (with no apparent signs of development in the past) and has vehicular access available from Sandspit Road.

Further east and generally south are larger lots in the Farming Zone. These include:

- The property at 30 Sandspit Road and balance of 50 Sandspit Road being a significant parcel comprising in the order of 46 hectares generally between the Warrnambool-Port Fairy Rail Trail and the Moyne River. Aerial photography confirms that 30 and 50 Sandpit Road each hosts a dwelling and outbuildings.
- The vacant triangular shaped land to the west of the Warrnambool-Port Fairy Rail Trial (comprising two lots known as 169A and 183 Princes Highway) owned by Rivers Run Pty Ltd (Rivers Run).

The Panel will be aware that Rivers Run submits that this land be recognised in Amendment C69 as having potential for residential expansion as a precursor to plans it has for a 75-lot residential

subdivision that is the subject of Amendment C75 to the Moyne Planning Scheme.

The Panel will be aware that submissions about this amendment are being managed separately and will be reviewed by a separate Panel.

Like the Sun Pharma land, this Farming Zone land is affected by Design and Development Overlay (Schedule 21). The land is also widely impacted by the Land Subject to Inundation (Schedule 2) and Floodway (Schedule 2) Overlays that affect the low-lying Moyne River and Belfast Lough environs.

The *PFCSP* explains at page 65 that estuaries such as the *Belfast Lough* represent *unique ecosystems comprising coastal saltmarshes, rushes, sedges and seagrasses which link catchments to the coastal marine environment*.

Land to the west

To the west of the Rivers Run land is an area of residential land which includes houses developed on conventional urban lots fronting the Princes Highway. It is in a General Residential Zone (Schedule 1).

To the immediate south of the Rivers Run land is a caravan park; also in the General Residential Zone (Schedule 1). More housing in the General Residential Zone (1) is located to the south of the caravan park.

Similar residential development fringes the western side of the Princes Highway - south and north of Goldies Lane. Beyond this highway fringe development, the land is in a combination of the Rural Living and Mixed Use Zones.

It will be observed from a series of aerial photographs at Attachment 2 that these houses were first developed around the 1960s.

These residential, mixed use and rural living zones are also impacted by Design and Development Overlay (Schedule 21).

Land to the north

To the north of this northern industrial area in Port Fairy is known as the Model Lane low density residential area. Land to either side of Model Lane is in a Low Density Residential Zone.

Like other land in the area, this residential land is affected by a Design and Development Overlay (Schedule 16) and the Land Subject to Inundation Overlay (Schedule 2).

Proposed Amendment C69 to the Moyne Planning, in summary, is one that seeks to implement the *Port Fairy Coastal and Structure Plan (2018)*, prepared on behalf of the Moyne Shire and the Department of Environment, Land, Water and Planning, by Hansen Partnership. The *PFCSP* was adopted by the Shire Council on 28 August 2018. The amendment also seeks to correct zone mapping anomalies for some individual sites with the Port Fairy Township.

The *PFCSP* is described at page 6 of the document as providing

a long term future land use and development framework for the township of Port Fairy to 2041.

At the same page, it is explained that the Council and the Department of Environment, Land, Water and Planning commissioned the plan as a state pilot project that has received funding to translate a local coastal hazard assessment into strategic planning policy.

5.1 A 20-YEAR HORIZON FOR SUSTAINABLE GROWTH

Accordingly, the *PFCSP* sets out 20-year horizon propositions for sustainable growth, especially in relation to housing supply, recognising the

vulnerability of the township to coastal and river flooding and its valuable economic and community role together with its significant landscape, environmental, aboriginal cultural and heritage features.

In the first instance, it is noted that the *PFCSP* confirms the town's status as a *district town* and the largest in the Moyne Shire. Recognising this, the plan proposes a coastal settlement boundary which has been informed by *Planning Practice Note 36* which, in turn, references the *Victorian Coastal Strategy 2014*.

The *Victorian Coastal Strategy 2014*, amongst its many objectives, seeks to manage growth associated with the expansion of coastal towns and, in particular, prevent ribbon development along Victoria's coast.

The *PFCSP* sets out 13 Key Directions at page 21 which underpin the plan. I do not reproduce them here but note that the directions identify a wide range of matters considered integral to underpinning the plan's recommended land use and development framework.

The settlement boundary documented in *PFCSP* recognises the need to provide additional opportunities for housing and housing choice, economic development and related employment, balancing it against other competing interests such as the protection of rural land and/or areas of biodiversity value and the town's cultural heritage, as well as susceptibility to coastal hazards.

Provision for housing growth

Port Fairy is understood to be one of the fastest growing small towns in Victoria.

The town's population is likely to now be in the order of 3100 based on growth rates drawn from the 2011/2016 Census data referred to in the *PFCSP*. It is reasonably expected to grow over the life of the structure plan (20 years) but will likely remain an aging population with a significant representation of retirees.

Provision for a suitable supply and range of housing is therefore a key issue for the Port Fairy community. As the *PFCSP* establishes at page 23 and Table 1 at page 25 of the document (based on projections from past population growth) it is anticipated that Port Fairy will require as few as 400 or so dwellings, and up to around 900 additional dwellings, to the year 2041.

To accommodate projected demand for housing, the *PFCSP* takes account of the direction given throughout the Planning Policy Framework in the Moyne Planning Scheme and proposes a housing strategy for Port Fairy that:

- Acknowledges and takes account of opportunities for infill development / redevelopment on existing suitably zoned urban land.
- Constrains / limits opportunities for housing growth in areas which are generally low-lying and susceptible to flooding and, in the case of the area in the Moyne River and Belfast Lough environment, have been attributed a range of environmental values considered worthy of conservation.
- Favours growth areas generally to the north and west of the Princes Highway; *Growth Area A*, being *the key growth front*, to the south side of the Hamilton-Port Fairy Road and *Growth Area B* wedged between the Princes Highway and the yet to be finalised alignment of the Princes Highway by-pass of Port Fairy.
- Includes nomination, by way of an asterisk on the Settlement and Housing Plan, of a *Potential residential expansion area* (if the development can demonstrate accordance with relevant flood controls under 1.2, SLR scenario, and that lands is outside any buffer agreed by Sun Pharma and the EPA. It is noted that this 'expansion area' is curiously outside the proposed coastal settlement boundary.

Provision for economic growth

Housing, of course, is not the only sector which is addressed in the *PFCSP*.

Economic development is also addressed. In this regard, the plan recognises that industrial land *plays a critical role in delivering local jobs* (page 36) and that Port Fairy is estimated to need around 2.4 hectares of industrial land to 2041.

In addition to identifying the industrial land needed to 2041 for new enterprise, the plan recognises that the protection of existing industries, is important.

Accordingly, the *PFCSP* recognises the role the Sun Pharma business plays in this *district town* and, in confirming its value, proposes it be provided with a degree of protection from the possible future encroachment of sensitive land uses.

Managing heritage and environment values and coastal hazards

While seeking to accommodate growth in the housing, commercial and industrial sectors, the *PFCSP* anticipates the desirability of conserving the town's cultural heritage and landscape, protecting its environmental values and protecting the town's population and places from the adverse ramifications of coastal hazards.

To this end, coastal hazards investigation and modelling has been a significant part of the background work completed in preparation of the plan.

At this point, I consider it appropriate to acknowledge that the modelling of Port Fairy's coastal hazards based on a 1.2 metre sea-level rise is more conservative than the 0.8 metres minimum nominated in current Planning Policy Framework and the local policy framework.

6.1 THE ACT, THE PLANNING FRAMEWORK AND STRATEGIC ASSESSMENT GUIDELINES

The proposed strategic planning direction for Port Fairy over the next 20 years and described in the *PFCSP* has been guided by the Planning Policy Framework in the Moyne Planning Scheme – a framework intended to assist the achievement of objectives of planning in Victoria set out in the *Planning and Environment Act 1987*.

The *Strategic Assessment Guidelines (Planning Practice Note 46)* anticipates that amendments to planning schemes implement the objectives of planning in Victoria (as set out in the *Planning and Environment Act 1987* (as amended)) and be consistent with the planning framework aimed at managing future use, development and the protection of land in a way determined to be fair, orderly, economic and sustainable in the interests of present and long-term interests of all Victorians.

The Explanatory Report for Amendment C69 confirms that the Amendment has been assessed against the *Strategic Assessment Guidelines* which include a focus on responsiveness to the Planning Policy Framework.

Planning Policy Framework

The Planning Policy Framework is set out at Clauses 11-19 of the Moyne Planning Scheme. In the following sections of this report, I have set out what I consider to be key policy settings, having regard the ambit of my instructions.

At Clause 11, it is clearly stated that:

Planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure.

Planning is to recognise the need for, and as far as practicable contribute towards (inter alia):

- *Health, wellbeing and safety.*
- *Economic viability.*
- *Climate change adaption and mitigation.*
- *Prevention of land, water, air and noise pollution*
- *Protecting, conserving and improving biodiversity, waterways and other natural resources.*

(Author added emphasis)

Further, that:

Planning is to prevent environmental, human health and amenity problems created by siting incompatible land uses close together.

(Author added emphasis)

and

Planning is to facilitate sustainable development that takes full advantage of existing settlement patterns and investment in transport, utility, social. Community and commercial infrastructure and services.

(Author added emphasis)

To the extent that Sun Pharma's submissions about Amendment C69 are focussed on the concerns about further encroachment of residential land use and potential for adverse ramifications for the business and, in turn, the local community and economy, the Planning Policy Framework unsurprisingly includes policy addressing the provision for both housing and industry.

To the extent that other matters are sought to be addressed in strategic planning for Port Fairy over the next 20 years, the framework also includes policies in relation to (inter alia):

- Limiting *urban sprawl and directing growth into existing settlements*.
- The preservation and protection of *features of rural land and natural resources*.
- *Minimising exposure to natural hazards, including risks due to climate change*.

In relation to the Great South Coast (of which Port Fairy is a part) policy anticipates:

- Facilitating *district towns, like Port Fairy to support local communities, industry and services*.

and

- Supporting *growth and economic opportunities throughout the region, especially along the north-south (Henty Highway) and east-west (Princes Highway) corridors*.

Policy encourages structure planning (as has been completed in this case) as the accepted means of broadly planning for the future of towns like Port Fairy.

Consistent with this, the *PFCSP* has, in my opinion, considered:

- Opportunities for the consolidation, redevelopment and intensification of existing urban areas.
- Neighbourhood character and landscape considerations.
- The limits of land capability and natural hazards and environmental quality.
- Service limitations and the costs of providing infrastructure.

Consistent with Clause 11.03-4S, 5S and 5R the *PFCSP*, together with the mapping and ordinance changes to the scheme contemplated by Amendment C69:

- *Identifies a clear settlement boundary to ensure that growth is planned and the town's coastal values are protected.*
- *Provides, within the identified limitations of the setting, for a broad range of housing types, economic opportunities and services.*
- *Limits development in identified coastal hazard areas...*
- *Recognises the unique features and special characteristics of the area and its landscapes.*
- *Manages the impact of development on the environmental and cultural values of the area.*

Port Fairy's location on the Victorian coast means that Clause 12.02-1S has particular relevance when considering the merit of the amendment and the *PFCSP* that it seeks to implement.

It anticipates that the marine and coastal environments be protected and enhanced. Strategies to achieve this objective include, but are not limited to:

- *Maintaining the natural drainage patterns, water quality and biodiversity in and adjacent to coastal estuaries, wetlands and waterways.*
- *Protecting and enhancing natural features, landscape and seascape and public visual corridors.*

Similarly, at Clause 12.03-1S relating to river corridors, waterways, lakes and wetlands, strategies include, but are not limited to:

- *Protection of the environmental, cultural and landscape values of all waterbodies and wetlands.*

- Ensuring that *development responds to and respects the significant environmental, conservation, cultural, aesthetic, open spaces, recreation and tourism assets of waterbodies and wetlands.*

Complimentary objectives and strategies are set out at Clause 12.05-2S.

At Clause 13, the policy framework speaks to strengthening *the resilience and safety of communities by adopting a best practice environmental management and risk management approach.*

Relevantly, in the case of Sun Pharma and the future of land use and development in near areas is that:

- *Planning should identify, prevent and minimise the risk of harm to the environment, human health, and amenity through:*
 - *Land use and development compatibility*
 - *Effective controls to prevent or mitigate significant impacts.*
- *Planning should ensure development and risk mitigation does not detrimentally interfere with the important natural processes.*
- *Planning should prepare for and respond to the impacts of climate change.*

(Author added emphasis)

Policies at Clause 13.01-1S, 13.01-2S and 13.03-1S variously set out strategies (inter alia) and have been influential in the consideration of and recommendations relating to flood modelling:

- *To minimise the impacts of natural hazards and adapt to the impacts of climate change through risk-based planning.*
- *To plan for and manage coastal hazard risk and climate change impacts.*
- *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.*

In relation to noise management, Clause 13.05-1S policy anticipates management of noise effects on sensitive land uses, including with a strategy to:

- *Ensure that development is not prejudiced and community amenity and human health is not adversely impacted by noise emissions.*

Similarly in relation to air quality management policy at Clause 13.06-1S it is a strategy to:

- *Ensure, wherever possible, that there is suitable separation between land uses that pose a human health risk or reduce amenity due to air pollutants, and sensitive land uses (residential use...)*

The foregoing policy guidance must also be considered in the context of the housing policies at Clause 16 of the Scheme which seek to *facilitate well-located, integrated and diverse housing that meets community needs.*

Further, it is policy that housing is provided for present and future generations in a way that is efficient, affordable and sustainable. This includes planning for a sufficient supply of suitably zoned land over time and identifying where this can be provided in a way that is efficient and respectful of its setting.

The policy guidance also anticipates consideration of the value the community places on a strong and innovative economy, noting at Clause 17 that *planning is to contribute to the economic wellbeing of the state and foster economic growth by providing land, facilitating decisions and resolving land use conflicts, so that each region may build on its strengths and achieve its economic potential.*

The value of a strong economy is borne out in economic development objectives and strategies in the Planning Policy Framework which are aimed at strengthening and diversifying it; not only by protecting existing employment areas but by facilitating growth in a range of sectors including the health and knowledge industries.

Diversification of the economy is encouraged noting the Great South Coast's generally heavy reliance on agriculture and tourism. To this end, and as for housing, policies in the planning scheme anticipate an appropriate supply of land being available for industrial activities and, further that existing industrial activity in industrial zones be protected from the encroachment of commercial, residential and other sensitive uses that stand to adversely affect industrial viability.

6.2 LOCAL PLANNING POLICY FRAMEWORK

The Local Planning Policy Framework similarly includes a range of thematic objectives and strategies for land use in the Shire and means of implementation.

Clause 21.03 outlines factors influencing future planning and development. There are many, including that:

- *The municipality relies heavily on agricultural activity as its economic base.*
- *Agricultural areas along the coast, between settlements or on the edge of townships are under pressure from other forms of development, most noticeably housing.*
- *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 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.*

The Shire's planning framework, correctly documents Port Fairy as a

... District Town with moderate growth capacity with some growth potential beyond existing urban zoned land or through infill but within defined settlement boundaries.

In my opinion, the *moderate growth* expectation is attributed, in part, to its high order position as the largest of the towns in Moyne Shire and its sensitive coastal location that exhibits many documented values, including

natural and cultural values including sites of indigenous and non-indigenous significance, scenic landscapes, wildlife viewing and wetlands and ecosystems.

It is further noted that:

Climate change will impact on the coastline and planning for sea level rise of no less than 0.8 metres will be adopted for all development.

In so far as the Municipal vision is concerned, Council aspirations for sustainable development include:

- *An economic development goal of maintaining and increasing employment and to have real property values increase.*

- Environmental and land use planning goals of achieving *a balance between development and the protection of the natural environment*.

Population trends set out in the Local Planning Policy Framework identify the ageing of the population and loss of young people to larger centres of activity.

In recognition of this, Settlement and Housing policy at Clause 21.05 explains key strategic issues, such as:

- The loss of *young people... in search of better education and employment opportunities*.
- The *pressure on the defined urban edges of towns* (like Port Fairy) to threaten the qualities of the area that contribute to its valued character, in particular *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*.

As a result, the Local Planning Policy Framework sets out multiple settlement and housing objectives, including:

- *To define a sustainable urban/non urban edge to the main townships and settlements within the Moyne Shire.*
- *To recognise the different requirements of the population by allowing the accommodation of the population of the municipality within a range of dwelling types suitable for the needs of the community.*
- *To identify flood prone land and ensure that new development is compatible with flood hazard.*
- *Encourage development to locate a sufficient distance from the high water mark of the coast, estuary or wetland to enable protection from erosion hazards and the impacts of sea level rise and to allow for landward migration of shorelines, saltmarsh and wetland vegetation communities.*

In relation to the Environment theme, the overview at Clause 21.06 of the planning scheme notes that:

- *The Shire contains many areas, which have significant natural landscapes and features of environmental value. In particular, the Shire's coastline is of particular significance.*
- *Most of the land adjacent to the above watercourses is in private ownership as a result of the Shire's early settlement.*

It is instructive, in my opinion, that the Overview has for some time now recorded that the

The coast is under threat from the effects of climate change including sea level rise and increased storm surges. Rising sea levels may threaten development from eroding shorelines, increased cliff instability and landward penetration of saline water within estuaries. The potential risk hazard to coastal development needs to be considered in terms of siting, design and appropriateness to be located close to the coast and estuaries of the Shire. Development located close to coastal and estuarine areas may also threaten the capacity of the environment to adapt to climate change impacts through limiting the ability of wetland vegetation and shorelines to migrate landwards under rising sea levels and increased tidal penetration landwards. Such limitations can be in the form of sea walls and other protective structures which can effectively lead to the loss of coastal features such as beaches and wetland vegetation communities from coastal squeeze.

In relation to *Economic Development*, Clause 21.07 recognises:

- *There are numerous well established businesses in the Shire including BAM Stone, Glaxo (now Sun Pharma) and Southwest Seafoods in Port Fairy. Community services such as the Port Fairy hospital, local schools and the council also make important contributions to the economy.*

Further, in general, *separation of other existing manufacturing businesses from other land uses, particularly residential, is considered important in order that they may carry out their activities without conflict.*

At Clause 21.09-3 Local areas policy for Port Fairy explains a vision including:

- *To maintain and build Port Fairy as a strong economically sustainable settlement that provides services for the local community.*
- *To retain the distinctive character of Port Fairy based on the heritage features, the coastal location and high quality urban design.*
- *To recognise the constraints of the Moyne River floodplain on the development of land.*

Implementation of the vision anticipates that any proposed use or development within Port Fairy be generally consistent with the Port Fairy Framework Plan (see 21.09-3.1) and in relation to *Urban character* that:

- *The coastal and river character of Port Fairy should be retained and enhanced.*

In relation to *Industrial* that:

- *Industrial development in and around Port Fairy is promoted.*
- *Industry should be focused on the existing industrial areas and on land beyond the sewerage treatment plant.*
- *Industrial development should be located to minimise its visual impact, particularly near major access roads into and out of Port Fairy.*

In relation to *Environmental* that:

- *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.*

In relation to *Flooding* the vision is to:

- *Avoid increasing risks to human life and property from flood damage.*
- *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.*
- *Protect private and public assets from the impacts of flooding.*
- *Minimise the effects on the Moyne River and its tributaries from changes to natural flow regimes such as flood frequency, run-off volume and flow velocity.*
- *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.*
- *Ensure that new development does not have adverse impacts on neighbouring properties and environments in terms of flooding and water quality.*

- *In future planning such as structure planning or planning scheme amendments, the risks to the township associated with flooding from the Moyne River should be considered and seek to ensure the use of the floodplain is not excessively intensified.*
- *Future development access needs to be considered to avoid access hazards associated with flooding.*

7.1 THE COASTAL SETTLEMENT BOUNDARY

Consistent with *Planning Practice Note 36 – Implementing a Coastal Settlement Boundary*, the *PFCSP* identifies a coastal settlement boundary that seeks (with other aspects of the plan) to provide direction for the location and scale of use and development in Port Fairy.

As I have explained in an earlier section of this report, the notion of settlement boundaries for coastal towns was a recommendation (or action) arising out of the 2008 *Victorian Coastal Strategy*.

Practice Note 36 explains that

a clearly articulated settlement boundary in the planning scheme provides an appropriate level of transparency and necessary statutory weight to help guide decision making.

In this case, the settlement boundary adopted by the planning authority and planned for inclusion in the Planning Scheme is of an extent which accounts for potential development over at least a 10-year horizon.

The boundary has been informed by the expression of a desired future vision for the town noting its role (as a district town) in relation to other settlements in the region, and constraints imposed by topography, vegetation, land use activity around the town and environmental and landscape sensitivities. It has also taken account of the towns' susceptibility to coastal hazards which has been the subject of multiple investigations and modelling.

Consistent with expectation, the settlement boundary is shown on the Overall Structure Plan at page 22 of the *PFCSP* in a way that is generally consistent with the guidance set out in the Practice Note. However, there is scope for refining the boundary to better address the location of lot boundaries including in relation to the larger of the Sun Pharma properties where the exhibited proposed settlement boundary has most of the property within the settlement boundary and part of the property outside the settlement boundary.

Implementation of the *PFCSP* (including the proposed coastal settlement boundary) requires changes to the Moyne Planning Scheme.

Planning Scheme Maps

The first is a series of exhibited changes to maps including, as relevant to my instructions:

Zone Changes

- Changes to the zoning of land as follows:

7.2 CHANGES TO THE PLANNING SCHEME MAPS AND THE ORDINANCE

- Abutting Sun Pharma to the east, along Sandspit Road, and to the south of Sun Pharma’s land and east of the Warrnambool-Port Fairy Rail Trail, the long vacant parcel of Industrial 1 land (being part of 50 Sandspit Road) and adjacent Farming Zone land (to the east) is proposed to be zoned Rural Conservation (Schedule 2).

It is noted that proposed Schedule 2 to the zone identifies conservation values related to the Belfast Lough.

- The land being the Warrnambool-Port Fairy Rail Trail and the adjacent Rivers Run land (at 169A and 185 Princes Highway to the west), also in a Farming Zone, is similarly proposed to be zoned Rural Conservation (Schedule 2).
- Substitution of the Neighbourhood Residential Zone 1 for the General Residential 1 which has to date applied to the land generally to either side of the Princes Highway.

I understand that this change will effectively limit the height of new housing in the zone to just two storeys as a means of preserving the town’s traditional one and two storey character.

It is also appropriate at this point to note that planned housing *Growth Area A*, within the coastal settlement boundary, will also be attributed a Neighbourhood Residential (Schedule 1) Zone to facilitate its ability to host a fair proportion of expected housing growth to 2041⁵.

Overlay Changes

- Changes to overlay provisions including, as relevant to my instructions:
 - The removal of Design and Development Overlay (DDO) 21 from the Sun Pharma land, the abutting land to the south and east presently in the Farming Zone and the Warrnambool-Port Fairy Rail Trail and Rivers Run land.

Given the intended rezoning affecting these parcels it is noted that the DDO being removed will not be replaced with one of the new, rationalised DDOs.

⁵ It will also be attributed a DPO to ensure that the area’s full potential can be realised with properly planning and considered subdivision. In due course, it will likely require the application of a Development Contributions Plan to ensure that the community bears the cost of residential development in this area, equitably.

- Substitution of DD04 for DDO21 as it has applied to the residential land to either side of the Princes Highway in this northern part of the town.
- As a result of hydraulic modelling⁶ that takes account of a 1.2 metre sea-level rise by 2100⁷, a generally westward expansion of the Land Subject to Inundation Overlay but with Schedule 4 being substituted for Schedule 2, and a westward expansion of the Floodway Overlay with Schedule 3 being substituted for Schedule 2. The new schedules are intended manage what has been predicted (by modelling) as greater risk associated with coastal hazards.

I observe that expansion of the inundation / flooding overlays includes some land that is already developed but the response to the complexities and relationship between riverine and coastal flooding is understood to be based in the precautionary principle with the proposed updated Incorporated Documents entitled the Port Fairy Local Floodplain Development Plan 2019⁸ recognising that *the edges of Belfast Lough remain in a relatively natural state and play a critical role in broader environmental systems.*

Ordinance Changes

The second of the required changes is a series of changes to the ordinance, which as relevant to my instructions, include:

- Changes to policy at Clause 21.06 to affect a more cautious approach to floodplain management and therein the introduction of references a 1.2 level rise in sea level and the 1 in 100 ARI flood and storm tide events.
- Substantial revisions to the Port Fairy component of Local Areas policy at Clause 21.09-3 of the Planning Scheme, attending to the supply and diversity of housing, recognition of the value of Sun Pharma's contribution to the town and the need to protect and support it, recognition of environmental risks associated coastal hazards and the value to life and property of managing them conservatively, and the need to and value of preventing potential for land use incompatibility.

⁶ Translation of the Port Fairy Local Coastal Hazard Assessment, Cardno 2017 (and updated 2019) and the Port Fairy Local Coastal Hazard Assessment, Water Research Laboratories 2015

⁷ This 1.2 metre rise is more conservative than the 0.8 rise set out in the planning scheme wherein it is expressed at *no less than 0.8 metres* and *not less than a 0.8m* rise in sea level

⁸ The version of the Incorporated Document presently in the planning scheme is dated 2013

These revisions include the substitution of a new Figure 1: Port Fairy Framework Plan which appears to have been guided by plans appearing at pages 22, 27 and 45 of the *PFCSP*. The new Figure 1, amongst other matters, identifies Sun Pharma, 500 metre buffer areas around Sun Pharma and the Wastewater Treatment Plant, and the location of housing *Growth Areas A and B*.

- Revisions to the Reference Documents listed at Clause 21.11 so the list reflects the most relevant and up to date documents.
- Revisions to the Incorporated Documents listed in the Schedule to Clause 72.04 so the list reflects the most relevant and up to date documents.

8.0 DISCUSSION OF THE ISSUES

There is no doubt, in my opinion, as to the value of Sun Pharma to the local and regional economies.

Sun Pharma makes a significant and valuable contribution to the local economy

As explained in an earlier section of this report, Sun Pharma injects significant sums of money into the local economy in the form of wages and salaries. Of course, sales revenue also contributes positively to the Victorian and national economies.

In my opinion, small regional towns, like Port Fairy, that continue to be heavily reliant on the agricultural and tourism sectors need to preserve economic diversity.

Sun Pharma, as one of (if not the largest) employer in the town must be acknowledged as a very important contributor to economic diversity and should be considered accordingly. Economic diversity is a key to ensuring that the town is less susceptible to disruption – by, say, events like the recent pandemic.

As a result, I am supportive of the changes to local policy at Clause 21.09-3 which I consider consistent with the Planning Policy Framework and aligned with the *Strategic Assessment Guidelines*. These changes to objectives and strategies include:

- Confirmation of Sun Pharma's importance to the community as one of the town's main employers and need to protect it from the encroachment from incompatible development.
- Application of the coastal settlement boundary as shown on the (new) Port Fairy Framework Plan.
- Discouraging the development of further housing along the Princes Highway to the north, other than where already zoned for residential purposes.
- Directing housing growth to the nominated Growth Area A.
- Discouraging new dwellings within the Belfast Lough area.
- Protecting significant industries and infrastructure.
- Recognising buffers associated with the Wastewater Treatment Plant, Bamstone and Sun Pharma.

I also note that the changes contemplate and support further intensification of Sun Pharma (likely in recognition that it is not a simple or inexpensive matter for it to

relocate) but not support further expansion with potential amenity impacts beyond its existing footprint in recognition of adjacent residential development.

In many respects, I consider this strategy is, at best, highly qualified support for the town's largest quantum employer. It is not satisfactorily drafted, in my view. On a worst cast reading, and counterintuitively, it provides little strategic support for any meaningful expansion.

Sun Pharma exports Narcotic Raw Material globally

The company's contribution as a significant global supplier of raw material for the manufacture of narcotic medicines which, despite the passage of time, remain amongst the most effective for the management of pain and treatment of drug abuse should also not be undervalued.

The Structure Plan sensibly supports this proposition and the proposed Clause 21.09-3 relating to Port Fairy proposes to make clear that *"Along with tourism, the pharmaceutical manufacturing present in the town provides the largest quantum of local employment."*

Encroachment and agent of change

Sun Pharma is not a 'new-comer' to Port Fairy, rather it and its predecessors (conducting similar activities at the site) have been an important contributor to the economy over 100 years.

For many years industry at the site was conducted at the town's outskirts but over time, residential development of various type has encroached to the extent that there are now land use conflicts evident from time to time. The photographs provided at Attachment 2 explain the gradual encroachment of urban development (mostly residential land use and development) since the 1960s.

Despite sensitive 'agent of change' uses encroaching the industrial activity over time, the potential for land use conflict has been mitigated, in part, by sound industrial management practices at the site and adherence to relevant regulatory frameworks. These management practices are not perfect and as the EPA's Publication 1518 explains *even with good pollution control technology and practice, there may still be unintended emissions which must be anticipated and allowed for* (page 5).

In my opinion, land use conflict has also been mitigated by the fact that conventional residential encroachment within the near environment appears to have all but ceased by the 1990s with, so far as I am aware, no new opportunities for anything more than infill of existing zoned land for this purpose. As a result, swathes of land zoned Rural Living (west side of Princes Highway) and Industrial

and Farming (east side of Princes Highway) have effectively buffered Sun Pharma from greater conflict.

Of course, low-density residential development has emerged to the northeast since the 1990s, where Sun Pharma is buffered by a triangle of industrial zoned land to the north side of Sandspit Road (and which is not proposed to change with this amendment).

Favourably, but I speculate not purposefully, for Sun Pharma, the Model Lane low density area, north of Model Lane, is also partly affected by the amendment; the southern side of the lane being rezoned to Rural Conservation (Schedule 2) which will limit potential for further residential development to Sun Pharma's northeast.

Finally, it is my view, that the Panel should give consideration to the fact that Port Fairy in not so pressed for housing opportunities that needs to be contemplating new locations for housing which could well compromise, or impose, more restrictions on Sun Pharma.

As I have said, it is not a simple, or an inexpensive exercise, for Sun Pharma to move from its present site. Further, I am advised by Sun Pharma that if it were pressured in this direction, it would not likely relocate in Port Fairy, or the Great South Coast for that matter, but instead relocate to Tasmania, where it would be closer to the company's medicinal poppy fields.

An industrial buffer

It is acknowledged that activity (and specifically production) at the Sun Pharma site is not of an order of scale that would warrant licensing by the EPA. However, this, of itself is not, in my opinion, reason to dismiss the notion of buffering Sun Pharma's activities from the speculative pressure for an even greater number sensitive uses in its surrounds.

For the same reasons that the EPA submission of 24 February 2021 speaks to the southern part of Sun Pharma's land (and the adjacent vacant industrial land to east) having a potential to conflict with possible future residential use and development of the Rivers Run land were it to be up-zoned (referring here to Amendment C75), it also speaks to conflict in the reverse, whereby Sun Pharma's ability to expand its activities (and related development) on its suitably zoned land stand to be impacted by more intensive and sensitive use of the Rivers Run land.

The Panel is aware that the buffer annotations shown on the *Port Fairy Framework Plan* at proposed *Figure 1* at Clause 21.09-3 are contested. I understand them to be an expression of policy, or an alert of sorts, and a corollary to text proposed within the Clause 21.09-3 as the means for carefully considering the potential for

and preventing possible future conflict with Sun Pharma's activities. They are not statutory buffers.

I consider their role as a policy tool consistent with the amendment which legitimately, in my view, takes account of higher order policy in the scheme and seeks, in the first instance, to *prevent environmental, human health and amenity problems by siting incompatible land uses close together* and proposing that there be no up-zoning of the land to the east side of Princes Highway. This is in preference to increasing the potential for conflict with increased residential incursion at Sun Pharma's eastern and southern fronts and, thereafter, having to manage the increased conflict once created. In simple language, it is a case of prevention, rather than cure.

The extent of the proposed settlement boundary

Aside from what I consider the potential for increased land use conflict in this part of Port Fairy, there are other considerations which I understand to be influencing the alignment of the settlement boundary in this northern part of the town.

Demand for growth is accommodated to the western side of the town

I understand that the proposal for a part of Sun Pharma's land, all the Rivers Run land and the Model Lane neighbourhood being beyond the settlement boundary, is based on there being more than adequate opportunities to accommodate predicted growth to 2040 - for both residential and industrial development - in other parts of the town, principally to the west of the Princes Highway. That is, the town is not so constrained for future development opportunities that it needs to advance new residential and industrial development in a part of the town which the Structure Plan identifies and advances as having multiple sensitivities.

In Sun Pharma's case, the settlement boundary traverses the title wherein it would be preferable having regard to the Practice Note 36 that the whole of the property be included with the boundary.

The sensitivities of the Belfast Lough

Formal exclusion of the land generally to the east, north-east and south of Sun Pharma from the urban area, as contemplated by the proposed settlement boundary and the proposed substitution of the Rural Conservation Zone for the affected land (which is presently in the Farming Zone and the Industrial Zone) also strikes me as appropriate recognition of the land being at the edges of the Belfast Lough.

The Lough, in addition to its environmental and conservation values, has aesthetic values including in relation to views from the north, northeast and southeast and all of which are identified in the Overall Structure Plan at page 22 of the *PFCSP*.

Further, in my opinion, rezoning of the land will prevent any meaningful residential intensification of land in the environs of the Lough. This is effectively a continuation of the approach to date; this land long having been held in the Farming Zone and despite the concerted efforts, over that last 20 or so years, of at least one of the area's landowners to procure 'up-zoning' to facilitate conventional urban development.

Propensity of the land to the east of the Princes Highway to flood

It is instructive, too, to note that the land to the east of the Princes Highway, including Sun Pharma and Rivers Run land, is presently impacted by inundation controls.

These parcels and many others to the east of the Princes Highway, based on modelling, stand to be even more extensively impacted by proposed controls with the expansion of the controls in a westerly direction such that both Sun Pharma and Rivers Run land will be affected by the Inundation and Flooding Overlays which, at face value, are expected to further constrain development of these sites.

The expansion of these controls is a particularly contentious part of the amendment for many reasons, including but not limited to the constraints they impose on the use and development of land, but also in relation to impacts they have on the ability to obtain, and the rising cost of, insurances.

As the matter of flood modelling is outside my area of expertise, and my instructions, I make no comment on whether the extent of expansion of the controls is excessive, or otherwise, rather simply make the observation that policy in respect of the precautionary approach certainly provides for the amendment to canvass an expansion of the controls which have made their way into the planning scheme in recognition and acceptance of evolving threat of climate change.

The Moyne River and Belfast Lough and their environs are low-lying and by virtue of the terms "*no less than*" and "*not less than*" at Clauses 13.01-25, 21.03 and 21.09-5, it is open to the Panel to consider and agree the more conservative approach that Council, with the support of the DELWP, has taken in relation to floodplain management.

The approach taken in this amendment, in summary, seeks to give effect to the results of modelling a more conservative rise in sea level of 1.2 metres, and despite it presenting more significant challenges for landowners aspiring to further

development, it is consistent with the desire to make planning decisions based on the best available information.

Community benefit

The objectives of planning, and the planning framework, in Victoria as set out in the *Planning and Environment Act 1987* are numerous but planners are constantly reminded about planning needing (amongst other things) to be fair, orderly, economic and sustainable.

Planning, be it strategic or statutory is inevitably about balance, and the need to arrive at a point where planning – in this case a combination of strategic and statutory planning, realises outcomes which balance the present and future interests of all Victorians and, in circumstances where there are competing interests, decision-making that can result in a net community benefit.

In my opinion, the benefit of attributing a reasonable level of protection to Sun Pharma's activities through the nomination of the proposed coastal settlement boundary and rezoning of land to prevent any meaningful residential incursion (and hence increased land use conflict) also intersects with the Council's interest in, and value of, managing hazards arising from sea level rise and flooding and the environmental and conservation values associated with the Belfast Lough.

In principle, however, it is my opinion, that the benefit of being cautious in relation to the potential for greater residential incursion of the closer surrounds of Sun Pharma's operations, contrasts favourably with the benefits of what could be attributable to it.

In my opinion, the possible residential expansion that *PFCSP* nominated on the Settlement and Housing plan at page 27, is clearly outside the proposed settlement boundary having regard to various constraints apparent to the south of the Princes Highway.

Having considered the Rivers Run Estate plan attached to the Rivers Run submission to this amendment, I am satisfied that the housing supply contemplated by the plan, can otherwise be accommodated in the nominated Growth Areas that the *PFCSP* identifies within the settlement boundary.

I acknowledge that a residential development of the Rivers Run land could contribute to the supply and choice of housing needed to 2041 and, further, that there will be economic benefit associated with construction and the ongoing contribution of new residents to the town. It occurs to me, however, that these benefits can similarly be realised over time with infill of existing urban areas, new development in *Growth Area A* and, in due course, *Growth Area B* (beyond 2041 and possibly beyond 2050). These are all development opportunities which can

occur within the proposed settlement boundary, not outside it, and in locations which are not as extensively impacted by a propensity to flood, and environmental sensitivities attributed to the Moyne River and Belfast Lough.

As explained in the River Runs submission about the amendment, Council has seemingly resisted advances by preceding and existing landowners of the Rivers Run land for around 20 years for reasons which, in my opinion, appear to have a basis in good 'first principles planning'.

Despite this, and somewhat curiously, Council is concurrently contemplating rezoning and subdivision of the land based on a notation (an asterix) appearing on the Settlement and Housing plan at page 26. The legend on the plan speaks to potential residential expansion subject to demonstrating accordance with relevant flood controls (which in effect is contemplating flood mitigating earthworks, which I understand the Council has historically tended to resist) and any buffer agreed by Sun Pharma and the EPA.

While the asterix and text at page of the *PFLSP* leaves 'the door open' for future residential expansion, the land is clearly outside the proposed settlement boundary and otherwise influenced by low-lying topography, landscape and environmental sensitivities, and prima facie incompatibility with Sun Pharma.

From a 'first principles' perspective, I am of the opinion that the notation in the *PFCSP* is unhelpful if the planning authority is committed to its planned settlement boundary, and what is intends flow from it. As result, I consider it appropriate that it has not been replicated in the proposed new *Figure 1* to Clause 21.09-3 nor attributed any overt supporting text in any of the *Housing and Settlement* vision, objective and strategy set out in the clause.

Some other matters

In respect of other matters set out in the second of Sun Pharma submissions prepared by Centrum and dated 31 January 2022 it is my opinion that:

- There is scope to improve the drafting of the following *Environmental Risks and Amenity* objective and for it to reference agent of change:

To avoid increasing potential increases in amenity impacts close to key industrial sites and public facilities.

- It is desirable that the following *Economic Development* strategy be more definitive in respect of the term *incompatible uses* and instead use the term *encroachment by sensitive uses* an:

Recognise the importance of Sun Pharma as one the town's main employers and protect the site from incompatible land uses

- Recognising the long-term occupation of the Sun Pharma land for industrial activities, I confirm that it is desirable that the following *Economic Development* strategy be drafted to give greater clarity in relation to the terms *current location* and *existing footprint* and expand the reference to adjacent residential development to include the word *existing* as it would be after approval of the amendment:

Support further intensification of Sun Pharma in its current location but do not support further expansion of activities with potential amenity impacts beyond its existing footprint in recognition of adjacent residential development.

Support should also be less ambiguous when it is noted that Sun Pharma presently has no *adjacent residential development* at its boundaries.

- The new *Figure 1 – Port Fairy Framework Plan* should desirably outline all of Sun Pharma’s land, that is it should include the southern extrusion of 199 Princes Highway. To avoid confusion, it is also preferred that the asterisk and legend reference to potential residential expansion be removed from the *PFCSP* which proposed to be introduced as a new Reference Document at Clause 21.11.

To the extent of my expertise, I consider that the proposed Amendment has appropriately attended to expectations for planning scheme amendments and responds positively to the guidance set out in the *Strategic Assessment Guidelines*. The *Explanatory Report* is detailed in this regard.

I anticipate that the confirmation of the coastal settlement boundary and related proposed changes to planning controls and policies (which I canvass in this report) in this northern part of Port Fairy, will enable Sun Pharma to:

- Continue its operations at the site with presently manageable responses to complaints.
- Not place further pressure on sensitive uses that could require Sun Pharma to initiate additional remedial actions to alleviate or mitigate off site impacts.
- Have confidence in retaining its Known Consignor Scheme and Australian Trusted Trader accreditations which it understandably values.
- Not be unreasonably constrained when considering opportunities for expansion subject to clarity in relation to a specific strategy relating to expansion which I highlight in this report.
- Continue to make a significant contribution to the local, and Victorian economies producing a globally significant supply of product critical to manufacture of very effective pain medicines for application around the world.

As importantly, it will:

- Not unreasonably prejudice the supply and diversity of housing and for which the PFCSP anticipates can be provided in two growth areas to the west of the Princes Highway.
- Recognise the town's susceptibility to coastal hazards and implement measures to manage them, and protect the community and its wide range of assets from damage and harm.

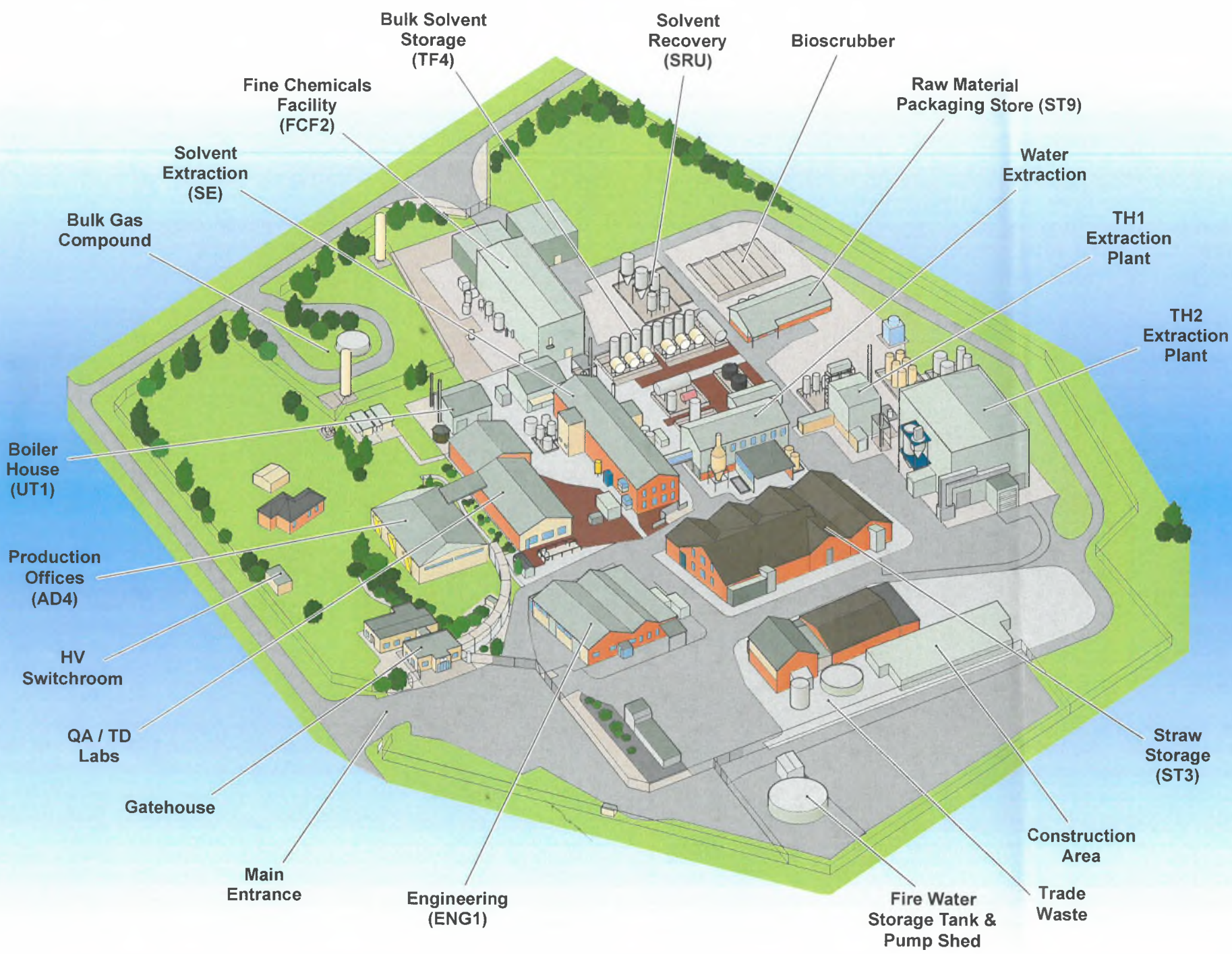
In coming to these conclusions, I have made all the inquiries that I believe are desirable and appropriate and no matters of significance which I regard as relevant have, to my knowledge, been withheld from the Panel.

A handwritten signature in black ink that reads 'Amanda K Ring'.

Amanda K Ring BTRP
Managing Director
Urban Planning Collective (UPCO)
19 August 2022



WELCOME TO SUN PHARMA PORT FAIRY



Welcome to Sun Pharma Port Fairy. Our Site has been in operation since 1920 when it became the first Glaxo branded factory in the world. The Site has evolved from producing dried milk product for baby food, through to antibiotic production in the 1960's, into the world's leading Opiate Extraction Facility. The Site was purchased from GSK by Sun Pharma on August 31st 2015.

The Port Fairy Staff are committed to producing high quality Narcotic Raw Materials and Active Pharmaceutical Ingredients. These products are used throughout the world for pain relief and drug abuse medications.

While on Site please follow all safety procedures, and have an enjoyable and memorable visit.

The MORPHINE Story

History - Uses - Products

Morphine is an opiate pain medication and is used to treat moderate to severe pain. Short-acting formulations are taken as needed for pain. Morphine is the most abundant alkaloid found in opium, the dried sap (latex) derived from shallowly sliced the unripe seed pods of the opium poppy, *Papaver somniferum*. Morphine was the first active principle purified from a plant. An agricultural by-product of the poppy seed harvest, the poppy straw was a waste product before the 1930s when a chemical process became available to extract morphine from it. Today, Poppy straw, consisting mainly of the capsule part of the plant, is the world's major source of morphine and other alkaloids.

1971	The first commercial production from Tasmanian poppy crop at Port Fairy producing 500 kilograms of morphine in a fully equipped extraction plant including primary extraction in the "shakers"
1974	Problems affecting sufficient area for poppy cultivation in Tasmania restricted morphine production to only 6 months of the year. Around this time the closure of other businesses left the production of morphine and manufacture of codeine phosphate as Port Fairy's sole activities.
1976	Port Fairy production of morphine amounted to 4% of the global supply and the site was awarded an Australian Export Award.
1978	Through local R&D efforts a new morphine "extraction plant" was developed and patented, the elegant process known as the "belt filter" is the world's leading method for the extraction of morphine.
1979	Awarded the "Plant of the Year" by the Society of Chemical Industry in Victoria.
1984	A locally developed morphine purification plant was installed using new technology "the columns" to continuously purify morphine extracts, and the recovery of morphine, codeine, and thebaine. The new plant at Port Fairy made 1988 was the first full production year using the new technology, producing over 25 tonnes of morphine. In 1990 a further plant was introduced for the feed line.
1991	In collaboration with F&L, a specialised manufacturing process for morphine sulphate was introduced at Port Fairy as part of the development of the controlled release product, Kapanol.
1995	With improved strains from poppy breeding completed with marketable effectiveness the Port Fairy site was supplying in excess of 25% of the global demand.
2006	Progressive capital investments and R&D development extended morphine production, improving product containment and process control with market leading efficiency making Port Fairy one of the leading producers of global morphine supply.

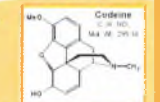


The CODEINE Story

History - Uses - Products

Codeine is used to treat mild to moderate pain and to relieve cough, normally presented as codeine phosphate in tablet form in presentations such as GSK's Panadol[®]. Codeine is both made synthetically from morphine or is extracted as a naturally occurring opiate alkaloid from the opium poppy, *Papaver somniferum*. Manufacture of the API Codeine Phosphate R.P. formed the first Opiate API produced.

1964	Codeine manufacture commenced at Port Fairy from impure Concentrate of Poppy Straw (morphine) in FCFs. By 1978 all Codeine Phosphate API was manufactured from CPS-morphine from poppy straw grown in Tasmania.
1980	Newly formed R&D department prepared the recovery of natural codeine from opium latex in the morphine column plant. Acid extraction from a single stage morphine sequence of opium resulted in acid Codeine recovery was "created" to recover residual codeine and natural codeine. Over 5 tonnes per annum of natural codeine produced.
1985	Column technology, standardising recovering of natural codeine via the "Acid column".
1988	Codeine recovery plant upgraded to new synthesis C&D.
1992	Australian code of GMP for API established. C&D column contained and quality standards were upgraded. 100 tonnes per annum of codeine phosphate is now produced.
2001	A significant investment in new Fair Chemicals Facility (FCF2) completed incorporating new equipment for the manufacture of codeine from morphine. FCF2 with Victorian Engineering excellence award and is listed on the Australian Inventory of National Heritage.
2010	Further investment completed incorporating the Fair Chemicals Facility (FCF2) into FCF1 and FCF2 decommissioned from opium morphine base. Capable for expanded capacity of codeine phosphate manufacture established in high standard facility. Focus is the production of natural codeine as CPS-morphine and opium of processing new high codeine codeine poppy.
2012	Further development on the production of codeine products using next generation technology.
2016	

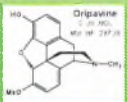


The ORIPAVINE Story

History - Uses - Products

Oripavine is a naturally occurring opiate and is biosynthetically produced alongside thebaine in opium poppies and commonly present in high yielding thebaine poppies. Oripavine itself is not clinically useful, however the early synthetic manufacturing steps for some opiate derivatives such as Naloxone and Naltrexone have meant that oripavine has long been viewed as the preferred starting material for their synthesis when compared to thebaine or morphine.

1980	An impurity in morphine, Alkaloid P was finally characterised in conjunction with the University of Tasmania as oripavine.
1986	Oripavine as the major related impurity in the production of concentrate of poppy straw-morphine (CPS-M) required special attention as finalisation poppies, the highest yielding poppies in the world, also contained the highest levels of the oripavine impurity. Purification of codeine base from Australian CPS-M required extra procedures to ensure oripavine was not converted to thebaine and contaminated codeine products. The production of a higher grade of morphine (Technical Morphine) was routinely used in Port Fairy manufacture to reduce oripavine content in morphine products.
1994	Attempts to breed a high oripavine poppy resulted in the first yielding high thebaine poppies, with the poppy content of both thebaine and oripavine increased relative to morphine. This biochemical relationship only finally explained by recent academic research publications in 2010.
2002	Isolation of oripavine, as a by-product of thebaine purification, was introduced and oripavine was subsequently purified and used to support the manufacture using some locally developed patent IP of the semi-synthetic opiate NNM (14-methylmorphine) as part of a partnership to develop the more efficient manufacture of naltrexone from oripavine.
2003	Commercial production of NNM from oripavine was performed, however production scale was small and the individual property rights were sold.
2004	Capital investment was completed in a TH1 addition, the "Oripavine columns" for the continuous recovery of oripavine by separation from other related opiates, morphine and codeine and isolation as a first pass oripavine.
2004	From local R&D programmes, an improved method of purifying and isolating technical oripavine was introduced to make morphine and when commercialised for significant quantities of oripavine.
2007	In conjunction with the University of Melbourne, the "Oripavine columns" were optimised to improve manufacturing rates and oripavine yield.
2008	Annual production exceeded 15 tonnes and demand for oripavine increased globally as companies converted product registrations for the manufacture of Naloxone and Naltrexone from oripavine and clinical demand for new semi-synthetic opiate Methylbuprenorphine increased.
2010	Annual production of oripavine almost as demand required after delays in clinical trials for new formulations.
2011	In late 2011 demand increased rapidly as new CPS-M strains were approved.
2012	Global oripavine demand increased exponentially and secured global supply capability.

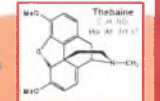


The THEBAINE Story

History - Uses - Products

Thebaine is an opiate alkaloid. A minor constituent of opium, thebaine has stimulatory rather than depressant effects. Thebaine is not used therapeutically but it can be converted synthetically into a variety of important opiate compounds including oxycodone, oxycodone, naltrexone, naltrexone, naltrexone, buprenorphine, etorphine and recently hydrocodone and methylbuprenorphine. These compounds are used both as analgesics in the treatment of pain "opiate agonists" or for the treatment of opioid dependency and opioid side effects.

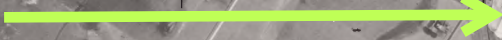
1980	Thebaine was first isolated at Port Fairy as a by-product of the recovery of naturally occurring codeine in the morphine extraction process in the "codeine recovery" plant.
1986	Recovery of thebaine incorporated in the newly installed "columns" technology. Recovery of thebaine at 2kg per day quickly exceeded global demand and was supplied for generic disposal.
1990s	Though first developed in 1916, oxycodone formulations in the UK became noted for the effective management of moderate to moderately severe acute or chronic pain and demand for thebaine rapidly grew with the introduction of an extended release formulation. By 1998 growth of oxycodone was strong global interest in the production of thebaine as a result of the oxycodone was being produced from an inefficient synthesis from morphine.
1994	Thebaine was produced from higher yielding thebaine poppies by "filter" extraction in the morphine plant. Challenging issues around the opium and culture in thebaine product resulted in numerous manufacturing process changes and trials to improve thebaine value.
1998	A \$4million investment was completed in a dedicated extraction plant (TH1) using a locally developed manufacturing process recovering both thebaine and morphine. Challenging engineering and process optimisation issues coupled with a rapidly escalating demand for thebaine meant this plant was short lived and replaced by 2008. Though not before operational excellence programmes increased capacity from 6 to over 20 tonnes per annum.
2001	Increased understanding of thebaine related impurities resulted in the development of new high purity thebaine manufacturing processes.
2003	A major commitment to global thebaine production was made with a \$20m investment in a modern thebaine extraction facility (TH2). Built on the experience gained in the TH1 investment and the award winning FCF2 plant, this highly automated facility was built with significant capacity in mind as projections of global thebaine demand were expected to reach over 200 tonnes per annum.
2006	Poppy improvements meant annual production in TH2 quickly increased the target of 50 tonnes per annum, a major investment approach was made improving capacity, product containment and safety.
2010	Further investment thebaine production capabilities, making Sun Pharma one of the world's leading suppliers of thebaine. Process improvements to simplify and increase process yield resulted in manufacturing capacity in excess of 150 tonnes per annum of thebaine and oripavine.
2014	New high oripavine content thebaine poppies and novel poppy chemical processes and both allowing increased production at high yield.
2016	



Attachment 2

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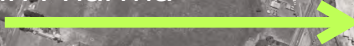
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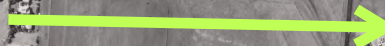
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Sun Pharma



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DEPARTMENT OF CROWN LANDS
AND SURVEY, VICTORIA. ©

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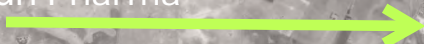
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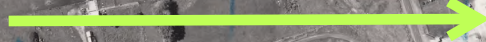
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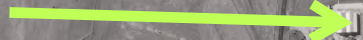
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