

**Moyne Planning Scheme Amendment C70moyn
Rural Housing and Settlement Strategy**

Panel Report

Planning and Environment Act 1987

11 November 2022

How will this report be used?

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

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

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

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

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

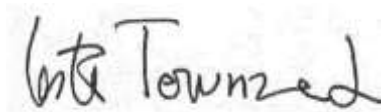
Planning and Environment Act 1987

Panel Report pursuant to section 25 of the PE Act

Moyne Planning Scheme Amendment C70moyn

Rural Housing and Settlement Strategy

11 November 2022



Lester Townsend, Chair



Mandy Elliott, Member

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Glossary and abbreviations

Bamstone	BAM and Associates Pty Ltd
CFA	Country Fire Authority
Council	Moyne Shire Council
DELWP	Department of Environment, Land, Water and Planning
EPA	Environment Protection Authority
FZ	Farming Zone
GRZ	General Residential Zone
HADDAC	Hawkesdale and District Development Action Committee
LCBS	Moyne Shire Land Capability and Biodiversity Studies Project, 2009 (EnPlan Partners with Ecology Partners)
LDRZ	Low Density Residential Zone
MD1	Ministerial Direction 1
PCRZ	Public Conservation and Resource Zone
PE Act	Planning and Environment Act 1987
Planning Scheme	Moyne Planning Scheme
PPF	Planning Policy Framework
PPN30	Planning Practice Note 30 Potentially Contaminated Land
PPN37	Planning Practice Note 37 Rural Residential Development
PPRZ	Public Park and Recreation Zone
PUZ	Public Use Zone
RCZ	Rural Conservation Zone
RHSS	Moyne Warrnambool Rural Housing and Settlement Strategy
RLSDA	Residential Land Supply & Demand Assessment, 2021 (Spatial Economics)
RLZ	Rural Living Zone
TZ	Township Zone

Overview

Amendment summary

The Amendment	Moyne Planning Scheme Amendment C70moyn
Common name	Rural Housing and Settlement Strategy
Brief description	<p>The Amendment proposes changes to update the Planning Policy Framework and planning controls. These changes will guide the use and development of agricultural land, rural living development, and the growth and development of the Shire's smaller settlements.</p> <p>There are changes proposed to planning policy, the zoning of land in designated areas, and minimum lot sizes in designated areas within the Farming Zone</p>
Subject land	Multiple areas across the municipality
Planning Authority	Moyne Shire Council
Authorisation	<p>Submitted 29 January 2020</p> <p>Authorised with conditions 12 April 2021</p>
Exhibition	4 September to 8 November 2021
Submissions	Number of Submissions: 64, 50 referred to the Panel See Appendix A

Panel process

The Panel	Lester Townsend (Chair) and Mandy Elliott
Directions Hearing	Video conference, 2 August 2022
Panel Hearing	Video conference and in person at Mortlake, 19, 20, 21 September, 3 October 2022
Site inspections	Unaccompanied, 22 September 2022
Parties to the Hearing	Appendix B
Citation	Moyne PSA C70moyn 2022 PPV
Date of this report	11 November 2022

Executive summary

Moyne Planning Scheme Amendment C70moyn (the Amendment) began life as Amendment C44 (the renumbering was a consequence of the introduction of the Amendment Tracking System in late 2019).

The Amendment seeks to implement the settlement, housing and land use recommendations of strategic work, most relevantly the *Moyne Warrnambool Rural Housing and Settlement Strategy* (RHSS). The Amendment also proposes to include the *Moyne Shire Land Capability and Biodiversity Studies Project (2009)* (LCBS) as a background document.

This is an amendment with many moving parts. It is intended to:

- provide an improved strategic framework and suite of statutory controls to guide the use and development of agricultural land in Moyne
- support the provision of diversity in housing stock in Moyne
- improve the management of residential and rural residential development in Moyne's smaller settlements
- formalise within the Moyne Planning Scheme the existing areas used for rural living purposes, as identified in the RHSS
- improve the clarity and transparency of planning controls by mapping what are currently text based descriptions in schedules.

The Amendment applies to rural (non-urban) land and small settlements across Moyne. The Amendment makes policy and zoning changes. The rezonings are a mix of:

- policy neutral changes to improve scheme transparency
- uncontroversial application of public use zones to public land
- rezoning to recognise existing land use patterns
- new zones or zone schedules to achieve new policy intent.

Of the submissions that raise objection or request changes to the Amendment, the identified key themes were summarised by Council as relating to:

- aspects of the Amendment abandoned by Council, in accordance with Section 23 (1) (c) of the *Planning and Environment Act 1987* before the Panel Hearings:
 - the opposition to application of the Rural Conservation Zone to land within the Budj Bim National Park Environs
 - opposition to the increase in the minimum lot size from 10 hectares to 40 hectares under the Farming Zone (FZ) in the Belfast Rural Area (Killarney and Tower Hill, south of Princes Highway, bounded by Rocks Road and Gormans Road)
- in the townships:
 - requests for changes to the location of land to be rezoned Rural Living Zone Schedule 1 (RLZ1) at Hawkesdale
 - support for the proposed rezoning at Purnim to the Township Zone (TZ) and the subsequent making of additional land adjacent to the township available for development
 - requests for rezoning to the Low Density Residential Zone (LDRZ) at Grassmere
- in the Koroit and surrounds area:

- opposition to reducing the minimum lot size for an ‘as of right’ dwelling to 10 hectares within Schedule 3 (lifestyle farming area) to the FZ at Koroit West, Crossley and Kirkstall
- requests for additional land to be rezoned to the RLZ2 at Kirkstall, Koroit West and Southern Cross
- requests for reductions in the minimum lot size to 1 hectare or less at Crossley, Koroit West, Port Fairy, Southern Cross and Tower Hill
- requests for rezoning to the LDRZ at Kirkstall, Koroit West and Port Fairy.

Council advised that the Amendment has a long history including:

- extensive strategic work that commenced with the preparation of the Moyne Shire Land Capability and Biodiversity Studies Project and the Moyne Warrnambool Rural Housing and Settlement Strategy in 2007 and 2008 respectively
- extensive pre-exhibition consultation community engagement workshops undertaken during April and May 2010, which resulted in 45 submissions and the convening of a submitters meeting
- an earlier strategic planning process, Amendment C44, that took place in June 2011 to implement the 2007 and 2008 adopted strategies
- refreshed strategic work in the form of the Moyne Shire Council Rural Housing and Settlement Strategy – Addendum Report 2015, prepared by Council in 2015.

Strategic justification

Two elements of the Amendment do not require strategic justification:

- policy neutral changes to improve scheme transparency
- uncontroversial application of public use zones to public land.

The changes to recognise existing land use patterns that do not result in significant on-the-ground changes need to be assessed to ensure they are not entrenching or exacerbating an inappropriate land use pattern, but this needs to be balanced against the effective management of areas as they are currently developed. These types of changes include back zoning RLZ land to the FZ. The circumstances of individual settlements will determine these outcomes.

Critical areas for strategic justification in the exhibited Amendment are proposals to:

- introducing ‘lifestyle farming’ areas
- rezoning land from FZ to the RLZ
- inserting a new RLZ2.

Council’s post-exhibition changes also require strategic justification, but the Panel notes that there was no systematic presentation of this justification.

Conclusions

It is difficult to determine a clear line of sight between the background reports and the Council’s preferred version of the Amendment. This is because:

- the LCBS and RHSS are separate strategies rather than an integrated piece of work
- the Addendum Report 2015 which reconciles the LCBS and RHSS is more pragmatic than strategic in its presentation

- authorisation departed significantly from the LCBS, RHSS and Addendum Report 2015 in places
- the Council preferred version is not explicitly supported by a strategic analysis.

These difficulties do not mean that the Amendment cannot proceed, but that it must proceed more on the basis of a pragmatic response to the situation of the individual settlements than as the systematic application of overarching strategy. Indeed, this is the way evidence was put to the Panel. This settlement-by-settlement approach is more difficult in the area of Koroit and surrounds where a strategic overview of the area around Koroit would provide for clear and orderly planning.

There is strategic and policy support for the Amendment generally as exhibited with some changes:

- the 'lifestyle farming' area to the west of Koroit should not proceed as it runs the risk of undermining existing established agricultural operations in an area of high value agricultural land
- the potential for soil contamination from potato farming to the west of Koroit needs to be properly addressed before rezoning to the RLZ proceeds.

Council's proposed lot size reductions in the RLZ in response to submissions are not strategically justified and should not proceed.

Council's proposed extension of the RLZ in Hawkesdale is not strategically justified.

Council's proposals to identify land for further growth in changed policy at 21.09 should be addressed by further work and no change should be made to the exhibited policy for Hawkesdale, Purnim, Kirkstall or Koroit West, Southern Cross.

Submitter requests for rezoning (with one exception) would require further strategic justification and further notice and hearings if they were to proceed under the Amendment. They are best left to other processes.

Recommendations

Based on the reasons set out in this Report, the Panel recommends that Moyne Planning Scheme Amendment C70moyn be adopted as changed by Council at its ordinary meeting on 3 May 2022 in accordance with section 23 (1) (c) of the *Planning and Environment Act 1987* subject to the following:

- 1. Revise Clauses 21.05 and 21.09 to address the concerns raised by the Department of Environment Land Water and Planning in Submission 51.**
- 2. Review Clause 21.05 and 21.09 to ensure text and framework plans are consistent with the adopted zones.**
- 3. Amend the Rural Living Zone schedules to include minimum setbacks for dwellings from roads modelled on the setbacks in the Farming Zone Schedule 2, but adjusted to address changes in the Victoria Planning Provisions since exhibition.**
- 4. Abandon the Farming Zone Schedule 3 proposal west of Koroit and make necessary changes to Clause 22.03-4 (Lifestyle Farming) to reflect its deletion.**
- 5. Before applying the Rural Living Zone to area west of Koroit, assess the land for potential contamination in accordance with the requirements of Ministerial Direction 1 and Planning Practice Note 30 to the satisfaction of the Department of Environment Land Water and Planning and the Environment Protection Authority.**
- 6. Increase the extent of the Farming Zone Schedule 2 to accord with the title boundaries of a consolidated lot PC379510Y, so that only one minimum lot size applies to the subject land.**

1 Introduction

1.1 The Amendment

1.1.1 Amendment description

Moyne Planning Scheme Amendment C70moyn (the Amendment) began life as Amendment C44 (the renumbering was a consequence of the introduction of the amendment tracking system in late 2019).

The Amendment seeks to implement the settlement, housing and land use recommendations of strategic work, most relevantly the *Moyne Warrnambool Rural Housing and Settlement Strategy* (RHSS). The Amendment also proposes to include the *Moyne Shire Land Capability and Biodiversity Studies Project (2009)* (LCBS) as a background document.

The Amendment is intended to:

- provide an improved strategic framework and suite of statutory controls to guide the use and development of agricultural land in Moyne
- support the provision of diversity in housing stock in Moyne
- improve the management of residential and rural residential development in Moyne's smaller settlements
- formalise in the Planning Scheme the existing areas used for rural living purposes, as identified in the RHSS
- improve the clarity and transparency of planning controls by mapping what are currently text-based descriptions in schedules.

The Amendment applies to rural (non-urban) land and small settlements across Moyne and makes policy and zoning changes.

1.1.2 Policy changes

The Amendment proposes the following policy changes:

- **Clause 21.05 (Settlement and Housing)**
Introduce new guidance in relation to the anticipated role and growth expectations for the municipalities smaller settlements and to provide improved guidance and direction for rural residential and rural living developments
- **Clause 21.07 (Economic Development)**
Introduce improved guidance and direction for the anticipated use and development of agricultural land
- **Clause 21.09 (Local Areas)**
Introduce new, settlement specific policy outlining the anticipated settlement role and growth expectations for the settlements of Caramut, Cudgee, Ellerslie, Framlingham, Garvoc, Grassmere, Hawkesdale, Hexham, Illowa West, Kirkstall, Koroit, Macarthur, Nullawarre, Orford, Panmure, Purnim, Southern Cross, Towilla Way, Winslow, Woolsthorpe, Woorndoo and Yambuk
- **Clause 22.01 (Settlement)**
Delete Clause 22.01-5 (Koroit), Clause 22.016 (Macarthur) and Clause 22.01-7 (Smaller Townships and Settlements), with settlement specific policy for these townships to be included within the amended Clause 21.09 (Local Areas)

- **Clause 22.03 (Economic Development)**
 - Delete Clause 22.03-4 (Agricultural Production), Clause 22.03-5 (Housing on Lots of Less than the Minimum Area) and Clause 22.03-6 (Excisions of Dwellings in the Farming Zone), with guidance and direction for the anticipated use and development of agricultural land to be detailed within the amended Clause 21.07 (Economic Development)
 - Introduce a new Clause 22.03-4 (Lifestyle Farming Policy) to set out expectations for, and to provide a framework to guide decision making for dwellings on rural lots of less than 15 hectares in area between Koroit and Kirkstall and at Bushfield and Wangoom
- **Clause 21.11 (Reference Documents)**
Introduce the following as Reference Documents:
 - Moyne Shire Land Capability and Biodiversity Studies Project, 2009 (EnPlan Partners with Ecology Partners)
 - Moyne Warrnambool Rural Housing and Settlement Strategy – Context Report, 2010 (CPG Australia)
 - Moyne Warrnambool Rural Housing and Settlement Strategy – Rural Housing and Settlement Strategy Report, 2010 (CPG Australia)
 - Moyne Shire Council Rural Housing and Settlement Strategy – Addendum Report 2015, 2015 (Moyne Shire Council).

1.1.3 Zoning changes

The exhibited Amendment proposes a number of zoning changes and changes to zone schedules.

The rezonings are a mix of:

- policy neutral changes to improve scheme transparency
- uncontroversial application of public use zones to public land
- rezoning to recognise existing land use patterns
- new zones or zone schedules to achieve new policy intent.

Areas affected by zoning changes are shown in Figure 1. The Koroit and surrounds area is shown in more detail on Figure 19 on page 53. Figure 1 does not show settlements where only policy neutral zoning changes are proposed. It shows:

- Settlements where submissions were received
- Settlements where no submissions were received
- Budj Bim where part of the Amendment was abandoned
- Curdievale which is not part of the Amendment but was the subject of a submission.

Figure 1 Areas affected by the Amendment – Moyne view



In respect of the Farming Zone (FZ), the Amendment, as exhibited, proposed to:

- rename the existing unnumbered schedule to the FZ to Schedule 1 (FZ1) (40 hectare minimum for permit exempt dwellings¹ and subdivision²), and split the minimum lot size requirements for high quality agricultural land, identified in the schedule as land included in Schedule 5 to the Significant Landscape Overlay (SLO5), into a new Schedule 2 (FZ2) (10 hectare minimum for dwellings and subdivision)
- change minimum lot sizes for dwellings and subdivision:
 - introduce a ‘lifestyle farming’ (FZ3) (10 hectare minimum for dwellings and 40 hectares for subdivision) in a designated ‘lifestyle farming’ area around Koroit
 - introduce a ‘lifestyle farming’ (FZ4) (15 hectare minimum for dwellings and subdivision) in a designated ‘lifestyle farming’ area around Bushfield and extending into rural areas in Grassmere and Wangoom
 - increase the minimum lot size for dwellings and subdivision from 10 hectares to 40 hectares in the FZ between Rocks Road and to the east of Gormans Road, at Killarney and Tower Hill south of the Princes Highway in the Koroit and surrounds area by applying the FZ1 instead of a policy neutral transfer to FZ2
- back zone land from the RLZ to the FZ at Caramut and parts of Nullawarre
- rezone land from FZ to the Rural Conservation Zone (RCZ) close to the Budj Bim National Park with a new Schedule 2 to specify minimum subdivision areas.

In respect of the Rural Living Zone (RLZ):

- split the unnumbered schedule to the RLZ into two new schedules on a policy neutral basis:
 - RLZ1 with a 1 hectare minimum lot size for subdivision and dwellings without a permit

¹ The minimum lot size required for a dwelling ‘Minimum area for which no permit is required to use land for a dwelling’

² With some site specific exceptions. FZ1 is mapped as ‘FZ’ or ‘FZ1’ on planning scheme maps

- RLZ3 with a 4 hectare minimum lot size for subdivision and dwellings without a permit
- insert a new RLZ2 with a 2 hectare minimum lot size for subdivision and dwellings without a permit
- rezone land from FZ to the:
 - RLZ1 at Grassmere, Hawkesdale and Woolsthorpe
 - RLZ2 at Koroit and surrounds (including, west of Koroit to Kirkstall and Crossley, Southern Cross, and Illowa West, but RLZ1 Towilla Way near Killarney).

In townships:

- rezone specific lots within the built area of Garvoc, Purnim and parts of Nullawarre to the Township Zone (TZ) from the FZ
- rezone public land to the Public Use Zone (PUZ), Public Conservation and Resource Zone (PCRZ) or Public Park and Recreation Zone (PPRZ) to reflect its status as public land.

1.1.4 Changes to the Amendment in response to submissions

In response to the submissions, Council resolved, in accordance with section 23 (1) (c) of the *Planning and Environment Act 1987* (PE Act), to abandon part of the Amendment which concerns:

- the application of the RCZ to the Budj Bim National Park Environs
- the increase to the minimum lot size from 10 hectares to 40 hectares in the FZ in the area south of the Princes Highway, bounded by Rocks Road to the east of Gormans Road, at Killarney and Tower Hill.

The submissions that gave rise to the partial abandonment of the Amendment were not referred to the Panel and therefore have not been considered.

1.1.5 Council position in response to submissions

Council resolved to present a preferred position on the Amendment for the Panel's consideration:

- Policy changes:
 - including additional information in the Planning Policy Framework strengthen the strategic framework as requested by DELWP (Sub 51)
 - amending of the Framework Plans for Hawkesdale, Kirkstall, Koroit West, Purnim and Southern Cross in the exhibited Clause 21.09 to identify land for future growth as requested in Submissions 7, 8, 9, 14, 23, 35, 52, 53, 60 and 63.
- Advocating for zone schedule changes:
 - including minimum setback distances from a Transport 2 Zone in Schedule 2 to RLZ similar to that specified in Schedule 2 to the FZ as requested by the Department of Transport (Sub 59)
 - reducing the minimum lot size from 2 hectares to 1 hectare for the proposed RLZ at Koroit, Crossley, Illowa, Southern Cross and Tower Hill
 - reducing the minimum lot size from 4 hectares to 1 hectare in the existing RLZ at Port Fairy (Sub 17).
- Advocating for changes to the mapping beyond the exhibited Amendment as follows:

- supporting the change to the boundary between FZ1 and FZ2 at Illowa as requested in Submission 13
- supporting the change to the location of the land proposed to be rezoned to RLZ1 at Hawkesdale as requested in Submission 15.
- Supporting the exhibited form of the Amendment (contrary to the recommendation of Council’s internal strategic planning officers) retaining the exhibited FZ3 ‘lifestyle farming’ area between Koroit–Kirkstall, Crossley and Tower Hill.

1.2 Background

1.2.1 Background to the Amendment

Council advised that the Amendment has a long history including:

- extensive strategic work that commenced with the preparation of the Moyne Shire Land Capability and Biodiversity Studies Project and the Moyne Warrnambool Rural Housing and Settlement Strategy in 2007 and 2008 respectively
- extensive pre-exhibition consultation community engagement workshops undertaken during April and May 2010, which resulted in 45 submissions and the convening of a submitters meeting
- an earlier strategic planning process, Amendment C44, that took place in June 2011 to implement the 2007 and 2008 adopted strategies
- refreshed strategic work in 2015, in the form of the Moyne Shire Council Rural Housing and Settlement Strategy – Addendum Report 2015, prepared by Council³.

Council submitted (Part A):

- 15 There is considerable community interest in the municipality for progressing with agricultural land use policy and rural housing reform.

1.2.2 Council resolutions and authorisation

Previous resolutions about the preparation of the Amendment

In part as a consequence of the lengthy history of the Amendment, there are several Council resolutions that inform or relate to the Amendment. These are presented in Appendix D.

Authorisation

Council requested authorisation to prepare the Amendment on 29 January 2020. Between this request and the grant of authorisation, a review was undertaken by DELWP and detailed correspondence passed between Council and DELWP. This has been provided to the Panel.

On 12 April 2021, authorisation was granted for the preparation and exhibition of the Amendment subject to the conditions summarised in Council’s submission on of how those conditions have been met. The Table is presented in Appendix E.

1.2.3 Other amendments

Amendment C69moyn

Amendment C69moyn seeks to implement the recommendations of the *Port Fairy Coastal and Structure Plan, 2018* by revising the Local Areas Policy relevant to Port Fairy in the Local

³ Noting that the Addendum Report 2015 was not subject to any separate, dedicated community consultation

Planning Policy Framework of the Moynes Planning Scheme, making relevant changes to the zone and overlay controls applicable to Port Fairy, and updating the operational provisions.

Amendment C75moyn

Amendment C75moyn is made at the request of *Myers Planning Group Pty* on behalf of *Rivers Run Estate Pty Ltd* and is site specific to 169A and 183 Princes Highway, Port Fairy, seeking to rezone the land from the FZ and General Residential Zone to the Neighbourhood Residential Zone and apply the Development Plan Overlay Schedule 5 to the land.

A concurrent application for a planning permit proposes to subdivide the land into 75 residential lots, undertake earthworks (cut and fill), construct 10 dwellings on proposed Lot 20, create or alter access to a road in a Road Zone Category 1, and create or remove easements.

1.3 Summary of issues raised in submissions

1.3.1 Overview of submissions

Council received 64 submissions, consisting of:

- one submission expressed no objection⁴
- two submissions that either generally support or fully support the Amendment⁵
- sixteen submissions that express support for some aspects of the Amendment and object to, or request changes with relation to, other aspects of the Amendment⁶
- the remaining 45 submissions either oppose, or request changes to, the Amendment.

The submissions included a change.org petition with 360 signatories and six late submissions.

Of the submissions that raise objection or request changes to the Amendment, the identified key themes were summarised by Council as relating to:

- aspects of the Amendment abandoned by Council, in accordance with section 23 (1) (c) of the PE Act before the Panel Hearings:
 - the opposition to application of the Rural Conservation Zone to land within the Budj Bim National Park Environs
 - opposition to the increase in the minimum lot size from 10 hectares to 40 hectares under the FZ in the Belfast Rural Area (Killarney and Tower Hill, south of Princes Highway, bounded by Rocks Road and Gormans Road).
- in the townships:
 - requests for changes to the location of land to be rezoned RLZ1 at Hawkesdale
 - support for the proposed rezoning at Purnim to the TZ and the subsequent making of additional land adjacent to the township available for development
 - requests for rezoning to the LDRZ at Grassmere.
- in the Koroit and surrounds area:
 - opposition to the reduction of the minimum lot size for an 'as of right' dwelling to 10 hectares within Schedule 3 (lifestyle farming area) to the FZ at Koroit West, Crossley and Kirkstall
 - requests for additional land to be rezoned to the RLZ2 at Kirkstall, Koroit West and Southern Cross

⁴ Submission 57

⁵ Submissions 2 and 54

⁶ Submissions 6, 7, 12, 14, 17, 19, 21, 44, 47, 49, 50, 51, 53, 56, 59 and 61

- requests for reductions in the minimum lot size to 1 hectare or less at Crossley, Koroit West, Port Fairy, Southern Cross and Tower Hill
- requests for rezoning to the LDRZ at Kirkstall, Koroit West and Port Fairy.
- concerns regarding the extent of time that has elapsed since the finalisation of the strategy documents, including the validity of background data and subsequent changes to planning requirements, including new environmental protection and bushfire planning measures; and blanket opposition to the entire Amendment.

1.3.2 Agency submissions

Department of Environment, Land, Water and Planning

The submission received from DELWP (Sub 51) noted support for the intent of the Amendment, and:

- supported the recognition of environmental values through use of the Rural Conservation Zone⁷
- noted that Crown Land should logically be included within the proposed rezoning of public land to either the PUZ, PCRZ or PPRZ
- noted that concerns may exist with relation to proposed rezoning of land that is adjacent to Crown Land
- identified specific opportunities for inclusion of additional information to strengthen strategic framework and planning controls to better guide use and development of agricultural land, rural living development and the growth and development the municipalities smaller settlements, with specific comment listed for each area.

Wannon Water

Wannon Water (Sub 25) noted the need for greater water and sewerage services for subdivision of lots of less than 1 hectare and the subsequent need to consider cumulative impacts on the environment with relation to wastewater impacts, drinking water supply and groundwater extraction.

The submission advised of concerns with current management of on-site wastewater systems and that increased density in areas unconnected to mains sewerage will mean less effective management and monitoring. The submission noted a preference for density increases to occur in areas where infrastructure is available to support such density.

With specific relation to the proposed rezoning, the submission noted:

- concerns that lots will not be able to contain the wastewater system loads
- land capability assessments should be required for all new developments in areas that not connected to reticulated sewerage
- the existing issues within Mailors Flat, where lot sizes of less than 0.4 hectares, heavy clay soil conditions and the location downslope of existing development has led to waterlogging, will be replicated in other areas without appropriate mitigation measures.

Department of Transport

The Department of Transport (Sub 59) expressed support for the amendment, and commented:

⁷ This part of the Amendment has been abandoned

- future development of towns and hamlets with moderate to higher growth potential must have regard to the interaction between general traffic and construction traffic associated with identified potential wind farm developments
- Council should carefully assess the interface of tourist development with other modes of traffic in accordance with Clause 18.01-1 (Land Use and Transport Planning) and Clause 18.01-2S (Transport System)
- consideration should be given to a minimum setback from the Road Zone, Category 1 or land within a Public Acquisition Overlay in the areas proposed to be rezoned to the RLZ
- careful assessment is required of direct access to arterial roads within the Koroit Structure Plan in consultation with DoT, due to the increase in traffic and the important link these arterial roads play in supply chain of nearby industries.

Warrnambool City Council

Warrnambool City Council (Sub 61) commended Council on the progressing of the Amendment, and noted the following concerns:

- the need for a community impact assessment to identify demand on Moyne and Warrnambool as a result of the Amendment, noting that estimated dwelling and population numbers of projected residential growth areas, noting that they appear to be conservative in current and with specific relation to:
 - infrastructure investments resulting from population growth
 - demand on Warrnambool's community services (early years, sports and recreation, open space and parks and gardens)
- the need to consider and respond to the strategic directions within the Warrnambool Planning Scheme and the Warrnambool Domestic Wastewater Management Plan (2020–2025) for the settlement of Bushfield–Woodford
- the need for a Traffic Impact Assessment for Bushfield to inform proposed rezoning, including any amenity or cost implications for the road network managed by Warrnambool City Council
- confirmation that properties within Warrnambool that are in proximity to the proposed rezoning of Bushfield have been notified of the Amendment.

1.3.3 Resolution to refer the Amendment to a Panel

At its ordinary meeting on 3 May 2022, Council resolved:

1. Accepts Submission Nos 59, 60, 61, 62 and 63 as late submissions.
2. Considers all submissions to Amendment C70moyn to the Moyne Planning Scheme.
3. Abandons that part of the Amendment which concerns the application of the Rural Conservation Zone Schedule 2 (RCZ2) to the Budj Bim National Park Environs, as shown on Map 'Moyne C70 003znMaps06_08_18_19 Exhibition', in accordance with Section 23 (1) (c) of the Planning and Environment Act 1987.
4. Abandons that part of the Amendment which concerns the increase to the minimum lot size from 10 hectares to 40 hectares within the Farming Zone in the area south of the Princes Highway, bounded by Rocks Road to the east of Gormans Road, at Killarney and Tower Hill, as shown on the attached map, in accordance with Section 23 (1) (c) of the Planning and Environment Act 1987.
5. Requests the Minister for Planning to appoint an Independent Panel under Part 8 of the Planning and Environment Act 1987 to consider the submissions as referred by Council.

6. Refers all submissions, except:
 - a. Submission Nos 4, 5, 6, 10, 11, 22, 32, 33, 39, 42 and 64 pertaining to the application of the Rural Conservation Zone Schedule 2 (RCZ2).
 - b. Submission Nos 41, 55, and 58 pertaining to the increase to the minimum lot size within the Farming Zone in the area south of the Princes Highway at Killarney and Tower Hill to the Panel in accordance with Section 23 (1) (b) of the Planning and Environment Act 1987.
7. Submits to the Panel its response to the submissions generally as outlined in this report and the attachment, except for the following changes:
 - a. Supporting the change to the location of the land proposed to be rezoned to Rural Living Zone Schedule 1 (RLZ1) at Hawkesdale requested in Submission No 15.
 - b. Supporting the retention of the exhibited Farming Zone Schedule 3 (FZ3) 'lifestyle farming' area between Koroit–Kirkstall, Crossley and Tower Hill.
 - c. Supporting the requests for reductions in the minimum lot size from two hectares to one hectare for the proposed Rural Living rezonings at Koroit, Crossley, Illowa and Tower Hill, and the reduction of the minimum lot size from four hectares to one hectare in the existing Rural Living Zone at Port Fairy.
 - d. Supporting the amendment of the Framework Plans for Hawkesdale, Kirkstall, Koroit West, Purnim and Southern Cross in the exhibited Clause 21.09 to identify land for future growth as requested in Submission Nos 7, 8, 9, 14, 23, 35, 52, 53, 60 and 63.
8. Authorise the Director of Economic Development and Planning to submit to the Panel revised Local Planning Policy taking into consideration the Local Planning Policy Framework (LPPF) Translation for consideration, in accordance with the authorisation conditions.
9. Considers the feasibility of undertaking a new small towns and settlements strategy/further strategic work as part of the forthcoming Planning Scheme Review.

1.4 Procedural issues

1.4.1 Considering the impact of Council's proposed changes on Bamstone

One of Council's proposed changes resulted in a late submission on the eve of the Directions Hearing by Best Hooper lawyers on behalf of BAM and Associates Pty Ltd (Bamstone).

Given Council's meeting cycle and delegations, Council could not formally refer the Bamstone submission to the Panel before to the Hearing, but welcomed the Panel's proposal to inform itself as it thinks fit in relation to the submission, as indicated at the Directions Hearing.

Following the Directions Hearing the Panel advised:

The Panel has formed a preliminary view that proposed changes to the lot sizes in the RLZ are beyond the scope of the Amendment, but will hear submissions that the changes should be made. If it is persuaded that there may be merit in those submissions it will determine an appropriate process for further notice and submission.

This issue is discussed in Chapter 5.2.

1.4.2 Council officer as expert

Damien Drew gave evidence on behalf of Council. Mr Drew is a Council officer. He stated, and the Panel agrees:

4. I appreciate that as a Council officer, I am not able to provide independent evidence or to 'peer review' the work of the Council in preparing the amendment or resolving on the preferred form of the amendment for the Panel's consideration. My role in preparing this statement of evidence is to assist the Panel to gain an understanding of the background to the Amendment, informed by the supporting documents and Scheme and land use context.

Mr Drew was instructed to prepare an expert witness statement for the assistance of the Panel which described, in a consolidated manner and township by township, the consideration and recommendations for future zoning and land use set out in various studies including the supporting documents, in the conditions of authorisation of the Amendment, in the exhibited form of the Amendment and, where relevant, in the resolution of Council made at the time of the request to the Minister to appoint this Panel.

The Panel was greatly assisted by Mr Drew's evidence.

1.5 The Panel's approach

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

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

The Panel has provided the detail about settlements where non-neutral zoning changes are proposed but there were no submissions for completeness and to assess the overall consistency of the approach of the Amendment.

This Report deals with the issues under the following headings:

- Strategic justification
- Policy issues
- Setbacks to roads
- Townships:
 - Bushfield, and farming areas in Grassmere and Wangoom
 - Port Fairy North
 - Caramut
 - Curdievale
 - Garvoc
 - Grassmere
 - Hawkesdale
 - Nullawarre
 - Purnim
 - Woolsthorpe
- Koroit and surrounds
 - The areas
 - Illowa West
 - West of Koroit to Kirkstall and Crossley
 - Southern Cross
 - Killarney and surrounds.

Table 1 provides a high level overview of the changes proposed for the areas discussed in Chapters 5 and 6.

Table 1 Areas discussed in the Chapters 5 and 6 with overview of changes

Locality	Exhibited		Council submission	
	Policy change	Non-neutral zone change	Framework plan change	Zone or schedule change
Townships discussed in Chapter 5				
Bushfield and farming areas		FZ→FZ4		
Port Fairy 21.09-3	no	nil		4 ha → 1 ha in RLZ3
Caramut 21.09-6	YES	RLZ→FZ1		
Curdievale	no	nil		
Garvoc 21.09-10	YES	FZ→TZ		
Grassmere 21.09-11	YES	FZ→RLZ1		
Hawkesdale 21.09-12	YES	FZ→RLZ1	YES	Changes to RLZ
Nullawarre 21.09-18	YES	RLZ→FZ1, FZ→TZ		
Purnim 21.09-21	YES	FZ→TZ	YES	
Woolsthorpe 21.09-25	YES	FZ→RLZ1		
Koroit and surrounds discussed in Chapter 6				
Illowa West 21.09-14	YES	FZ→RLZ2		2 ha → 1 ha
West of Koroit to Kirkstall and Crossly				
- Kirkstall 21.09-15	YES	nil	YES	
- Koroit 21.09-16	YES	FZ→RLZ2	YES	2 ha → 1 ha
- Farming areas		FZ→FZ3		
Southern Cross 21.09-22	YES	FZ→RLZ2	YES	2 ha → 1 ha
Killarney and surrounds				
- Farming areas		Some public land in SLO5 not translated to FZ2		FZ1 → FZ2 (Sub 13)
- Towilla Way 21.09-23	YES	FZ→RLZ1		

2 Strategic justification

2.1 Introduction

The issue is the broad questions that should be taken into account when considering the proposed Amendment.

Two elements of the Amendment do not require strategic justification:

- policy neutral changes to improve scheme transparency
- uncontroversial application of public use zones to public land.

Clear strategic justification is required in the application of new zones or zone schedules to achieve new policy intent. This relates to:

- reducing the lot sizes requirements in the FZ and the RLZ
- the application of the RLZ.

Planning Practice Note 37 – Rural Residential Development (June 2015) gives guidance on assessing rural residential development:

... the following broad questions should be answered in sequence:

- **Strategy:** Does rural residential development align with the overall strategic planning of the municipality?
- **Housing need:** How much rural residential development is required to provide appropriate housing diversity and choice to meet housing needs?
- **Location:** Where should new rural residential development take place?
- **Subdivision and design:** Is the new rural residential development subdivided and designed in an attractive setting offering high amenity and efficient infrastructure?

These broad questions should be taken into account when considering a proposed amendment.

The proposed 'lifestyle farming' areas may present similar conflicts to rural residential development, and similar considerations would apply.

2.2 Background material

2.2.1 Strategy: the Planning Policy Framework

Key policies that bear on the Amendment can be found under the headings of:

- Settlement
- Peri-urban areas
- Protection of agricultural land
- Sustainable agricultural land use
- Rural residential development.

Settlement

11.01-1S (Settlement) sets out three strategies of direct relevance to the Amendment:

Ensure regions and their settlements are planned in accordance with their relevant regional growth plan.

Guide the structure, functioning and character of each settlement taking into account municipal and regional contexts and frameworks.

Create and reinforce settlement boundaries.

The relevant regional growth plan is resented at 1.01-1R (Settlement – Great South Coast) and includes under the objective *“To attract more people to the region”* the following strategies:

Plan for a network of settlements based around Warrnambool... and district towns drawing on proximity to services, affordable living and a variety of lifestyle opportunities.

Support the role of Warrnambool as the key population and employment centre for the region with key links to Geelong and Melbourne.

...

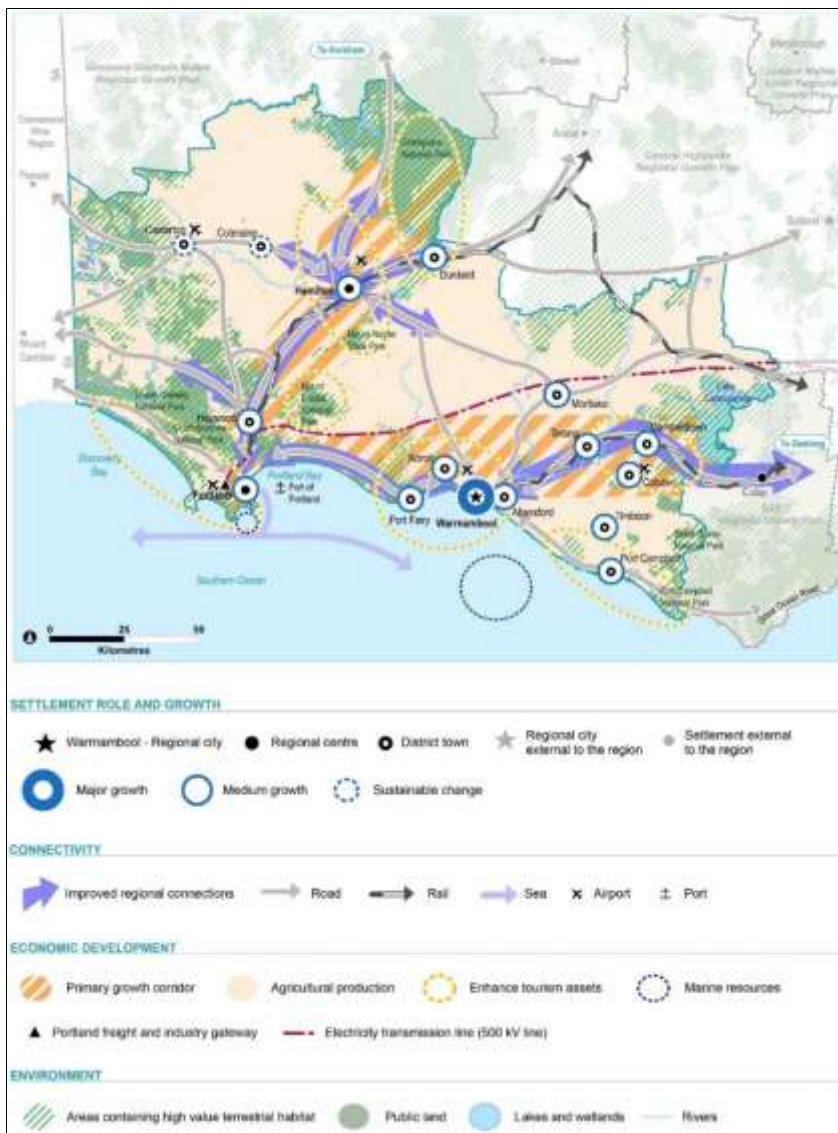
Facilitate the district towns of ... Koroit, ... Port Fairy, ... to support local communities, industry and services.

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 ... 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.

Figure 2 Great South Coast Regional Growth Plan



Peri-urban areas

Part of the Amendment covers land that is I the peri-urban area of Warrnambool. The PPF recognises that peri-urban areas are subject to specific pressures and sets out policy at 11.03-3S (Peri-urban areas):

Objective

To manage growth in peri-urban areas to protect and enhance their identified valued attributes.

Strategies

Identify and protect areas that are strategically important for ..., agriculture, ..., extractive and other natural resources.

Provide for development in established settlements that have capacity for growth having regard to complex ecosystems, landscapes, agricultural and recreational activities including in ... towns identified by Regional Growth Plans as having potential for growth.

Establish growth boundaries for peri-urban towns to avoid urban sprawl and protect agricultural land and environmental assets.

Enhance the character, identity, attractiveness and amenity of peri-urban towns.

Prevent dispersed settlement and provide for non-urban breaks between urban areas.

Ensure development is linked to the timely and viable provision of physical and social infrastructure.

Protection of agricultural land

Clause 14.01-1S (Protection of agricultural land) seeks to preserve productive farmland and includes strategies:

Avoid permanent removal of productive agricultural land from the state's agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors.

Protect productive farmland that is of strategic significance in the local or regional context.

Protect productive agricultural land from unplanned loss due to permanent changes in land use.

Prevent inappropriately dispersed urban activities in rural areas.

Protect strategically important agricultural and primary production land from incompatible uses.

Limit new housing development in rural areas by:

- Directing housing growth into existing settlements.
- Discouraging development of isolated small lots in the rural zones from use for dwellings or other incompatible uses.
- Encouraging consolidation of existing isolated small lots in rural zones.

In considering a proposal to use, subdivide or develop agricultural land, consider the:

- Desirability and impacts of removing the land from primary production, given its agricultural productivity.
- Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.
- Compatibility between the proposed or likely development and the existing use of the surrounding land.
- The potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.
- Land capability.

Avoid the subdivision of productive agricultural land from diminishing the long-term productive capacity of the land.

Sustainable agricultural land use

Clause 14.01-2S (Sustainable agricultural land use) seeks to encourage sustainable agricultural land use and includes the following strategies:

- Support the development of innovative and sustainable approaches to agricultural and associated rural land use practices.
- Support adaptation of the agricultural sector to respond to the potential risks arising from climate change.
- Encourage diversification and value-adding of agriculture through effective agricultural production and processing, rural industry and farm-related retailing.
- Assist genuine farming enterprises to embrace opportunities and adjust flexibly to market changes.
- Facilitate ongoing productivity and investment in high value agriculture.

Rural residential development

Clause 16.01-3S (Rural residential development) sets out strategies for rural residential development. Broadly speaking rural residential development is not supported where it will undermine agriculture.

Regional policy at 16.01-3R (Rural residential development – Great South Coast) adds the strategies:

- Support rural residential development in locations that:
 - Are adjacent to towns with limited growth demand to sustain population levels and communities.
 - Are not strategically identified for standard density urban growth.

2.2.2 Housing and agricultural need

Residential Land Supply and Demand Assessment 2021

The *Residential Land Supply & Demand Assessment, 2021* (Spatial Economics) (RLSDA) provides a detailed assessment of the historic, current and future assessment of residential land supply and demand across Moynes. The report effectively provides a residential land supply and demand assessment for the municipality, and is intended to serve as a monitoring tool to all the improvement in the management of urban growth.

Changing agricultural practices

A number of submissions discussed changing agricultural activities in Moynes, but the Panel was not presented with any long term systematic data on agricultural trends.

2.2.3 Location: Background strategies

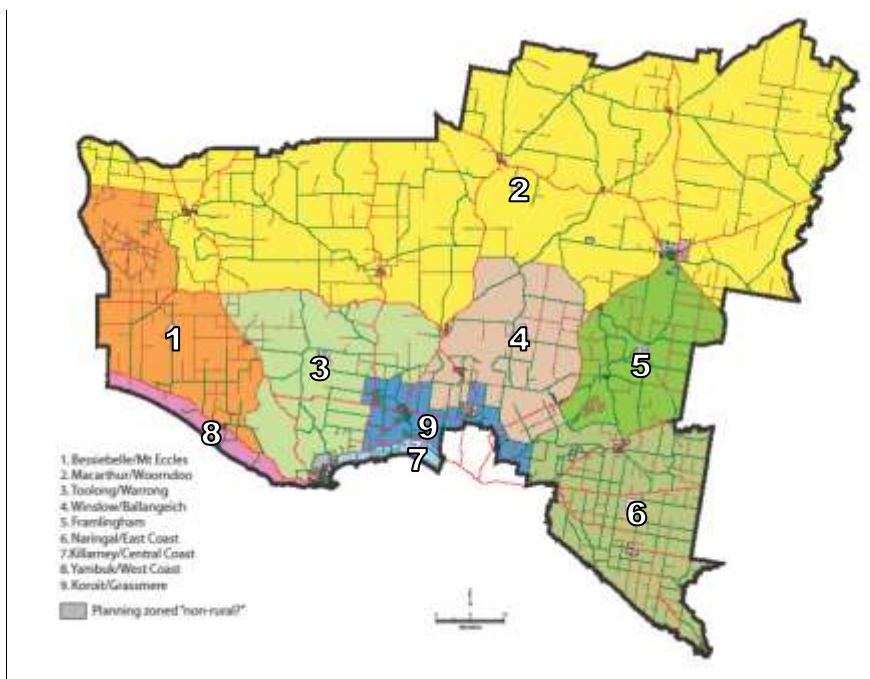
Land Capability and Biodiversity Studies Project, 2009

The *Moynes Shire Land Capability and Biodiversity Studies Project, 2009* (EnPlan Partners with Ecology Partners) (LCBS) reviewed the role and function of the agricultural and rural areas of the Shire. It divided the Shire into nine 'planning units' (shown in Figure 3) which recognised

different landforms and agricultural types and made specific recommendations for each planning unit:

- 1 Bessiebelle/Mt Eccles
- 2 Macarthur/Woorndoo
- 3 Toolong/Warrong
- 4 Winslow/Ballangeich
- 5 Framlingham
- 6 Naringal/East Coast
- 7 Killarney/ Central Coast
- 8 Yambuk/West Coast
- 9 Koroit/Grassmere

Figure 3 Land Capability and Biodiversity Studies Project Planning Units



The Study undertook a land capability and biodiversity mapping study that synthesised all current, scientifically accurate and locally relevant information what had not previously been available, to inform the development of local policies and the application of the new suite of rural zones (particularly the Farming Zone).

The LCBS provided:

- a set of recommendations for detailed variations to clauses in the Municipal Strategic Statement
- detailed and specific recommendations of changes to the schedules to the zones as they relate to minimum lot sizes for each of the 9 'planning units'
- in some cases, recommendations for amendments to the applicable zones.

The LCBS included general recommendations and specific recommendations for the nine identified planning units. Of particular relevance to the Amendment, the Strategy recommended:

- retaining the 40 hectare minimum lot size for subdivision and dwellings over most of the municipality

- increasing the minimum lot size from 10 hectares to 40 hectares for subdivision and dwellings for the area between Port Fairy and the Warrnambool municipal boundary along the Princes Highway
- increasing the minimum lot size of 40 hectares to 80 hectares for subdivision and dwellings in the Macarthur Woorndoo planning unit
- applying the Rural Conservation Zone rather than FZ to the area abutting the Mt Eccles (now Budj Bim) National Park with a 40 hectare minimum lot size for subdivision and requiring a dwelling to require a permit irrespective of lot size in this zone.

Moyne Warrnambool Rural Housing and Settlement Strategy 2010

During the preparation of the LCBS, it became apparent to Council that an additional study was required in relation to settlements and housing in the Shire's rural areas, resulting in the development of the *Moyne Warrnambool Rural Housing and Settlement Strategy – Context Report, 2010* (CPG Australia) and *Moyne Warrnambool Rural Housing and Settlement Strategy – Rural Housing and Settlement Strategy Report, 2010* (CPG Australia) (collectively, RHSS). The RHSS provides a strategic context to managing settlements and boundaries for both municipal areas.

The RHSS was prepared in partnership with Warrnambool City Council and sought to complement the LCBS by undertaking the preparation of a study to provide clear guidance regarding the proper management of the land assets and future settlement in rural areas of both municipalities. This included the provision of a strategic context for the managing of boundaries for the Moyne and Warrnambool townships and settlements.

The focus of the RHSS was the delivery of sustainable housing and settlement and the protection of productive agricultural land, environmental values and other important land uses. It recommended that rezonings be undertaken in a number of settlements to achieve this aim.

The RHSS assessed each township, by using a growth scenario model and undertook a SWOT (Strengths, Weaknesses, Opportunities and Threats) analysis of each settlement. The Strategy produced an overall table of each settlement that analysed land supply according to zoning and highlighted where the town fell within a growth scenario table based on land supply, infrastructure provision or constraints and an assessment of some social factors. Lack of availability to sewer land and capacity to retain wastewater on-site are some of the major constraints to growth.

Addendum Report 2015

In January 2014, Council commenced a review of the recommendations of the RHSS and LCBS. A key aim of the review was to provide new strategic direction for areas of Moyne subject to development pressure and remove additional statutory burdens for Council.

The review resulted in the formulation of the *Moyne Shire Council Rural Housing and Settlement Strategy – Addendum Report 2015, 2015* (Moyne Shire Council) (Addendum Report 2015). The Addendum Report 2015 reflects updated statistics, significant changes to the Planning Policy Framework and changes to the Farming Zone.

The Addendum Report 2015 was not subject to a public consultation process.

Council advised that the Addendum Report 2015 provides key recommendations that vary from the previous strategies as follows:

- With respect to the LCBS the following variations were adopted:
 - (i) Macarthur/Woorndoo Planning Unit – retain minimum lot size for FZ at 40 hectares
 - (ii) Port Fairy to Warrnambool – Increase the minimum lot size from 10 hectares to 40 hectares to the area bounded by Mugavins Road to the east to just beyond Gormans Road as per the attached plan
 - (iii) Bushfield – Lower minimum lot size in FZ from 40 hectares to 15 hectares and rezone land to Rural Living with a 4 hectare minimum lot size in the area bounded by Staywood Road, Hopkins Highway, Philmore Road and Spring Flat Road. Rezone land to Rural Living Zone
 - (iv) Koroit to Kirkstall – bounded by Koroit–Port Fairy Road to the east, Warrnambool-Penshurst Road to the north, Hamilton–Port Fairy Road to the west and Koroit–Port Fairy Road and Sheehans Road to the south – retain most land in FZ but reduce minimum lot size for a dwelling from 40 hectares to 10 hectares supported by a Lifestyle Farming Policy and rezone areas of small lot development to Rural Living Zone with a 2 hectare minimum lot size
 - (v) Illowa East rezone small area to Rural Living with 2 hectare minimum lot size reflecting existing development and subdivision pattern and approvals.
- With respect to the RHSS the following variations were adopted:
 - (i) remove the use of the Restructure Overlay
 - (ii) Zone all public land to the appropriate public use zone
 - (iii) Southern Cross – zone land Rural Living with 1 hectare minimum lot size and extend settlement boundary south covering both sides of Tuddys Lane and one lot further east to pick up extent of small lot and development
 - (iv) Grassmere – zone land Rural Living with 1 hectare minimum lot size and extend land to cover small lots north of Crothers Lane
 - (v) Woolsthorpe – zone land east, south and southwest to Rural Living with a 1 hectare minimum lot size
 - (vi) Hawkesdale – Zone land to the west Rural Living with a minimum lot size of 1 hectare
 - (vii) Garvoc – minor change to Township Zone to include former hotel, a single dwelling and church within the zone
 - (viii) Nullawarre – increase the area to be zoned Township on the north side of the Timboon–Nullawarre Road and land on the eastern side of the Great Ocean Road, south of the Timboon–Nullawarre Road intersection that are developed at a township density.

Koroit Structure Plan

Council adopted the Koroit Structure Plan on 15 September 2020. Council advised (Part A) that:

- 80 The RHSS 2010 and Addendum Report 2015 were considered in the preparation of the Structure Plan. Recommendations of these documents were not altered by the Structure Plan.

A residential growth area has been identified in the Structure Plan bounded by the Koroit–Port Fairy Road, King Street, Anne Street, and on the eastern side, Victoria Park and existing residential development. This area is located in the Settlement Boundary identified in the Addendum Report 2015.

It is estimated that the residential growth area will provide approximately 550 residential lots at a density of 10 lots per hectare. However, the actual yield may differ depending upon the development density and specific road, drainage and open space requirements.

Council is yet to commence the preparation of a planning scheme amendment to implement the recommendations of the Koroit Structure Plan.

2.3 Evidence and submissions

Council relied on the background reports and, for its supported changes to the Amendment the arguments put forward in submissions, for strategic justification. Council's key points were:

- Strategy
Council appreciated that the municipality has high quality agriculture land and there is a need to ensure the protection of this land
- Housing need
Rural residential is a legitimate housing choice, and that there are positive elements to the supply of rural residential development, including taking pressure off farming areas for increased dwellings
- Location
No one document deals with the locations but there has been up to 15 years of work.

Most submissions addressed individual parcels or settlements.

Submitter 36 was concerned that the documents supporting the Amendment were quite old:

These documents do not reflect the generational changes in the area which have been accelerated by the COVID19 pandemic establishing working from home facilities/requirements and expectations, the provision of improved telecommunications facilities (for example, [National broadband Network] fixed wireless servicing smaller settlements) and societal acceptance of such changes. The growth in the smaller settlements especially in the southern area of the shire such as Port Fairy, Kirkstall, Koroit, Mailors Flat, Winslow, Grassmere, Cudgee, Purnim, Panmure etc have been substantial and appear to have significantly outpaced the growth projections in the underlying documents supporting this amendment and the RHSS.

2.4 Panel discussion and conclusion

The Panel notes:

- the strategic work is quite old in parts, but development is not moving rapidly in many parts of Moyne and the findings of the background reports would still be broadly relevant
- the authorisation of the Amendment made significant changes to the proposals set out in the background reports but the reasons for these changes are not well-documented.

The PPN37 provides a clear summary of policy:

Land use conflicts between agricultural activities and the amenity expectations of rural residential dwellers should be minimised. Significant impacts to primary production or to the environmental or cultural values of a rural area should be avoided. Finite and valuable natural resources present on the land should not be lost.

The local environment and landscape should have the capacity to absorb more intensive use and development without significant or irreversible harm to its values or to the new use and development. Demand for costly or inefficient community services or infrastructure should not be generated.

As set out in the introduction, two elements of the Amendment do not require strategic justification:

- policy neutral changes to improve scheme transparency
- uncontroversial application of public use zones to public land.

The changes to recognise existing land use patterns that do not result in significant on-the-ground changes need to be assessed to ensure they are not entrenching or exacerbating an

inappropriate land use pattern, but this needs to be balanced against the effective management of areas as they are currently developed. These types of changes include back zoning RLZ land to the FZ. The circumstances of individual settlements will determine these outcomes.

Critical areas for strategic justification in the exhibited Amendment are proposals to:

- introducing 'lifestyle farming' areas
- rezoning land from FZ to the RLZ
- inserting a new RLZ2.

Council's post-exhibition changes also require strategic justification, but the Panel notes that there was no systematic presentation of this justification. These changes were, in the main, significant departures from the background reports and exhibited Amendments.

While there is broad scope for a Planning Authority or Panel to consider changes to an Amendment, Panels have typically been reluctant to consider changes that amount to a transformation of an amendment.

The Panel adopts the approach of the Greater Geelong C139 Panel which described a transformation as something that would:

- fundamentally alter the amendment
- be a matter of which affected parties would reasonably expect to be notified
- require further strategic justification.

The Panel has considered the post-exhibition changes proposed by Council. It observes:

- The changes do not fundamentally change the nature of the Amendment – the changes are in keeping broadly with the type of changes proposed by the exhibited Amendment.
- The changes would require further notice if they were to be pursued, and an opportunity would need to be provided to affected land owners to make submissions and be heard by a Panel.
- The changes do require further strategic justification.

The Panel has considered whether the proposed changes are strategically justified, before considering whether further notice is required. Given the nature of the Amendment and supporting documentation this involves a consideration for each proposed change in each area. However, the lack of systematic strategic justification, uncertainty as to whether the changes were supported by DELWP (an issue addressed by authorisation), and the need for further notice, suggest that the majority of Council's post-exhibition changes should be pursued through a fresh Amendment process, if they are to be pursued at all.

The determination as to whether the specific changes proposed by the Amendment strike the right balance is a matter that about how policy ought be applied in the light of local circumstances. This is addressed in Chapters 5 and 6.

It is difficult to determine a clear line of sight between the background reports and the Council's preferred version of the Amendment. This is because:

- the LCBS and RHSS are separate strategies rather than an integrated piece of work
- the Addendum Report 2015 which reconciles the LCBS and RHSS is more pragmatic than strategic in its presentation

- authorisation departed significantly from the LCBS, RHSS and Addendum Report 2015 in places
- the Council preferred version is not explicitly supported by a singular strategic analysis.

These difficulties do not mean that the Amendment cannot proceed but that it must proceed more on the basis of a pragmatic response to the situation of the individual settlements than as the systematic application of overarching strategy. Indeed, this is the way Mr Drew presented his evidence. This approach is more difficult in the area of Koroit and surrounds where a strategic overview of the area around Koroit would provide for clear and orderly planning.

3 Policy issues

3.1.1 The issue

The issue is what changes to policy should be made.

3.1.2 What is proposed

Proposed Clause 21.05 set out the settlement hierarchy for Moynes Shire is shown in Table 2 (below), with the following meanings:

- **High:**
accommodating large scale residential development within and beyond existing zoned land.
- **Moderate**
providing some potential growth beyond existing urban zoned land and through infill but within defined settlement boundaries.
- **Low**
growth contained within existing urban or appropriately zoned land primarily through infill capacity and renewal within defined settlement boundaries.
- **Deferred**
settlements with moderate or low growth capacity but which require the resolution of a sewerage strategy before that potential can be properly realised.
- **Constrained**
settlements (generally hamlets and villages) where growth is not encouraged because they consist of small clustering of rural lots that may conflict with protecting farming activity or are faced with physical or amenity constraints that prevent growth.

In relation to ‘Rural housing and rural residential development’ the clause states:

The rural areas of the Shire present as expansive open fields and pastures, but which is underlaid by a pattern of land subdivision and tenure with complexity, diversity and expectations that are not evident in the planning framework. Subdivisions of small lots in grid patterns for whole towns exist in many parts of the Shire, for instance at Chatsworth. Elsewhere land has been subdivided into all manner of shapes and sizes for purposes that are no longer relevant.

Over time, houses have been permitted to be established on small lots across Moynes Shire often for lifestyle purposes unrelated to the needs and function of agricultural activity. High quality agricultural land has been developed for lifestyle purposes effectively removing such land from worthwhile agricultural productivity. In these circumstances the potential employment in agriculture and production from the land is being compromised and diminished by values that do not reflect an agricultural role.

The clause also states:

There are areas zoned for [LDRZ and Rural Living Zone] ... mainly associated with existing settlements on or around their fringes. However, there are areas zoned for this form of development that have an excess supply or have not been taken up for development whereas other areas of land zoned for farming purposes are under pressure for small lot development unrelated to agriculture.

There is a need to rationalise the locations for rural residential and rural living through zoning and subdivision lot size to better reflect and manage the demand and supply of land for this form of land use.

Clause 21.09 (Local Areas) focuses on local level implementation of the objectives and strategies set out in Clauses 21.05 to 21.08 of the Planning Scheme. Each section relates to a particular rural township or precinct “*where detailed planning has been undertaken*”.

Table 2 Moynes Shire Settlement Hierarchy

Settlement Function Classification	Settlements	Settlement growth potential
District town Population range from 2,000 to 10,000	Port Fairy	High
	Koroit	Moderate
	Mortlake	Moderate
Town Population range from 500 to 2,000	Macarthur	Moderate
	Peterborough	Low
Village Population range from 200 to 500	Caramut	Low
	Cudjee	Low
	Garvoc	Low
	Hawkesdale	Low
	Kirkstall	Deferred
	Mailors Flat	Deferred
	Nullawarre	Low
	Orford	Low
	Panmure	Deferred
	Winslow	Low
	Woolsthorpe	Low
	Woorndoo	Low
	Yambuk	Low
	Hamlet Historical township of small crown allotments, rural clustering of small lots or small settlement formed from past planning approvals Population range 0 to 200	Ellerslie
Framlingham		Low
Grassmere		Low
Hexham		Low
Illowa East		Low
Illowa West		Low
Purnim		Low
Southern Cross		Low
Towilla Way		Low
Yarpturk		Constrained

3.1.3 Evidence and submissions

Submissions generally supported the proposed alterations to Clause 21.05, with the addition of the settlement hierarchy seen as a positive addition to the Planning Scheme. However, submissions thought that the discussion surrounding rural housing and rural residential development was not always accurate, for example Submission 36 felt the text missed the following key points:

- Value of agricultural land is often determined by the ability for a dwelling to be constructed on this land.
- Development of new dwellings in the FZ is often driven by a new agricultural business being developed by a new generation of farming families.
- The support of land values is considered to be a significant driver in the wealth of shire and region.
- The blanket characterisation of rural settlement being adversarial to agriculture is considered to miss the subtleties of rural populations and community building.

A number of submissions wanted a diverse range of settlements across Moyne, including the creation of small clusters of dwellings within a wider agricultural setting. These settlements and developments were thought to add to the special character of this region, and while there is potential for land use conflict, these settlements were seen to provide links (physical, economic and cultural) to the agricultural base of the Moyne, maintain links to the historic settlements and support the continuation of the community services and infrastructure within this region.

Council supported changes proposed by DELWP (Sub 51). DELWP made some commentary on 21.07 (Economic Development) noting there is little to no acknowledgement of the intrinsic value of the natural environment, nor of the economic benefits provided by the natural environment in this provision.

DELWP stated that it:

- ... supports the statement that “impacts on their viability from agriculture should be avoided or minimised through encouraging measures that protect and enhance their quality”.
- ... disagrees with the statement that “these (native vegetation) remnants are ecological resources for the future” (emphasis added). Native vegetation has intrinsic ecological and economic value right now and has been shown to provide significant benefits to the agriculture industry.
- ... recommends further clarification on the intention and meaning of 'ecological resources' is provided within this paragraph.
- ... acknowledges the statement on Page 2 that the protection of the native environment "is often needed in balance with continuing agricultural use of the land, mainly grazing". However, there are no objectives in this provision to protect native vegetation and significant ecological values, whilst supporting and working with the agricultural industry that is intrinsic to the Shire.
- ... suggests an Objective is added ... that emphasises the biodiversity, ecological and economic value of native vegetation and areas of significant environmental value, and the importance of protecting these landscapes within the Shire, in conjunction with protecting agricultural land.

In Clause 21.09 (Local Areas) DELWP thought the Amendment could include the protection of adjacent wetlands, waterways, and areas of significant environmental value in the Vision for each of the Townships listed under this provision. Information was provided below for the following towns:

- Caramut
- Cudgee
- Ellerslie
- Framlingham
- Garvoc
- Grassmere
- Hawkesdale
- Hexham
- Illowa West
- Kirkstall
- Koroit
- Macarthur
- Nullawarre
- Orford
- Panmure
- Purnim
- Southern Cross
- Towilla Way
- Winslow
- Woolsthorpe
- Woorndoo
- Yambuk

The Department of Transport submitted:

- Future development of towns and hamlets with moderate to higher growth potential must have regard to the interaction between general traffic and construction traffic associated with identified potential wind farm developments.
- Council should carefully assess the interface of tourist development with other modes of traffic in accordance with Clause 18.01-1 (Land Use and Transport Planning) and Clause 18.01-2S (Transport System).
- Careful assessment is required of direct access to arterial roads within the Koroit Structure Plan in consultation with DoT, due to the increase in traffic and the important link these arterial roads play in supply chain of nearby industries.

The Council submitted that it supported proposals to change the Framework Plans exhibited Clause 21.09 to identify land for future growth as requested in:

- Hawkesdale (Subs 23, 35, 60)
- Kirkstall, Koroit West (Subs 8, 9, 14, 52, 63)
- Purnim (Sub 7)
- Southern Cross (Sub 53).

The 10 submissions seeking changes to Framework Plans and supported by Council advanced a range of reasons for these changes. Some submissions were aimed at increasing the viability of their small settlements, others addressed the specific circumstances of a particular parcel. None of the submissions, as might be expected, took a broad municipality-wide view.

Council drew the Panel's attention to population growth that has taken place across the towns of the municipality since the finalisation of the RHSS and that is forecast to continue⁸, with recent growth being most notable in the immediate post-Pandemic period.¹¹ This trend is coupled with older age groups being the highest proportional population growth (expected to more than double to 2041⁹) and the housing needs of this cohort (predicted to be separate houses, not medium or higher density housing).

Council said there were record job opportunities due to improving economic conditions which are making regional areas of Australia increasingly attractive, but the experience within the Moyne municipality (as in many regional areas) is that the regional rental market is under stress. The need for key worker, community and social housing in Moyne is well understood by Council, providing an important base to support economic development in Moyne including for the agricultural and tourism sectors.

⁸ *Residential Land Supply and Demand Assessment 2021*, Spatial Economics, in particular the VIF 2019 forecast for population and housing demand growth (see page 25 for VIF 2021-2036 and REMPLAN for same period). ¹¹ Regional population growth analysis from the ABS reflects the municipality reflects a +1.33% change in population in 2021, the most significant in the last 10 years by a notable margin

⁹ See *Residential Land Supply and Demand Assessment 2021*, Spatial Economics pages 52 – 53

The Council was unable to furnish the Panel with expert opinion or technical data to link the specifics of the preferred position on the Amendment reflected in paragraph 7(c) of the Resolution to these macro planning trends impacting the vitality and wellbeing of the municipality, but said there was ample general information available to which the Panel's attention is directed.¹⁰

3.1.4 Panel discussion and recommendations

The Panel notes the general support for the new policy clauses and agrees that the settlement hierarchy makes the Planning Scheme easier to use.

It is not clear from the Panel's reading of DELWP's submissions precisely what changes Council is saying it supports, and what form of words this would take. The proposed changes go more to including relevant facts and noting constraints but the thrust of the submission is supported by the Panel.

The Panel does not generally support change to the framework plans as supported by Council. It is disappointing that the Council, after 15 years of work, would resolve to expand settlement boundaries without a systematic assessment of the constraints that apply to the land. This falls short of the strategic approach that is intended to support planning scheme amendments.

Even if the Panel were minded to support these changes, they would require further exhibition. If Council wants to pursue these changes it should do so through a separate amendment.

The boundaries for specific settlements are addressed for the specific areas discussed in Chapters 5 and 6.

The Panel notes that the exhibited policy says "*There is a need to rationalise the locations for rural residential and rural living through zoning and subdivision lot size*" and questions if this is still a relevant observation following the approval of the changes proposed in the Amendment.

The Panel also notes that in Clause 21.09 some settlement boundaries are presented on a plan showing zones that will be changes by the Amendment.

The Panel recommends:

- 1. Revise Clauses 21.05 and 21.09 to address the concerns raised by the Department of Environment Land Water and Planning in Submission 51.**
- 2. Review Clauses 21.05 and 21.09 to ensure text and framework plans are consistent with the adopted zones.**

¹⁰ Including the [Key and Essential Worker Housing Supply Action Plan](#) (VPA and the councils of the Great South Coast and Barwon regions of Victoria, including Moynes Shire Council), September 2020 and [Building the Good Life, RAI Discussion Paper: Meeting the demand for regional housing](#) (Regional Australia Institute), May 2022

4 Setbacks to roads

4.1.1 The issue

The issue is what setback should apply to roads in the RLZ.

4.1.2 Relevant controls

The RLZ parent provision states:

A permit is required to construct or carry out any of the following: ...

- A building which is within any of the following setbacks: ...
 - The setback from a Transport Zone 2 or land in a Public Acquisition Overlay if the Head, Transport for Victoria is the acquiring authority and the purpose of the acquisition is for a road, specified in the schedule to this zone or, if no setback is specified, 30 metres.
 - The setback from any other road or boundary specified in the schedule to this zone.

Schedule 2 to the FZ includes (in response to a similar parent provision) exhibited:

	Land	Area/Dimensions/Distance
Minimum setback from a road (metres)	A Road Zone Category 1 or land in a Public Acquisition Overlay to be acquired for a road, Category 1	50 metres
	A Road Zone Category 2 or land in a Public Acquisition Overlay to be acquired for a road, Category 2	40 metres
	Any other road	20 metres

4.1.3 Evidence and submissions

The Department of Transport submitted:

- consideration should be given to a minimum setback from the [Transport Zone 2] or land within a Public Acquisition Overlay ... (consistent with that specified in FZ2) within the areas proposed to be rezoned to the RLZ1 and RLZ3 where affected by the [Public Acquisition Overlay] for the future Port Fairy bypass
- consideration should be given to the provision of a minimum setback from a [Transport Zone 2] to land within the RLZ1 and RLZ2, (similar to that specified in FZ2).

Council supported this change.

4.1.4 Panel discussion and recommendation

The Panel supports specifying the setback as proposed by the Department of Transport, this will ensure that potential adverse impacts of the road or proposed road are considered in siting dwellings.

The Panel recommends:

3. **Amend the Rural Living Zone schedules to include minimum setbacks for dwellings from roads modelled on the setbacks in the Farming Zone Schedule 2, but adjusted to address changes in the Victoria Planning Provisions since exhibition.**

5 Townships

These areas are identified in Figure 1 on page 3.

5.1 Bushfield, and farming areas in Grassmere and Wangoom

5.1.1 The area

Bushfield is in the City of Warrnambool. The area subject to the Amendment abuts Warrnambool's northeast boundary and lies beyond the Bushfield township area. It contains some hobby farms, large shedding and horse training facilities. It is relatively contained, with some demand evident for rural residential development. It has connections to services in Warrnambool and is not required for conventional housing. The area has few obvious constraints, although the area abuts a large supply of existing undeveloped RLZ and LDRZ within the Bushfield–Woodford township.

The land subject to the Amendment is in the FZ and is not subject to any Overlay controls.

5.1.2 Strategic work

LCBS

The LCBS did not recommend any reduction of the FZ minimum lot size of 40 hectares, in this area.

RHSS 2010

The RHSS 2010 did not recommend any changes to the Planning Scheme in this locality. Its recommendations were confined to land in the Warrnambool municipality. A minimum lot size of 15 hectares applies in the FZ in Warrnambool.

Addendum Report 2015

The Addendum Report 2015 recommended a reduction of the minimum lot size for subdivision and dwellings from 40 hectares to 15 hectares in the FZ in an area at Bushfield.

In addition, the Addendum Report 2015 recommended the rezoning of part of the area to RLZ with a 4 hectare minimum lot size for subdivision and dwellings.

The Addendum Report 2015 recommended the following revised Planning Scheme changes:

- for Study Areas 1 and 2, the minimum lot size for dwelling and subdivision be reduced to 15 hectares, reflecting the existing land uses and providing consistency with Warrnambool's Farming Zone for part of the area and rezone some of the land to Rural Living Zone with a 4 hectare minimum lot size for subdivision and dwellings that best reflects the existing land use pattern
- study Area 3 maintain a 40 hectare minimum based on land use characteristics for agriculture.

Figure 4 Bushfield Addendum Report 2015 proposal



Authorisation request

The Authorisation request reflected the Addendum Report 2015 recommendations.

5.1.3 Authorisation and exhibition

The Authorisation conditions required the removal of the proposed Rural Living Zone at Bushfield–Wangoom (RLZ3), and allowed it to be replaced by the proposed FZ4.

Figure 5 Bushfield exhibited rezoning



Table 3 Bushfield lot yield

Area to be rezoned	
Existing lots	54
Existing dwellings:	44
Vacant lots:	10
Potential additional lots:	9
Total lot supply:	19

5.1.4 Submissions

Warrnambool City Council submitted (Sub 61) that a Traffic Impact Assessment is needed to inform the proposed rezoning at Bushfield, including amenity and safety implications for the local road network maintained by Warrnambool City Council, including any cost implications.

No change to the exhibited amendment was resolved at the Council meeting of May 2022.

Mr Drew gave evidence that:

Strategic justification for the reduced lot size in this area is reliant upon the Addendum Report 2015 and that the FZ in the adjoining City of Warrnambool has a minimum lot size of 15 hectares.

Council considered that the existing road network should be able to cater for the traffic generated by these dwellings. Thus, Council considered a Traffic Impact Assessment for this rezoning would appear to be an unwarranted requirement.

Warrnambool City Council also submitted that the Bushfield settlement has reached the threshold for septic tank density, and sought to defer growth pending a wastewater management solution. In response, Moyne Council submitted that the Council Environmental Health Unit considers that wastewater from development at a density of one lot/dwelling per 15 hectares can be managed appropriately on-site without the need for a wider wastewater management solution.

5.1.5 Panel discussion and conclusion

The land subject to the rezoning does not include active farming uses, and many of the lots are already 1 hectare. Mr Drew noted that the rezoning would cater for limited growth.

The Panel agrees with the Moyne Council submission that the addition lot yield is unlikely to cause a significant traffic impact on the Warrnambool municipality and accepts the Moyne's submission that the assessment by the environmental health unit within Moyne did not raise concern with additional on-site wastewater systems in this area.

The Panel also notes that the rezoning as exhibited would be consistent with the adjoining Warrnambool municipality zoning in this location.

The Panel concludes:

The rezoning is appropriate as exhibited.

5.2 Port Fairy North

5.2.1 The area

Port Fairy is classified as a 'District town' in the proposed Clause 21.05 (Settlement and housing) and as having 'high' growth potential.

A large area of land to the north of Port Fairy is zoned for Rural Living purposes. It contains a mix of rural living development and land used for agricultural activities on a range of lot sizes.

The land is in the Rural Living Zone (4 hectare minimum lot size) and is subject to the following Overlay controls:

- Floodway Overlay Schedule 2
- Land Subject to Inundation Overlay Schedule 2
- Public Acquisition Overlay Schedule 1 – Port Fairy Bypass.

5.2.2 Strategic work

RHSS 2010

This area was not considered in the RHSS 2010.

Addendum Report 2015

This area was not considered in the 2015 Addendum Report 2015.

Authorisation request

The authorisation request did not include any proposed planning scheme changes in Port Fairy or its environs.

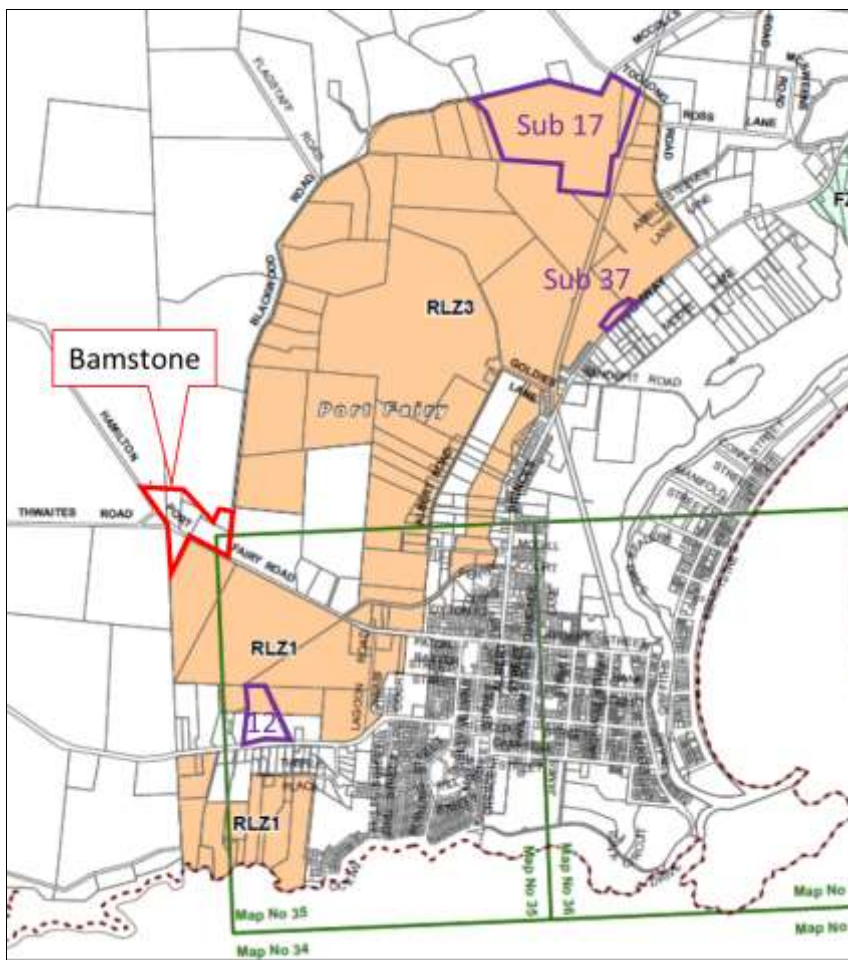
5.2.3 Authorisation and exhibition

Authorisation conditions included:

- Consider rezoning RLZ land in Port Fairy ... where a 4-hectare minimum lot size applies to RLZ3 to ensure the areas are clearly identified in the Planning Scheme, and for consistency with the approach taken by C70moyn to apply different schedules to areas with different minimum lot sizes.

The exhibited Amendment proposed to include the existing RLZ in RLZ1 and RLZ3 (a policy neutral change) in accordance with the authorisation conditions.

Figure 6 Exhibited zones Port Fairy North



5.2.4 Submissions

One submitter requested a reduction in the minimum lot size from 4 hectares to 1 hectare. (Sub 17). The submitter stated:

It is contended that this area, being quite large for rural living purposes, is effectively placing a brake on development of this area of Rural Living Zone land as this lot area is generally considered to be excessively large for domestic landscape management techniques while being unviable to for small scale agriculture, especially given the

topography of this area being comprised of undulating stony rises interspersed with low lying flood prone land....

It is contended that a subdivision creating smaller lots which are designed to reflect the site topography and larger lots to allow for continued agricultural activities (especially on lower lying flood prone land) would result in greater take-up of the smaller Rural Living lots while supporting continued appropriate agricultural activities to manage the balance of the land.

At its meeting of May 2022, Council resolved to support the submission requesting a reduction of the minimum lot size from four hectares to 1 hectare in the existing RLZ at Port Fairy.

Mr Drew gave evidence that:

The basis for the Council's preferred position on the Amendment lies in the submission.

A late submission¹¹ from Bamstone stated that the proposed change:

... will result in an unacceptable intensification of sensitive uses (such as a dwelling uses) within proximity to the existing Industrial 1 Zone land and more particularly the Bamstone stone processing facility, which may have the potential for acoustic and dust impacts on neighbouring sensitive uses.

The variation sought by Councillors is at odds with the Port Fairy and Coastal Structure Plan ... and proposed revisions to the Local Planning Policy Framework sought through Amendment C69 to the Moyne Planning Scheme.

More specifically C70moyn is inconsistent with the policy content in Amendment C69 (which is soon to be before Panel) which includes:

- The proposed Clause 21.09-3 regarding Industry in Port Fairy has the following strategy:
 - Recognise buffers associated with the Sewerage Treatment Plant, Water Treatment Plant, Bamstone and SunPharma.
- The following statements are included within Clause 21.09-3 Port Fairy:
 - To avoid increasing potential increases in amenity impacts close to key industrial sites and public facilities.
 - To grow and diversify the range of local employment opportunities.
 - To protect significant existing industries and infrastructure.
 - Support the development of new industries and expansion of existing industries, provided they respond appropriately to their context.

A Framework Plan (below) was included within the proposed Clause 21.09-3 Port Fairy.

Submitters 12 and 37 sought rezoning to another zone – Low Density Residential Zone or General Residential Zone – or a reduction in minimum lot size.

Council responded that the requested changes were beyond the scope of the Amendment. Noting that the Amendment does not include any material change to the Planning Scheme Schedules applying to land at Port Fairy. Planning Scheme Amendment C69moyn considers the future growth and development of Port Fairy and includes zoning changes, and these submissions were more a matter for that process.

¹¹ The submission was not formally referred to the Panel, but the Panel advised at the Directions Hearing that it would use its powers to inform itself as it saw fit to consider the submission.

Figure 7 Proposed Port Fairy Structure Plan from Amendment C69moyn



5.2.5 Panel discussion and conclusion

At the Directions Hearing, the Panel advised:

The Panel has formed a preliminary view that proposed changes to the lot sizes in the Rural Living Zone are beyond the scope of the Amendment, but will hear submissions that the changes should be made. If it is persuaded that there may be merit in those submissions it will determine an appropriate process of further notice and submission.

The Panel notes that the area is subject to constraints, including inundation.

Figure 8 Constraints in Port Fairy North



The Panel does not think that sufficient strategic work or justification has been undertaken to change the minimum lot size from 4 hectares to 1 hectare in the RLZ. The pros and cons of such a change have not been documented or evaluated. Such a change would require further notice and hearings.

The Panel agrees that the requested zoning changes are beyond the scope of the Amendment as it applies to Port Fairy which is purely as a policy neutral change to achieve greater planning scheme transparency.

The Panel concludes:

- The rezoning is appropriate as exhibited (a policy neutral change) and there is no strategic justification to reduce the lot size.
- If Council wishes to pursue a reduced lot size in Port Fairy North it could do this by way of a separate amendment.
- Rezoning of land to the Low Density Residential Zone or General Residential Zone would need to be through a separate amendment.

5.3 Caramut

5.3.1 The area

Caramut is classified as a ‘village’ in the proposed Clause 21.05 (Settlement and housing) and as having ‘low’ growth potential.

Caramut is an established settlement that provides a local service centre function midway between Mortlake and Hamilton, and 48 kilometres north of Warrnambool. It has a CFA brigade, general store/post office, hotel, and public hall, however, there is no reticulated sewerage. It is partially zoned Township comprising 65 hectares, and Rural Living, comprising 52 hectares which is undeveloped.

There is little demand evident for land in the area and negligible take up of the substantial area of Rural Living zoned land northwest of the settlement.

The land subject to the Amendment is in the Rural Living Zone and is not subject to any Overlay controls.

Table 4 Caramut recent growth

Population	2011 Census	2016 Census	2021 Census	Change 2016–2021
Caramut	351	246	256	+10

Source: Australian Bureau of Statistics

5.3.2 Strategic work

RHSS 2010

The RHSS 2010 recommended the following Planning Scheme changes in regard to Caramut:

- define a Settlement Boundary
- back zone all of the RLZ land north of Gibson Street to the FZ.

Addendum Report 2015

No change to the RHSS 2010 recommendations.

Authorisation Request

No change to the RHSS 2010 recommendations.

5.3.3 Authorisation and exhibition

The exhibited Amendment proposed to back zone the existing Rural Living Zone land to the Farming Zone, in accordance with the recommendations of the RHSS 2010. Council estimated this would reduce lot yield by 41 lots.

Figure 9: Caramut exhibited Farming Zone



5.3.4 Submissions

No direct submissions were made in respect of this area, although it is noted that DELWP (Sub 51) recommended further consideration be given to how to avoid and minimise the effect of development of areas at Caramut on native vegetation, and how to prevent direct and indirect impacts on areas of significant environmental value. In response to this issue, Council stated that the exhibited Amendment proposed to reduce the amount of developable land at Caramut. Therefore, significant impacts to native flora or fauna are likely to be limited at Caramut.¹²

No change to the exhibited Amendment was resolved at the Council meeting of May 2022.

Mr Drew gave evidence that:

The strategic justification for the back zoning of the RLZ land is provided by the RHSS 2010, based on the limited development and low population growth occurring in the town.

5.3.5 Panel discussion and conclusion

The Panel accepts the strategic justification presented by Council for the back zoning of the RLZ at Caramut and notes there were no submissions in regard to this part of the Amendment.

¹² Attachment 1: Amendment C70moyn – Summary of submissions and officer response page 68

The Panel concludes:

The rezoning is appropriate as exhibited.

5.4 Curdievale

5.4.1 The area

Curdievale was not included in the Amendment. It is a small settlement.

5.4.2 Submissions

Submitter 16 thought that Curdievale should be included in the Amendment noting that its exclusion was a missed opportunity:

The well patronised hotel and attractiveness of and access to the river provide obvious environmental tourism and rural lifestyle opportunities for the region. It is an ideal launching place for small river boats to access the rich fishing grounds.

VRFish—the state's peak body of recreational fishers – considers the river "*one of Victoria's premier black bream and estuary perch recreational fisheries*"

As well as rural lifestyle opportunities there are commercial opportunities for camping and other accommodation to support the recreational anglers and other environmental tourists.

The proximity to Timboon, Peterborough, Port Campbell and Cobden supports rural lifestyle development.

Council noted that Curdievale was not identified as a settlement in the strategic work, which forms the basis of the Amendment.

5.4.3 Panel discussion and conclusion

The Panel notes that rezonings to facilitate additional rural living development are not recommended or occurring in 22 settlements as part of the Amendment.

There are numerous settlements in the Moyne and one of the purposes of the Amendment is to have a targeted approach in relation to future growth. The Panel notes Council's assessment that it does not have the resources to support growth in all settlements in Moyne.

The Panel concludes:

- Any changes to Curdievale would need to be by way of a separate amendment.

5.5 Garvoc

5.5.1 The area

Garvoc is classified as a 'village' in the proposed Clause 21.05 (Settlement and housing) and as having 'low' growth potential.

Garvoc is located on the Princes Highway between Terang and Warrnambool. Community facilities and infrastructure include a CFA brigade, community hall and recreation reserve, but it does not have reticulated sewerage.

The majority of the TZ land at Garvoc is located within the Corangamite Shire.

The land subject to the Amendment is in the FZ and is not subject to any Overlay controls.

Table 5 Garvoc recent growth

Population	2011 Census	2016 Census	2021 Census	Change 2016–2021
Garvoc	282	243	248	+5

Source: Australian Bureau of Statistics

5.5.2 Strategic work

RHSS 2010

The RHSS 2010 recommended the following Planning Scheme changes:

- Include a Settlement Boundary.
- Introduce a Restructure Overlay over the land zoned for township with a requirement that the minimum lot size to establish a dwelling will be subject to town specific waste management strategies which are dependent upon soil type.

The RHSS 2010 did not recommend any zoning changes at Garvoc.

Addendum Report 2015

The Addendum Report 2015 recommended a minor extension of the TZ and Settlement Boundary to include lots containing the former hotel, a dwelling and the former Presbyterian Church. These lots are located between two areas of land within the TZ, which are separated by Yaloak Creek.

The Addendum Report 2015 recommended the following revised Planning Scheme changes:

- include land formerly used as the hotel and the church in the TZ
- abandon the proposed Restructure Overlay.

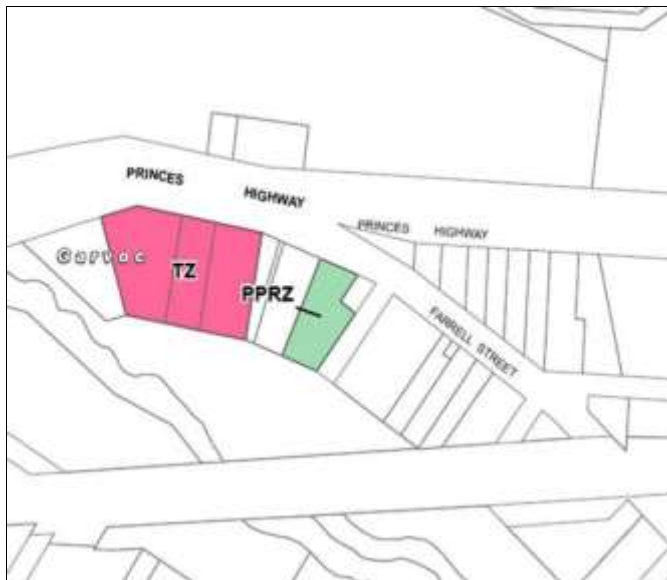
Authorisation request

No change to the Addendum Report 2015 recommendations.

5.5.3 Authorisation and exhibition

The exhibited Amendment proposed to rezone three lots from the FZ to the TZ, in accordance with the Addendum Report 2015 recommendations, and apply a PPRZ to existing open space.

Figure 10 Garvoc exhibited zones



5.5.4 Submissions

There were no submissions in respect of Garvoc.

No change to the exhibited Amendment was resolved at the Council meeting of May 2022.

Mr Drew gave evidence that:

The minor extension to the Township Zone accords with the recommendations of the Addendum Report 2015. It will correct a zoning anomaly by including existing urban uses within the settlement/township boundary.

5.5.5 Panel discussion and conclusion

The Panel agrees with Council that proposed changes in respect of Garvoc will correct a zoning anomaly by including the existing urban uses within the settlement boundary. The Panel also agrees that the zoning of public open space to PPRZ is an appropriate rezoning for this land use.

The Panel concludes:

The rezoning is appropriate as exhibited.

5.6 Grassmere

5.6.1 The area

Grassmere is classified as a 'Historical township' in the proposed Clause 21.05 (Settlement and housing) and as having 'low' growth potential.

Grassmere is a small agricultural community with scattered housing and is approximately 10 kilometres north of Warrnambool. It is located to the north of the Hopkins Highway and has limited facilities and services including a church, CFA brigade, hall, and primary school.

The settlement is in the FZ and is not subject to any Overlay controls.

Reticulated water and sewerage are not provided to the settlement. The settlement comprises 36 hectares with 27 titles of which four are vacant, and is currently zoned for farming purposes.

Table 6 Grassmere recent growth

Population	2011 Census	2016 Census	2021 Census	Change 2016–2021
Grassmere	447	402	385	-17

Source: Australian Bureau of Statistics

5.6.2 Strategic work

RHSS 2010

The RHSS 2010 recommended the following Planning Scheme changes:

- rezone the village and approved subdivisions to the Rural Living Zone (minimum 2 hectares)
- include a Settlement Boundary.

Addendum Report 2015

The Addendum Report 2015 recommended:

- a modest increase to the RHSS 2010 proposal with the inclusion of lots on the northern side of Crothers Lane
- a 1 hectare minimum lot size as it best reflects the title dispersion and will provide for some limited growth, providing appropriate sized lots capable of treating and retaining wastewater.

Therefore, the Addendum Report 2015 recommended the following revised Planning Scheme changes:

- proposed settlement boundary to be extended to the north of Crothers Lane to include a new subdivision
- rezone the settlement to Rural Living with a 1 hectare minimum lot size
- rezone public land to the Public Use Zone
- abandon use of the Restructure Overlay.

Authorisation request

No change to the Addendum Report 2015 recommendations.

5.6.3 Authorisation and exhibition

The exhibited Amendment proposed to rezone the settlement from the FZ to the Rural Living Zone Schedule 1 with a 1 hectare minimum lot size, in accordance with the Addendum Report 2015 recommendations.

Figure 11 Grassmere exhibited zones



Table 7 Grassmere lot yield

Area proposed to be rezoned to RLZ1	
Existing lots	33
Existing dwellings:	26
Vacant lots:	5
Potential additional lots:	6
Total lot supply:	11

5.6.4 Submissions

Submitter 38 requested the application of the LDRZ instead of the RLZ to:

... assist appropriate growth of the settlement and to support the continuation of community services provided within this settlement to the wider area.

No change to the exhibited Amendment was resolved at the Council meeting of May 2022.

Mr Drew gave evidence that:

Grassmere serves an important local catchment role to the surrounding rural area. It provides a local primary school, community hall and CFA brigade.

The RLZ will recognise the rural living nature of the settlement, which is not contributing to active farming pursuits.

It reflects the existing pattern of development in the settlement, which is relatively intense fronting the existing roads. The majority of lots are approximately 1 hectare in area and most contain dwellings. It will cater for some limited growth, providing appropriate sized lots capable of treating and retaining wastewater.

The land does not appear to have any obvious constraints, and limited productive agricultural activity is being undertaken within the area proposed to be rezoned.

Construction of an unmade road will be required to provide access if the larger lots in the settlement are to be subdivided. Due to those development costs, subdivision of these lots is unlikely to be viable if the minimum lot size is greater than 1.0 hectare.

Submitter 38 also requested that Council commissions updated planning strategies to guide the Amendment. In response, Council provided in its Part B submission:

While the RHSS was completed some years ago and there have been subsequent changes to the planning framework, the development patterns and land use in the areas proposed to be rezoned are not so dramatically impacted by any subsequent events or circumstances as to render the underlying work to be implemented by the Amendment irrelevant or out of date.

5.6.5 Panel discussion and conclusion

The Panel agrees with Council that the Amendment as exhibited recognises the rural living nature of the settlement, which is not contributing to active farming pursuits. The Panel does not support a rezoning to the LDRZ. The strategic work behind the Amendment does not support such a change.

It also notes that although the background documents are somewhat dated, much of the settlement landscape in which the Amendment is proposed has not significantly altered.

The Panel concludes:

The rezoning is appropriate as exhibited.

5.7 Hawkesdale

5.7.1 The area

Hawkesdale is classified as a ‘Village’ in the proposed Clause 21.05 (Settlement and housing) and as having ‘low’ growth potential.

Hawkesdale is an established settlement located on the Penshurst–Warrnambool Road. Facilities include education for pre to secondary school, swimming pool and some sporting facilities, community hall, CFA brigade, family services centre, general store, and hotel (currently closed), and it does not have reticulated sewerage. It is zoned Township comprising of 47 hectares with some lots falling outside of the TZ area.

Land in the township is subdivided in a grid pattern and there are a number of vacant lots within the TZ.

Planning Permit 2006/0221 was issued by the Minister for Planning on 21 August 2008 for the Hawkesdale Wind Farm. The wind farm is located approximately 2 kilometres south of the town and the site covers 2,280 hectares across four land holdings. Amendments have been granted to the Planning Permit to reduce the number of turbines from 31 to 26, and from 26 to 23 turbines.

The subject to the Amendment land is in the FZ and is not subject to any Overlay controls.

Table 8 Hawkesdale recent growth

Population	2011 Census	2016 Census	2021 Census	Change 2016–2021
Hawkesdale	432	322	311	-11

Source: Australian Bureau of Statistics

5.7.2 Strategic work

RHSS 2010

The RHSS 2010 recommended the following Planning Scheme changes:

- include land to the immediate south, west and east (of the existing TZ) in the Low Density Residential Zone
- apply a Settlement Boundary

- introduce a Restructure Overlay over the land zoned for township purposes with a requirement that the minimum lot size to establish a dwelling will be subject to town specific waste management strategies, which are dependent upon soil type.

Addendum Report 2015

The Addendum Report 2015 recommended the following revised Planning Scheme changes:

- abandon use of the Low Density Residential Zone proposed in the strategy
- rezone land north, east, south, and west of town to the Rural Living Zone at a 1 hectare minimum
- rezone land used for recreational or public uses to the PPRZ or PUZ
- abandon use of the Restructure Overlay.

Figure 12 Hawkesdale – Addendum Report 2015 zoning proposal



The Addendum Report 2015 recommended the rezoning of land within the former parish boundaries to the Rural Living Zone with a 1-hectare minimum lot size.

On 28 August 2018, Council resolved to remove land from the proposed rezoning in the southeastern area due to its proximity to the approved Hawkesdale Wind Farm. Shown as in Figure 12.

Authorisation Request

No change to the Council Resolution of 28 August 2018.

5.7.3 Authorisation and exhibition

The authorisation conditions required a reduction in the extent of the RLZ to the area between Spring Street and O’Brien Street.

The exhibited Amendment proposed to rezone land in the settlement from the FZ to the RLZ1 with (1-hectare minimum lot size), in accordance with the authorisation conditions, that is, a reduction to the extent of RLZ rezoning proposed in the Addendum Report 2015.

Figure 13 Hawkesdale requested zones

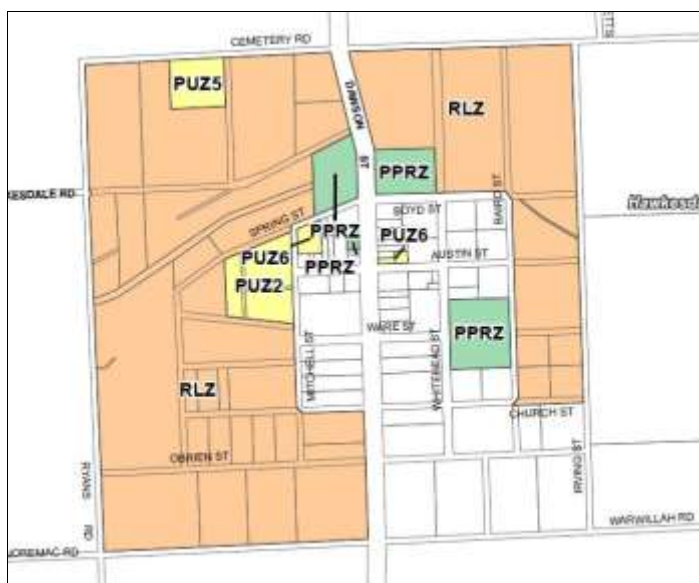


Figure 14 Hawkesdale exhibited RLZ1



Table 9 Hawkesdale lot yield

Area proposed to be rezoned to RLZ1	
Existing Lots	20
Existing dwellings:	7
Vacant lots:	13
Potential additional lots:	0
Total lot supply:	13

5.7.4 Submissions

Nine submissions were received (Subs 15, 20, 23, 26, 27, 28, 30, 35, 60); eight requested changes to the location or extent of the land to be rezoned. One submission opposes any RLZ rezonings at Hawkesdale.

The Council resolved at its 3 May 2022 meeting to support a change to the location and extent of land to be rezoned to Rural Living, and to identify additional land for future growth/rezoning as requested by Submission 23:

7. Submits to the Panel its response to the submissions generally as outlined in this report and the attachment, except for the following changes
 - a. Supporting the change to the location of the land proposed to be rezoned to Rural Living Zone Schedule 1 (RLZ1) at Hawkesdale requested in Submission No. 15.
 - d. Supporting the amendment of the Framework Plans for Hawkesdale, ... in the exhibited Clause 21.09 to identify land for future growth as requested in Submission Nos ... 23., 35, ...60 ...

Mr Huglin for the Hawkesdale and District Development Action Committee (HADDAC) (Sub 15) submitted that the Amendment should remove two existing farming paddocks from being rezoned to the RLZ and a ‘swap’ for these zones by the inclusion of additional lots lying further south, one of which is established for rural living purposes. Council submitted that they agree that these parcels are suited to inclusion in the RLZ.

Mr Drew gave evidence that:

Hawkesdale has a key role in the settlement hierarchy and serves an important regional catchment role to surrounding towns. It provides a P-12 College, swimming pool and other important community facilities.

The land proposed to be rezoned in the exhibited amendment reflects the existing subdivision pattern, the majority of lots are approximately 1 hectare in area and some contain dwellings. It is logically connected to the Township Zone and is within walking distance of the P-12 College. This rezoning will provide appropriately sized lots capable of treating and retaining wastewater and facilitate some population growth to provide support to the existing facilities in the town.

The exhibited rezoning will result in the loss of a small area of agricultural land. However, there are limitations on using the subject land for productive agricultural purposes, due to its location on the fringe of the town. It is acknowledged and accepted a loss of agricultural land on the fringe of the town will be a consequence of future development in Hawkesdale.

Strategic justification for the changes proposed in the Council resolution was derived from the RHSS 2010 and Addendum Report 2015 and Submissions 15, 30 and 60.

The land suggested for rezoning in Submission 15 is part of the area identified for rezoning in the RHSS 2010 and Addendum Report 2015.

It is noted that the 1.0 kilometre wind energy facility buffer covers approximately 50 per cent of the lots to the north of Noremac Road and Warwillah Road suggested for rezoning in Submission 15, therefore, constraining the sites for future development.

Therefore, including part of this area may not be consistent with the Council Resolution of 28 August 2018.

In relation to the preferred position to amend the framework plan to identify land for further growth as requested in Submission 35, this position is supported by the Addendum Report 2015. Submitter 35 is a business owner within Hawkesdale and submitted:

Small towns, not just Hawkesdale need to be given the opportunity to expand and offer their communities the best chance of future development. Residents live in small towns generally for the lifestyle and they appreciate the services that are provided to them locally. Hawkesdale needs more opportunity for businesses and by opening the area suggested in the Amendment doesn't provide the opportunities that Dawson Street would give to potential buyers. I would hope that the southern and northern ends of Dawson Street be considered instead of the area suggested in the Amendment.

At the end of the day I am just a small business owner who understands the difficulties of providing a service to the local people in a country town. Providing expansion to a small town is essential for growth.

Submitter 23 submitted further residential zoned land to be considered in relation to lots they own and submits:

Having the land zoned as agricultural production is not viable or a consideration for us as it was never intended for that purpose.

Mr Huglin, for HADDAC submitted:

HADDAC's position is still quite strongly that the Moyne Shire should lobby and work towards returning to the town boundaries to what they previously were.

...

HADDAC simply wants the best chance for current blocks that are now outside the town boundary to be presented as viable and easy to develop housing blocks for a rural town setting. In the current climate there would not be a better time to advertise such blocks on the market. For the sake of the town's economic survival growth needs to be encouraged not thwarted as the current practices are doing

In regard to further township boundary changes, Council replied that:

Work has commenced to examine the optimal future outcomes for the town and this will guide identifying additional land for residential/rural living development in the settlement.

Given this work has commenced, the preferable outcome is to await the conclusions and at that time progress those conclusions as part of a separate planning process.¹³

5.7.5 Panel discussion and conclusion

The Panel notes the Council resolution of 3 May 2022 (item 7a) that seeks to make changes to the exhibited Amendment in line with HADDAC's proposed changes to 'swap' lots for these zones by the inclusion of additional lots lying further south. The Panel refers to the Council Resolution of 28 August 2018 which seeks to increase the buffer distance between the Hawkesdale Wind Farm located to the south and the lots within the Hawkesdale township (which would include the lots proposed by HADDAC).

As presented by Mr Drew, the Panel is mindful that the 1.0 kilometre wind energy facility buffer covers approximately 50 per cent of the lots to the north of Noremac Road and Warwillah Road suggested for rezoning in Submission 15, therefore, constraining the sites for future development. Reducing the wind farm buffer may also be inconsistent with Clause 52.32 which seeks a 1 kilometre buffer between a turbine and dwelling. The Panel notes submitter 35 identifies noise from the nearby Macarthur Wind Farm:

The area is also prone to noise from the Macarthur Windfarm which is quite audible at certain times which could also be an issue for potential buyers.

Therefore, including part of this area for future development of dwellings may not be consistent with the Council Resolution of 28 August 2021 or Clause 52.32 which seeks a 1 kilometre buffer between a turbine and dwelling. For these reasons, the Panel does not agree with Council's resolution of 3 May item 7a.

Notwithstanding, the Panel agrees with Council that further work as part of a separate process could be undertaken to determine a future township boundary.

The Panel concludes:

The rezoning is appropriate as exhibited.

Identifying land for further growth and changes to proposed policy at 21.09 should be addressed by further work and no change should be made to the exhibited policy for Hawkesdale.

5.8 Nullawarre

5.8.1 The area

Nullawarre is classified as a 'Village' in the proposed Clause 21.05 (Settlement and housing) and as having 'low' growth potential.

Nullawarre is a small settlement with a clustering of houses located on the Great Ocean Road, within commuting distance to Warrnambool. It has a CFA brigade, general store/small supermarket, pre and primary school, and community hall, and does not have reticulated sewerage. It has a small area zoned Township of 4 hectares and a large over supply of land in the Rural Living Zone.

¹³ Part B submission, page 7

The land subject to the Amendment is in the Rural Living and Farming Zones and is not subject to any Overlay controls. The Heritage Overlay (HO75) applies to the Great Ocean Road, which traverses the settlement.

Table 10 Nullawarre recent growth

Population	2011 Census	2016 Census	2021 Census	Change 2016–2021
Nullawarre	294	267	233	-34

Source: Australian Bureau of Statistics

5.8.2 Strategic work

RHSS 2010

The RHSS 2010 recommended the following Planning Scheme changes:

- apply a Settlement Boundary
- due to an oversupply of Rural Living land, minimal development and lack of smaller lot subdivision in the area, back zone some RLZ to the north and south of Henrys Sawmill Road to the FZ. It is noted that some RLZ land should be retained to ensure a variety in housing options are available.

Addendum Report 2015

The Addendum Report 2015 retained the recommendation to back zone RLZ land to the west of the township to the FZ.

In addition, it recommended that the TZ be extended to include additional properties being:

- land on the northern side of the Timboon–Nullawarre Road containing small lots, which are predominantly developed
- land on the eastern side of the Great Ocean Road, south of the Timboon–Nullawarre Road intersection that is developed at a township density but zoned Rural Living.

Therefore, the Addendum Report 2015 recommended the following revised Planning Scheme changes:

- rezone FZ and RLZ land nearby the town centre to the TZ
- back zone surplus Rural Living zoned land west of the township to the FZ
- vary and adopt an altered settlement boundary for Nullawarre to encompass TZ and RLZ land.

Authorisation request

No change to the Addendum Report 2015 recommendations.

5.8.3 Authorisation and exhibition

Authorisation conditions included:

- Amend the zoning map for Nullawarre to correct minor errors and inconsistencies. An administrative change was required to include the existing RLZ land in RLZ1.

The exhibited Amendment proposed to back zone the RLZ to the west of the township to the FZ, and rezone FZ and RLZ land near the town centre to the TZ, in accordance with the Addendum Report 2015 recommendations and authorisation conditions. In addition, it

included the existing RLZ in RLZ Schedule 1 (administrative change) in accordance with the authorisation conditions.

Figure 15 Nullawarre exhibited zones

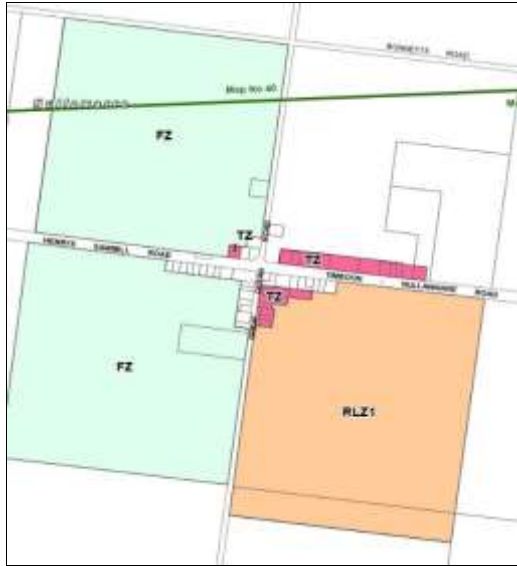


Table 11 Nullawarre lot yield

Area proposed to be rezoned to the Township Zone	
Existing dwellings:	9
Vacant lots:	4
Potential additional lots:	1
Total lot supply:	5
Back zonings – RLZ to Farming Zone (1 ha minimum lot size)	
Estimated loss of lots	100
Remaining RLZ1 lot supply (1 ha minimum lot size)	
Estimated RLZ1 lot supply	55

5.8.4 Submissions

There were no submissions for Nullawarre.

No change to the exhibited Amendment was resolved at the Council meeting of May 2022.

Mr Drew gave evidence that:

The RHSS 2010 and Addendum Report 2015 support the proposed rezonings. The minor increase to the Township Zone will resolve zoning anomalies (land in two zones – TZ and RLZ), recognise existing development, and provide a contiguous extent of the Township Zone.

Due to oversupply of land in the Rural Living Zone and limited development in the area, there is justification for the back-zoning of the Rural Living Land to the north and south of Henrys Sawmill Road to Farming Zone. It is noted that the remaining RLZ land should be retained to ensure a variety in housing options are available at Nullawarre.

5.8.5 Panel discussion and conclusion

The Panel agrees that specific conditions at Nullawarre support the proposed rezonings. It is also noted that no submissions were received from landowners regarding this back zoning.

The Panel concludes:

The rezoning is appropriate as exhibited.

5.9 Purnim

5.9.1 The area

Purnim is classified as a ‘Historical township’ in the proposed Clause 21.05 (Settlement and housing) and as having ‘Low’ growth potential.

Purnim is a small settlement located on the Hopkins Highway, between Warrnambool and Mortlake. It extends along the Hopkins Highway with a strip of Rural Living Zone land to the

northwest. Community infrastructure and services available include a church, community hall, CFA brigade, recreation reserve and town water supply.

Wastewater disposal has the potential to pose a constraint for development as the settlement does not have reticulated sewerage. It is zoned Township comprising of 41 hectares with an area of Rural Living Zone land consisting of 28 hectares.

The land subject to the Amendment is in the FZ and is not subject to any Overlay controls.

Table 12 Purnim recent growth

Population	2011 Census	2016 Census	2021 Census	Change 2016–2021
Purnim	454	270	292	+22

Source: Australian Bureau of Statistics

5.9.2 Strategic work

RHSS 2010

The RHSS 2010 recommended the following Planning Scheme changes:

- propose a Settlement Boundary
- rezone land containing the CFA, church and former school site to the TZ and incorporate within the Settlement Boundary
- introduce a Restructure Overlay over the land zoned for township with a requirement that the minimum lot size to establish a dwelling will be subject to town specific waste management strategies, which are dependent upon soil type.

The RHSS 2010 recommended the rezoning of land containing the CFA, church, and former school site from the FZ to the TZ.

Addendum Report 2015

The Addendum Report 2015 recommended the following modifications to the RHSS Strategy:

- remove the use of the Restructure Overlay and the Incorporated Document
- note the constraints of wastewater highlighted for the towns in Local Policy.

There was no change to the extension of the TZ recommended in the RHSS 2010.

Authorisation request

No change to the Addendum Report 2015 recommendations.

5.9.3 Authorisation and exhibition

The exhibited Amendment proposed to rezone land to the TZ and public use zones and included the existing RLZ in RLZ Schedule 1 (administrative change) in accordance with the recommendations of the RHSS 2010 and authorisation conditions.

Figure 16 Purnim exhibited zones

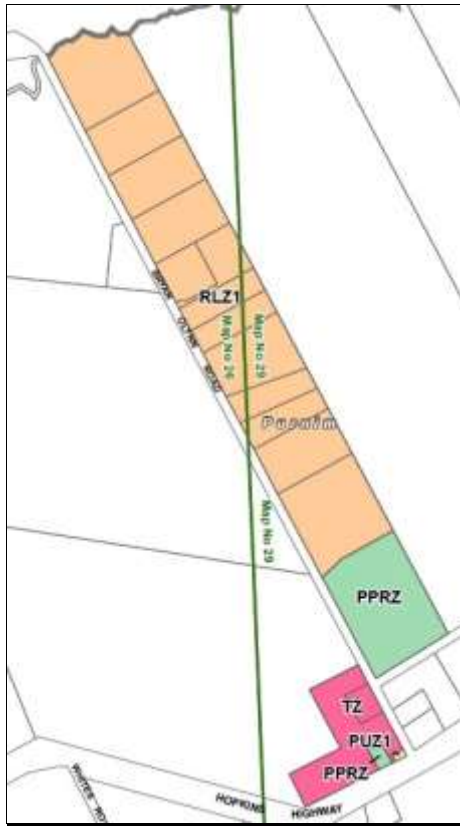


Table 13 Purnim lot yield

Land proposed to be rezoned to the Township Zone	
Existing dwellings:	1
Vacant lots:	0
Potential additional lots:	7
Total lot supply:	7

5.9.4 Submissions

Two submitters (Subs 2 and 7), supported the proposed rezoning, with Submitter 7 requesting the identification of additional land for residential development, that is, an expansion of the settlement boundary:

Our farm adjoins the proposed TZ land contained within the Amendment and borders the southwest side of Bryan O’Lynn Road, directly opposite the land zoned RLZ and PPRZ. We wish to express our interest in making available additional land adjacent to these areas to further support the aims of Council and satisfy the current demand for new residential development, for Key and Essential Workers and those seeking to enjoy rural style living but within a 10-minute drive of the region’s largest centre.

It may also be of interest to Council that the owner of the land adjoining ours on Bryan O’Lynn Road, is willing to see such development objectives achieved

Submitter 2 stated that the Parish was pleased to support the Amendment because the church land at Purnim, with diminishing church populations, has become extremely difficult to maintain with a very aging congregation.

Council at its meeting of May 2022 made no change to the proposed rezoning (which accords with the RHSS 2010), but did support the possible extension of the Settlement Boundary as requested by Submitter 7.

Mr Drew gave evidence that:

The proposed rezoning is supported by the RHSS 2010 as it will include town facilities and urban uses in the Township Zone and provide a modest increase in land supply.

At present, the land is only used for limited agricultural activity and, thus, the rezoning is unlikely to affect the Shire’s agricultural economy.

The basis for Council's preferred position on the Amendment (that is, the amendment of the framework plan to identify land for further growth) derives from the submissions.

5.9.5 Panel discussion and conclusion

The Panel agrees with Council that the rezoning of land containing the CFA, church, and former school site from the FZ to the TZ is a sensible planning outcome.

In regard to Council's position on the Amendment (that is, change the framework plan to identify land for further growth) which derives from the submissions, the Panel notes that strategic work would be needed to support any changes.

The Panel concludes:

The rezoning is appropriate as exhibited.

Identifying land for further growth and changes to proposed policy at 21.09 should be addressed by further work and no change should be made to the exhibited policy for Purnim.

5.10 Woolsthorpe

5.10.1 The area

Woolsthorpe is classified as a 'Village' in the proposed Clause 21.05 (Settlement and housing) and as having 'low' growth potential.

Woolsthorpe is an established settlement within commuting distance to Warrnambool with community infrastructure and services available including a CFA brigade, general store/post office, tennis courts, recreation reserve, primary school, hotel and community hall, but does not have reticulated sewerage. Therefore, wastewater disposal has the potential to pose a constraint for development.

It is zoned Township comprising an area of 58 hectares surrounded by FZ land, which has a small lot layout that has potential to create pressure for growth beyond the existing TZ area.

The land subject to the Amendment is in the FZ and is not subject to any Overlay controls.

Table 14 Woolsthorpe recent growth

Population	2011 Census	2016 Census	2021 Census	Change 2016–2021
Woolsthorpe	510	422	364	-58

Source: Australian Bureau of Statistics

5.10.2 Strategic work

RHSS 2010

The RHSS 2010 recommended the following Planning Scheme changes:

- propose a Settlement Boundary (based on the extent of the existing TZ)
- introduce a Restructure Overlay over the land zoned for township with a requirement that the minimum lot size to establish a dwelling will be subject to town specific waste management strategies, which are dependent upon soil type.

It did not include any recommendations for zoning changes at Woolsthorpe.

Addendum Report 2015

The Addendum Report 2015 recommended maintaining the existing TZ and providing complementary RLZ land to the east and south of the township with a 1 hectare minimum lot size.

Therefore, the Addendum Report 2015 recommended the following revised Planning Scheme changes:

- extend the proposed settlement boundary to east, south and southwest to provide rural residential land
- maintain the TZ and rezone FZ land within the settlement boundary to RLZ with 1 hectare minimum
- rezone public and recreational land to the PPRZ or PUZ
- abandon use of the proposed Restructure Overlay.

Authorisation request

No change to the Addendum Report 2015 recommendations.

5.10.3 Authorisation and exhibition

The authorisation conditions required a reduction to the extent of RLZ proposed in the Addendum Report 2015, to an area on the eastern side of the town.

Figure 17 Woolsthorpe requested zones

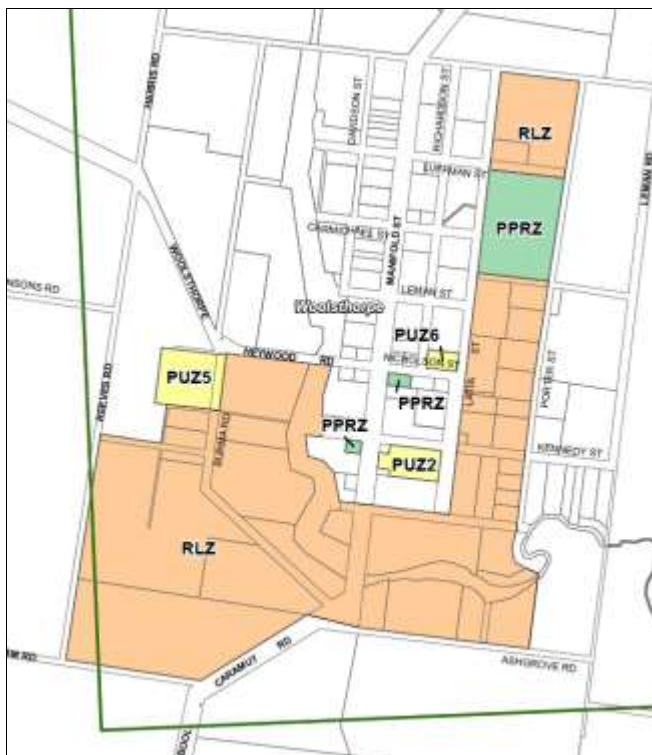


Figure 18 Woolsthorpe exhibited RLZ1



The exhibited Amendment proposed to rezone land on the eastern side of the town from the FZ to the RLZ1 with a 1 hectare minimum lot size, in accordance with the authorisation conditions.

Table 15 Woolsthorpe lot yield

Land proposed to be rezoned to RLZ1	
Existing lots	29
Existing dwellings:	18
Vacant lots:	11
Potential additional lots:	1
Total lot supply:	12

5.10.4 Submissions

There were no submissions in relation to Woolsthorpe.

No change to the exhibited Amendment was resolved at the Council meeting of May 2022.

Mr Drew gave evidence that:

Woolsthorpe serves an important local catchment function, via the primary school, general store, and other facilities.

The rezoning of FZ to RLZ proposed in the exhibited Amendment will reflect the existing pattern of development and allow limited further subdivision. It will facilitate modest population growth to provide support to the existing facilities in the town.

There are limitations on using this land for productive agricultural purposes, due to its gradual conversion to residential development.

5.10.5 Panel discussion and conclusion

The Panel notes there were no submissions regarding the Amendment to rezone land on the eastern side of the town from FZ to the RLZ1 with a 1 hectare minimum lot size and agrees with Council that the rezoning as exhibited reflects the existing pattern of development of Woolsthorpe and will allow for limited further subdivision.

The Panel concludes:

The rezoning is appropriate as exhibited.

6 Koroit and surrounds

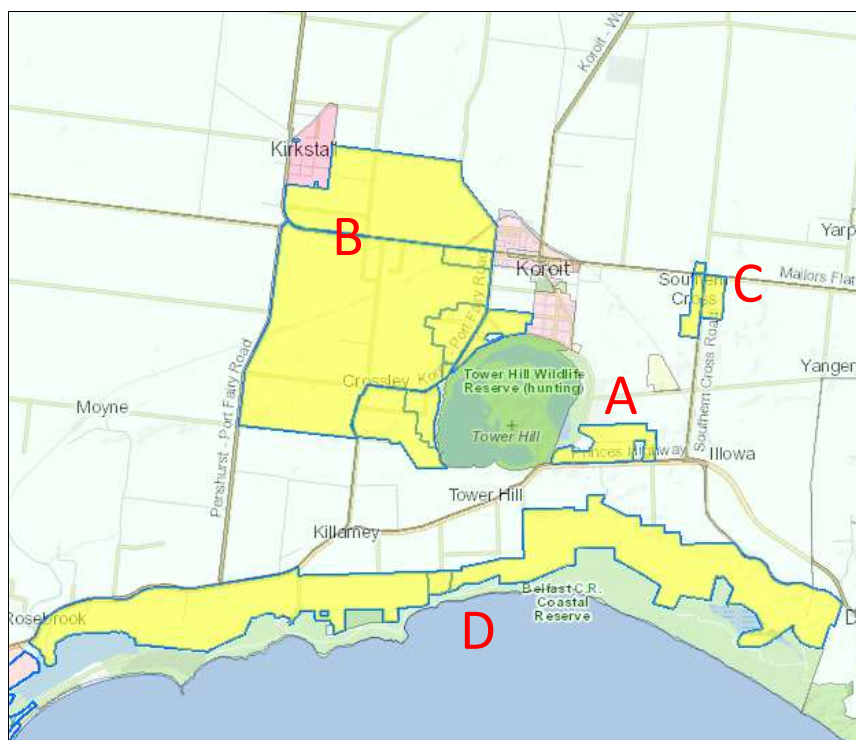
6.1 The areas

This section of the report deals with Koroit and surrounds under four headings:

- A – Illowa West
- B – West of Koroit to Kirkstall and Crossley
- C – Southern Cross
- D – Killarney and surrounds.

These are shown on Figure 19.

Figure 19 Areas affected by the Amendment – Koroit and surrounds



6.2 Illowa West

6.2.1 The area

Illowa West is classified as a ‘Historical township’ in the proposed Clause 21.05 (Settlement and housing) and as having ‘low’ growth potential.

Illowa West is a cluster of small lots located on the northern side of the Princes Highway to the east of Tower Hill, which was the result of a past planning approval. It is known as the Dairy Town subdivision, and approval was granted approximately 30 years ago in a restructure arrangement with a farm to the south.

There are no services or reticulated sewerage, and the area consists of 96 hectares. The settlement reflects a rural living cluster limited to the existing lot configuration, which capitalises on the views afforded of the coast close to Tower Hill.

Tower Hill Cemetery is located towards the eastern end of the settlement between the Princes Highway and Settlers Lane.


The western end of the settlement adjoins the Tower Hill State Game Reserve, which is managed by Parks Victoria. In addition, land at 21 Quarry Road, shown as  on Figure 20 (below) is subject to an approved Work Authority (extractive industry) and, additionally, is used as a materials recycling facility. A buffer of 500 metres is required between the quarry and a dwelling.

Table 16 Illowa West recent growth

Population	2011 Census	2016 Census	2021 Census	Change 2016–2021
Illowa	353	304	304	0

Source: Australian Bureau of Statistics

The settlement is in the FZ and is subject to the:

- Bushfire Management Overlay (western part adjacent to Tower Hill)
- Significant Landscape Overlay Schedule 6 – Tower Hill and Environs.

6.2.2 Strategic work

RHSS 2010

The RHSS 2010 recommended the following Planning Scheme changes:

- Include a Settlement Boundary.
- Rezone land within the Settlement Boundary to the RLZ (2 hectare).

Addendum Report 2015

The Addendum Report 2015 did not recommend any changes to the RHSS 2010 in relation to Illowa West.

Authorisation request

No change to the RHSS 2010 recommendations.

6.2.3 Authorisation and exhibition

The exhibited Amendment proposed to rezone the settlement from the FZ to the RLZ2 with a 2 hectare minimum lot size, in accordance with the recommendations of the RHSS 2010 and authorisation request.

Figure 20 Illowa West exhibited zones and Works Approval location



 Works approval location

Table 17 Illowa West lot yield

Area proposed to be rezoned to RLZ2

Existing lots	63
Existing dwellings:	56
Vacant lots:	7
Potential additional lots:	0
Total lot supply:	7

6.2.4 Submissions

Submitter 47 requested a reduction in the minimum lot size from 2 hectare to 1 hectare.

Council resolved at the Council meeting of May 2022 to support a reduction to the minimum lot size from 2 hectares to 1 hectare at Illowa/Tower Hill:

7. Submits to the Panel its response to the submissions generally as outlined in this report and the attachment, except for the following changes: ...
 - c. Supporting the requests for reductions in the minimum lot size from two hectares to one hectare for the proposed Rural Living rezonings at Koroit, Crossley, Illowa and Tower Hill,

Mr Drew gave evidence that:

The rezoning of the land to RLZ2, as exhibited, reflects the existing rural residential nature of the settlement, which is nearly fully developed for urban (not farming) land use. Risk of loss of agricultural land is limited because limited productive agricultural activity is being undertaken in the subject area.

The basis for the reduction of the minimum lot size from 2 hectares to 1 hectare proposed in the Council resolution was derived from Submission 47.

It is noted that planning policy does not support an increased density of development in the Tower Hill environs, due to its significant environmental and landscape values, and bushfire risk.

DELWP (Sub 51) noted:

...the immediate proximity of the Tower Hill Lake and Wildlife Reserve to the settlement of Illowa West and emphasises the importance of protecting this significant site from any adverse impacts of future development.

6.2.5 Panel discussion and conclusion

The area is covered by SLO6 which identifies in its ‘Statement of nature and key elements of landscape’:

Tower Hill is a visually outstanding volcanic landscape, having the full sequence of geological features including the caldera, crater lakes, internal scoria cones and islands. It is the most popular and well-known volcanic landscape in Victoria and is of state significance for its visual qualities.

The views from Tower Hill and its crater rim are remarkable, both across the surrounding plains to the coast, and within the complex to the crater floor and its island lakes. Its distinctive volcanic form, in an otherwise flat and featureless lava plain, make this a recognisable and highly prominent landscape feature of the Western Region.

Much of the area’s vegetation was denuded and is being re-established, and it is a refuge to a variety of native plants, birds and animals.

The Panel does not agree with Council that strategic justification to reduce the minimum lot size in Illowa has been undertaken and is mindful of the existing quarry adjacent to this location as well as the Tower Hill environs that need to be considered when allowing for increased density.

The Panel concludes:

The rezoning is appropriate as exhibited.

It is not appropriate to reduce the lot size in Illowa West.

6.3 West of Koroit to Kirkstall and Crossley

6.3.1 The area

This is a complex area that includes:

- Koroit, a ‘District town’ with ‘moderate’ growth potential
- Kirkstall, a ‘Village’ with ‘deferred’ growth potential
- Koroit West and Crossley ad hoc rural residential development
- Farming area west of Koroit to Kirkstall corridor and Crossley.

Table 18 Koroit, Kirkstall and Crossley recent growth

Population	2011 Census	2016 Census	2021 Census	Change 2016–2021
Koroit	1,958	2,055	2,184	+129
Kirkstall	346	366	406	+40
Crossley	351	215	235	+20

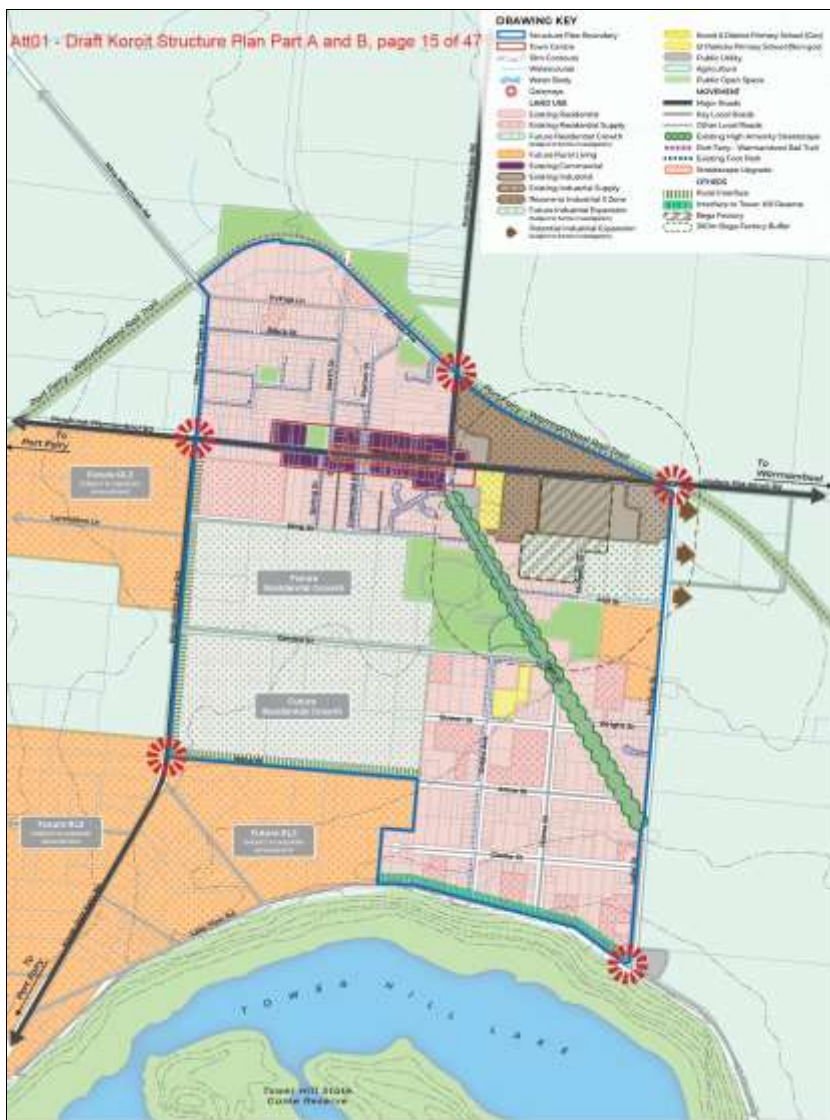
Source: Australian Bureau of Statistics

Koroit

Koroit is classified as a ‘District town’ in the proposed Clause 21.05 (Settlement and housing) and as having ‘moderate’ growth potential.

Council has recently prepared a structure plan for Koroit.

Figure 21 Draft Koroit Structure Plan



Kirkstall

Kirkstall is a historical settlement located close to Koroit and within commuting distance to Warrnambool. It has experienced incremental growth and residential development on small lots.

The intensified development on small lots has created environmental issues associated with wastewater treatment and disposal due to a lack of reticulated sewerage. There are services provided in the settlement, such as, a CFA brigade, hotel, hall, and recreation reserve. There are some higher order services available in Koroit.

The settlement has 106 hectares of land zoned Township, which although offer good opportunities for accommodating further growth is constrained by poor wastewater management. Management of wastewater disposal will be necessary for development having regard to lot sizes and treatment issues.

The settlement is in the TZ and is not subject to any overlay controls.

Koroit West and Crossley RLZ

Considerable ad hoc rural residential development has occurred on land to the west and southwest of Koroit, along existing road frontages and close to the Tower Hill State Game Reserve. In general, it consists of development on existing small rural lots, and lots created by title restructures.

The land is in the FZ and is subject to the following Overlay controls:

- Bushfire Management Overlay (Tower Hill surrounds)
- Significant Landscape Overlay Schedule 6 – Tower Hill and Environs (to the south and east of the Koroit–Port Fairy Road).

Farming area west of Koroit to Kirkstall corridor and Crossley FZ3 area

Much of the proposed FZ3 area appears to be productively farmed, with cropping and grazing activities occurring on the land. There are large scale dairying enterprises in and adjacent to this area, supporting a view that the area has agricultural value.

The land subject to the Amendment is in the FZ and is subject to the following Overlay controls:

- Bushfire Management Overlay (small part of the proposed FZ3 area on the western side of the Koroit –Port Fairy Road).
- Significant Landscape Overlay Schedule 6 – Tower Hill and Environs (land in the southeastern part of the proposed FZ3 area on the eastern and southern sides of the Koroit–Port Fairy Road).

Ad hoc rural residential development has also occurred in the area, primarily along road frontages in the eastern half of the area, close to Koroit and Crossley.

6.3.2 Strategic work

Land Capability and Biodiversity Study 2009

The Koroit to Kirkstall corridor and Crossley FZ3 Area is in *Planning Unit 9 – Koroit / Grassmere* identified in the Land Capability and Biodiversity Study 2009.

The Study found that due to changed economics, past extensive potato and onion production has diminished in favour of irrigated pasture for dairying. Further changes in agricultural land use are likely into the future on this land due to its high agricultural diversity.

Median property size by locality is mainly less than 20 hectares with the localities near urban centres having a median property size of 2 hectares. Consolidation of agricultural properties into larger businesses, rather than subdivision into smaller farming lots is a more logical scenario for the future.

However, the need for some orderly planned Rural Living may potentially be justified near Koroit and Kirkstall, to provide for demand in and near these main pressure centres.

The Land Capability and Biodiversity Study 2009 did not recommend any reduction of the FZ minimum lot size of 40 hectares, in this area.

Moyne Amendment C6

Amendment C6 applied to Koroit West–Crossley and was exhibited between 15 September and 17 October 2005. It affected land in and around Koroit and included the following elements:

- the rezoning of land within the O’Briens Lane and Walkers Lane area, from the Rural Zone (a precursor to the FZ) to the RLZ
- the rezoning of land within the Lowery Road/Barlings Road area from the Rural Zone to the RLZ
- the rezoning of land along Stauntons Lane from the Rural Zone to the RLZ
- amending the schedule to the RLZ to introduce a 2-hectare subdivision minimum for the proposed Rural Living rezonings within the Amendment.

The C6 Panel agreed that RLZ would more accurately reflect the character of these areas and was more appropriate than the (former) Rural Zone. While that panel acknowledged the need to protect agricultural land, it found that the three areas in question had limited agricultural use and that this will further decline as continued housing development occurs on existing small lots.

It was that panel’s view, that the agricultural future of the Shire would be better protected by directing rural living development into appropriately zoned and located areas such as these, rather than by allowing dispersed housing on small lots within the rural areas as seemed to have been the practice.

Therefore, the C6 Panel supported the extent of the RLZ exhibited in C6 and noted that the 2-hectare subdivision minimum would not create opportunities for additional lots to be created in any of the three areas.

The C6 panel did not support submissions which sought a reduction of the subdivision minimum in the Stauntons Lane area from 2 hectares to 1 hectare. That panel was not provided with any material relating to the potential increase in lot yield or any of the other issues that might arise from a reduction in the subdivision minimum.

The C6 panel also considered that the proposed reduction in the subdivision minimum would potentially affect other landowners in the Stauntons Lane area who were not given the opportunity to consider the implications of the change and to make submissions to Council and the Panel.

Council subsequently abandoned Amendment C6.

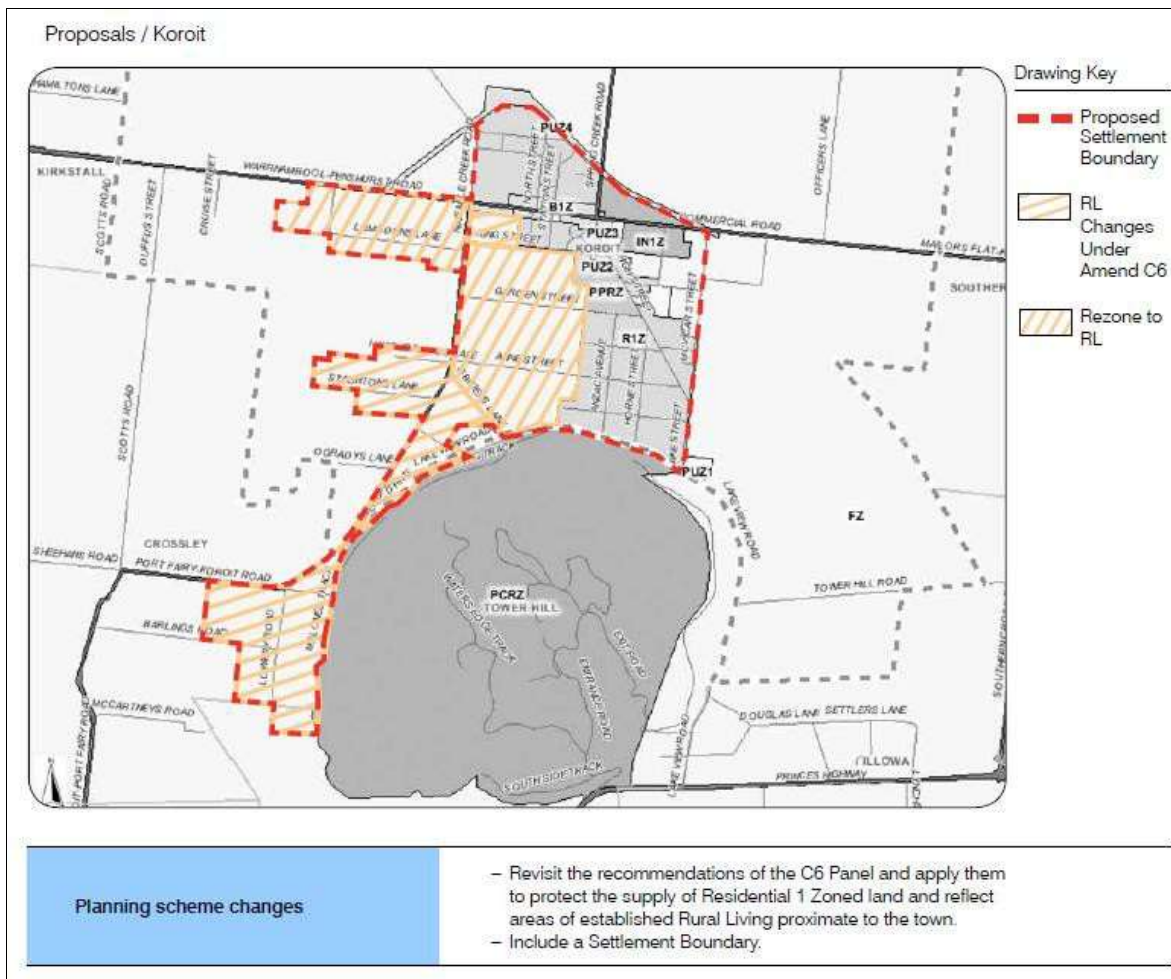
RHSS 2010

The RHSS 2010 recommended a Settlement Boundary for Koroit and rezoning of land to RLZ to reflect changes proposed under Amendment C6 and to reflect the pattern of rural living development that has been established by approvals over the past 20 years:

- For Kirkstall:
 - extend the TZ boundary to take in land bounded by Cruites Road, Atkinson Street and the Peshurst–Warrnambool Road
 - define a Settlement Boundary
 - introduce a Restructure Overlay over the land zoned for township with a requirement that the minimum lot size to establish a dwelling will be subject to town specific waste management strategies which are dependent upon soil type.
- For the Koroit West–Crossley:
 - revisit the recommendations of the C6 Panel and apply them to protect the supply of Residential 1 Zoned land and reflect areas of established Rural Living proximate to the town

- include a Settlement Boundary.

Figure 22 Koroit–Crossley RHSS 2010 recommendations



Addendum Report 2015

The Addendum Report 2015 recommended the rezoning of additional clusters of small lots to Rural Living Zone with a 2-hectare minimum lot size for subdivision and dwellings reflecting approvals and development, which has changed the character of the area over a number of years.

The Addendum Report 2015 recommended the following revised Planning Scheme changes:

- extend the previously proposed settlement boundary for Koroit further west of Duffus Street to Scotts Road, south-west around Tower Hill and north of the Crossley intersection on the eastern side of Scotts Road, reflecting land presently akin to rural residential
- rezone identified FZ land to RLZ with a 2-hectare dwelling and subdivision minimum
- reduce the minimum lot size of the FZ for the Study Area for a dwelling to 10 hectares
- maintain identified land for future residential growth within FZ so to not undermine its development potential.

For Kirkstall the Addendum Report 2015 recommended the following revised Planning Scheme changes:

- maintain the township in its current form

- abandon rezoning of land northwest of the town to Low Density Residential – wastewater issues
- abandon use of the Restructure Overlay
- rezone land used for recreational or public uses to the PPRZ.

The Addendum Report 2015 recommended that a new FZ apply with a dwelling trigger at 10 hectares, and minimum lot size for subdivision remaining at 40 hectares, based on an acknowledgement that agricultural pursuits in the area have changed and are declining, because of past Council decisions to allow dwellings.

Authorisation request

No change to the Addendum Report 2015 recommendations.

6.3.3 Authorisation and exhibition

The authorisation included a condition that:

- Land removed from the proposed RLZ2 at Koroit West should be replaced by the proposed FZ3.

Figure 23 West of Koroit requested zones



Figure 24 West of Koroit exhibited zones



The exhibited Amendment proposed to rezone land to the FZ3 in accordance with the Addendum Report 2015 recommendations and authorisation conditions.

Table 19 West of Koroit lot yield

	Land proposed to be rezoned to RLZ2	Land proposed to be rezoned to FZ3
Existing lots	176	103
Existing dwellings:	145	322
Vacant lots	31	36 Lots between 10 & 40 hectares (some are landlocked)
Potential additional lots:	6	183 Vacant lots less than 10 hectares
Total lot supply	37	219

6.3.4 Submissions

Council meeting of May 2022

Council resolved to support:

- the reduction in the minimum lot size from 2 hectares to 1 hectare for the land to be rezoned to RLZ, and to identify additional land for future growth.
- changes to the Framework Plan for Kirkstall to identify land for future growth as requested in Submissions 14 and 16.

Evidence

In regard to Kirkstall, Mr Drew gave evidence that:

The strategic justification for supporting the amendment of the Framework Plan for Kirkstall to identify land for future growth is derived from the RHSS 2010 and the Submissions.

For the area west of Koroit, Mr Drew gave evidence that:

The strategic justification for this rezoning is reliant upon the recommendations of the Addendum Report 2015.

The land proposed to be rezoned to RLZ in Koroit West/Crossley, as exhibited, is largely developed and used as a rural residential area. There is limited productive agricultural activity being undertaken, although the larger lots at the western of Stauntons Lane and O'Gradys Lane have some potential for agricultural use. It includes land which previously received support from the C6 Panel for rezoning to the Rural Living Zone.

The rezoning of the land to RLZ is appropriate to reflect the rural residential nature of the area and it will provide a modest supply of additional lots.

The amendment of the framework plan to identify land for further growth proposed in the Council resolution is reflected in comments in the Addendum Report 2015 and is supported by submissions.

The reduction of the minimum lot size from 2 hectares to 1 hectare per the preferred form of the Amendment set out in the Council resolution derives from the submissions.

Rural Living Zone

Seven submissions requested increases to the extent of the land to be rezoned to RLZ2 and a reduction to the minimum lot size (Subs 3, 8, 9, 14, 18, 45 and 63). These submissions referenced the demand for this type of development, the existing development pattern and issues to do with the viability of existing uses.

The lifestyle farming area

A number of submissions opposed the application of the FZ3.

Submitter 1 contended that the proposed changes will result in a loss of productive farming land. The concerns of the submitter include the potential for an exponentially increasing population with a converse depletion of available farming land, stating *“We need to maintain our farming land and contain our urban sprawl, not make the situation worse”*.

Submitter 8 stated that the FZ3 area would compromise substantially more agricultural land beyond what was proposed to be in the RLZ west and south of Koroit in the Addendum Report 2015 arguing that the FZ controls should remain unaltered to effectively protect those existing agricultural businesses.

Submitter 24 suggested that fragmenting the FZ would make it extremely difficult for a commercial farm to grow. They contended that people who want to be hobby farmers do not value land as a commercial farmer does, and are willing to pay a price well above what a commercial farmer is able to afford. To alter the FZ, as proposed in the Amendment, *“will kill off farming progress in a reliable, sound, fertile, farming area”*. During submission to the Panel, Mr Mahony emphasised the need to protect farming zoned land for the purpose of agricultural uses, in particular his dairy farming operations that require a buffer between dwellings.

Submitter 31 considered that some of the land covered by the Amendment is regarded as being the most productive soil in a reliable climate found anywhere in the country, and much of this land has already been lost to housing.

The main part of Submitter 40’s farming enterprise (that are contiguous parcels of land), generally bounded by Sheehans Road, the Penshurst–Port Fairy Road and the Penshurst–Warrnambool Road, are proposed to be rezoned to FZ3. The submitter considered that the expansive use of FZ3, to the west and south of Koroit, allowing a dwelling without planning approval on land of 10 hectare or more, would compromise the local agricultural economy. It will substantially and cumulatively, convert agricultural land that is being farmed by not only the submitters, but by at least four other larger commercial farming enterprises, to hobby farms.

Mr Davies (representing himself and Submitters 12, 17, 18, 37 and 38) suggested that smaller settlements are attracting lots of families post Covid and that newer farmgate enterprises were occurring in and around these settlements. In his submission (Sub 36), Mr Davies states:

Value of agricultural land is often determined by the ability for a dwelling to be constructed on this land. Development of new dwellings in the FZ is often driven by a new agricultural business being developed by a new generation of farming families. The support of land values is considered to be a significant driver in the wealth of shire and region. The blanket characterisation of rural settlement being adversarial to agriculture is considered to miss the subtleties of rural populations and community building.

Council officers noted that the proposed lifestyle farming (FZ3) area to the west of Koroit to Kirkstall:

- may affect the ability for commercial farming enterprises to remain in that area, and recommended it be removed from the Amendment
- is intended to facilitate opportunities for the establishment of small-scale farming enterprises, but will not guarantee that the agricultural use of land in the area will not be compromised, with a risk that the area will become a de-facto rural living zone, as it would provide opportunities for lifestyle housing.

The Environment Protection Authority (EPA) (Sub 21) supports the steps identified in the exhibited Amendment to protect existing agricultural land however the agency reminded the Council of the requirements of Ministerial Direction 1 (MD1) and Planning Practice Note 30 (PPN30) in considering land to be used for future sensitive uses. The EPA stated:

It is important that Council is aware of its obligations to satisfy itself that the environmental conditions of land proposed to be used for a sensitive use are, or will be, suitable for that use, in accordance with MD1.

EPA highlights that the risk of contamination associated with agricultural land is sometimes overlooked. PPN30 now identifies that consideration should be given to the potential for specific contaminating activities occurring over time on agricultural land, including commercial use of pesticides (including herbicides, fungicides etc.), biosolids application to land and farm waste disposal. Furthermore, PPN30 identifies these activities to have a 'medium' potential for contamination.

In response to a question from the Panel regarding this matter for areas of previous potato farming west of Koroit, Ms Lane responded that Council had not undertaken any assessments of potential contamination.

The Panel asked a question regarding whether Council had considered the objectives of SLO6 in terms of protection of the landscape values of Tower Hill in its consideration of extent of the RLZ in these Tower Hill environs (with particular interest in Koroit southwest area).

Figure 25: Tower Hill SLO6 extent



In closing, Council submitted:

Council officers have not been able to locate any record that SLO6 was considered as part of the various stages of preparation and consideration of the Amendment (whether by external consultants, Council officers or DELWP).

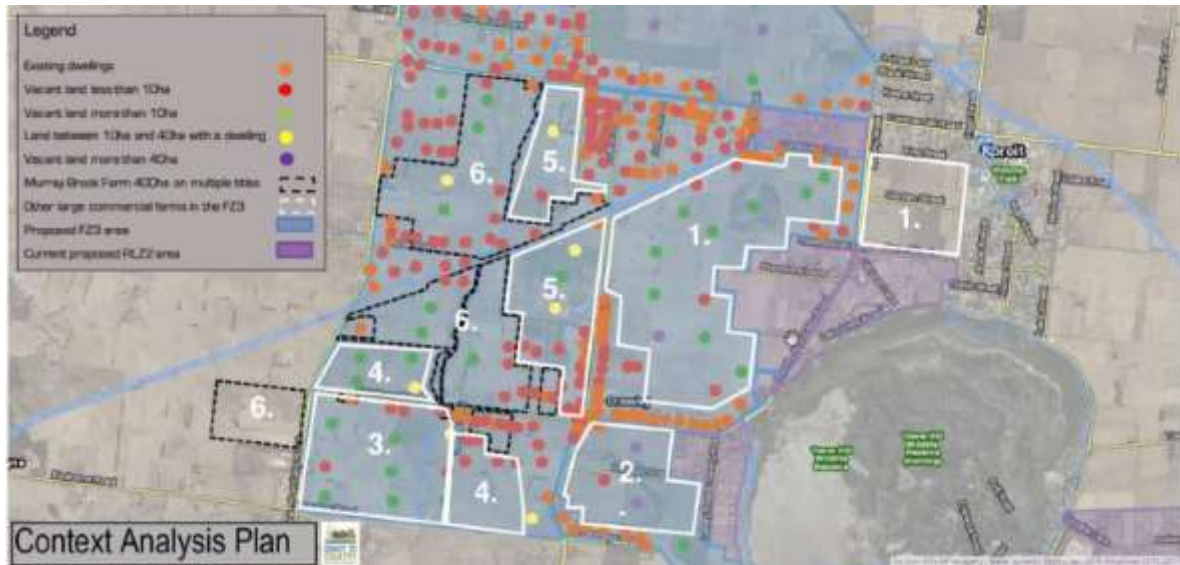
In the absence of clear information to explain the rationale for the zoning choices in the Amendment in this area, Council officers indicate that the likely basis for the 2 hectare minimum lot size applied in the area subject to SLO6 is infill development (comprising development outcomes that maintain the current development density/pattern) will have a minimal impact on the local landscape and, as such, no detailed landscape assessment was thought necessary.

In its submission (Sub 51), DELWP notes the immediate proximity of the Tower Hill Lake and Wildlife Reserve to the south of Koroit and emphasises the importance of protecting this significant site from any adverse impacts of future development. DELWP submits that it supports the statement that *“the significant environmental features around Koroit are to be*

protected and promoted” and “the Tower Hill crater rim should be protected from inappropriate and intrusive development”.

Submitter 8 presented mapped information on the large farm holdings in the area.

Figure 26 Koroit West context analysis



Low Density Residential Zone requests

Submitter 52 requested the rezoning of land bordered by Nine Mile Creek Road, the Port Fairy Rail Trail and the Penshurst–Warrnambool Road to LDRZ with a minimum lot size of one acre. An indicative subdivision layout of the land owned by the submitter. It was submitted that this land had good access to the mains street of Koroit and was buffered from the surrounding farm land by the rail trail

Submitters 14 and 63 sought to rezone land around Kirkstall to cater for growth.

6.3.5 Panel discussion and recommendations

The Panel accepts Council submissions that suggest Moyne has seen an increase in job opportunities due to improving economic conditions which are making regional areas of Australia increasingly attractive, and that the experience in the Moyne (as in many regional areas) is that the regional rental market is under stress. The Panel also accepts that for some areas in Moyne, it is prudent to allow for some growth to accommodate these demands.

However, as more rural residential development occurs in an area, greater pressure on existing long standing farming operations is likely as the prevailing character of the area and expectations of residents’ change. The submissions from farmers whom have been working in this community for generations were telling.

The Panel accepts that the policy at Clause 22.03-4 (Lifestyle Farming) is intended to ensure properties are used for agricultural pursuits but the Panel does not see how this could be enforced or mandated once a dwelling had been established.

It is noted that there are areas west of Koroit which include small lots and the rezoning of some of these areas to RLZ2 could be said to respond to the existing land use patterns. But this should not be at the expense of the Farming Zone, nor of existing controls which go to protect

landscape values of Tower Hill and its environs (also noted by DELWP). A response to how the rezoning considers the objectives of the Tower Hill environs (SLO6) was not forthcoming.

The Panel asked Mr Drew about the assessments undertaken that provided the strategic justification in the Addendum Report 2015 that led to many of the proposed exhibited changes. Mr Drew replied that the Addendum Report 2015 was undertaken by Council officers via desktop and drive around the townships.

The Panel notes that a more extensive application of the RLZ was not authorised implying that it is not consistent with State policy.

For the reasons above, the Panel is not convinced that adequate strategic justification exists to extend the RLZ area or reduce the RL22 lot size to one hectare. The Panel is also persuaded that it is not appropriate to introduce a FZ3 that allows for a 10 hectare minimum lot size for permit exempt dwellings.

The EPA and subsequently the Panel raised important questions regarding the potential for contamination to be addressed prior to rezoning land for sensitive uses as required in MD1 and PPN30. This may not be an issue at all, however the Panel cannot be satisfied that any work has underpinned the Amendment to allow for a sensitive use in areas that are known to have previously been used for potato farming (noted in the *Moyné Shire Land Capability and Biodiversity Studies Project*).

The Koroit structure plan, seems to the Panel, to have drawn its study area to tightly and thus lost an opportunity to provide clearer planning for the area around Koroit. The land bordered by Nine Mile Creek Road, the Port Fairy Rail Trail and the Penshurst–Warrnambool Road does appear well-located for denser development but further study would be required.

There is insufficient strategic work to identify any land for potential extension to the settlement boundary.

The Panel concludes:

It is not appropriate to reduce the lot size in the area.

Identifying land for further growth and changes to proposed policy at 21.09 should be addressed by further work and no change should be made to the exhibited policy for Kirkstall or Koroit West.

The Panel recommends:

4. **Abandon the Farming Zone Schedule 3 proposal west of Koroit and make necessary changes to Clause 22.03-4 (Lifestyle Farming) to reflect its deletion.**
5. **Before applying the Rural Living Zone to area west of Koroit, assess the land for potential contamination in accordance with the requirements of Ministerial Direction 1 and Planning Practice Note 30 to the satisfaction of Department of Environment Land Water and Planning and the Environment Protection Authority.**

6.4 Southern Cross

6.4.1 The area

Southern Cross is a historical cluster of small lots or Crown Allotments located between Koroit and Warrnambool in proximity to the intersection of Southern Cross Road and the Penshurst–Warrnambool Road, and the Warrnambool Airport. There are no services or reticulated

sewerage or water within the area. The settlement reflects a rural living cluster limited to the existing lot configuration.

No further development or establishment of community or recreational facilities is envisaged to support the growth of the settlement, due to its proximity to Koroit and Mailors Flat where such facilities exist.

The settlement is in the FZ and is not subject to any Overlay controls.

Table 20 Southern Cross recent growth

Population	2011 Census	2016 Census	2021 Census	Change 2016–2021
Southern Cross	Included in Koroit	117	128	+11

Source: Australian Bureau of Statistics

6.4.2 Strategic work

RHSS 2010

The RHSS 2010 recommended the following Planning Scheme changes:

- include a Settlement Boundary
- rezone land within the Settlement Boundary to the Rural Living Zone (minimum 2 hectares).

Addendum Report 2015

The Addendum Report 2015 recommended that:

- the settlement boundary be extended further south and east to reflect existing rural residential land.
- the land within settlement boundary be rezoned to Rural Living with a 1-hectare minimum lot size, with little need for additional physical or community infrastructure.

The Addendum Report 2015 indicated that the minimum lot size for subdivision and dwellings in the zone could be set at the standard zone default of 2 hectares or alternatively at the standard Moyne default which is 1 hectare without substantially changing the character or nature of the settlement.

Such rezoning and policy statements for Southern Cross should also be amended to reflect that this is a rural residential settlement and due to the proximity of the settlement to Koroit and Mailors Flat there is no intention to provide the settlement with any community or recreational facilities and to only provided limited infrastructure akin to rural residential areas on the edge of settlements.

The 2015 Addendum Report 2015 recommended the following revised Planning Scheme changes:

- extend proposed settlement boundary further south and east to reflect existing rural residential land
- rezone land within settlement to Rural Living with a 1-hectare minimum lot size
- abandon use of proposed Restructure Overlay
- include policy that further community facilities and infrastructure will generally not be supported for the settlement.

Authorisation Request

There was no change to the Addendum Report 2015 recommendations. However, the mapping submitted for authorisation incorrectly showed the extent of the RLZ extending further westwards than the extent recommended in the Addendum Report 2015 (shown as on Figure 27).

6.4.3 Authorisation and exhibition

The authorisation conditions required an increase of the minimum lot size to 2 hectares and a reduction of the extent of the RLZ rezoning to be consistent with the recommendations of the Addendum Report 2015.

The exhibited Amendment proposed to rezone the settlement from the FZ to the RLZ2 with a 2-hectare minimum lot size, in accordance with the authorisation conditions.

Figure 27 Southern Cross requested zones

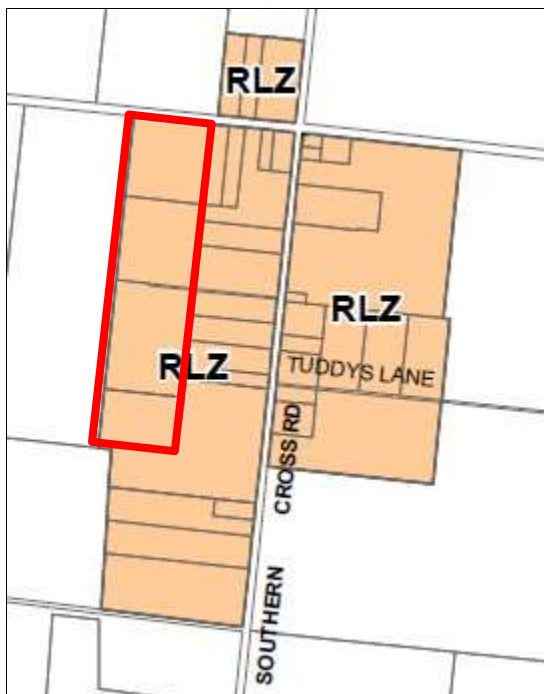


Figure 28 Southern Cross exhibited zones



Table 21 Southern Cross lot yield

Land proposed to be rezoned to RLZ2	
Existing lots	38
Existing dwellings:	31
Vacant lots:	7
Potential additional lots:	8
Total lot supply:	15

6.4.4 Submissions

Seven submissions were received (Subs 31, 44, 48, 49, 50, 53, 56): four requested a reduction in the minimum lot size to 1 hectare, one supported the exhibited 2-hectare minimum lot size,

one requested an expansion to the Settlement Boundary, and one opposed any expansion to the Settlement Boundary.

Submitter 31 stated:

Some of the land within the planning scheme is regarded by many as being the most productive soil in a reliable climate that you would find anywhere in the country. Our family business produces potatoes, lamb, wool, beef and hay. Prime land is required for the production of potatoes and much of this land has already been lost to housing. We must protect what we have left and focus Rural Living within the established towns and small localities, not land in between.

Issues which could arise from farming operations close to RLZ land owners could be: noise from operating farm equipment; noise from operating farm equipment early in the morning or late at night; dust; smell; spray drift; livestock; increased heavy vehicle traffic to name a few...

Rural Living zone proposed for Southern Cross should not be extended any further than indicated in the proposed amendment as to preserve very productive farming land.

Submitter 44 suggested:

... the minimum lot size of 2 hectares is appropriate for Southern Cross as most residences have generous amounts of land between neighbours. Living on spacious allotments in Southern Cross is a lifestyle choice for the residents.

Minimum lot sizes of 2 hectares allow residents to enjoy rural living with the options of keeping pets and small hobby farms i.e. horses, sheep without encroaching on adjoining properties/residents.

Submitter 50, along with neighbouring landowners, suggested that:

„, a consensus of landowners within the area proposed to be rezoned to the Rural Living is that a minimum subdivision area of 1 hectare, specified in the schedule to the zone, would represent a much more appropriate outcome for the future planning of their hamlet...

The landowners feel that a 2 hectare minimum subdivision are would represent an inefficient use of the land by providing for lots which make no contribution to agriculture but also fail to address rural residential housing demand.

At its meeting of May 2022, Council resolved to pursue a change to the exhibited minimum lot size from 2 hectares to 1 hectare at Southern Cross as requested in some of the submissions.

Mr Drew gave evidence that:

The land proposed to be rezoned to RLZ in Southern Cross, as exhibited, largely reflects the existing rural residential cluster. While agricultural activity occurs in the wider area, there is limited productive agricultural activity being undertaken within the proposed RLZ area.

The rezoning of the land to RLZ reflects the rural residential nature of the area and will provide a modest supply of additional lots.

Strategic justification for the reduction of the minimum lot size from 2 hectares to 1 hectare proposed in the Council resolution (comprising Council's preferred position on the Amendment) has a basis in the Addendum Report 2015.

It is noted that the land proposed to be rezoned does not have any immediately apparent environmental constraints. The more efficient use of the land intended for rural living purposes could be achieved with a 1 hectare minimum lot size.

Reducing the minimum lot size to 1 hectare is estimated to increase the land supply at Southern Cross from 15 lots (2 hectare minimum) to 37 lots.

The preferred position in the Amendment (a 1-hectare minimum lot size) could serve to reduce the pressure for dwellings on small and larger lots, in the Farming Zone, and expansion of the RLZ extent, around Southern Cross and Koroit. It may be seen to assist in preserving productive farmland in the area, in accordance with State Planning Policy.

In relation to Council's preferred position to amend the framework plan to identify land for further growth at Southern Cross, the basis for this position derives from the submissions.

Submitter 53 sought planning scheme changes to allow for subdivision of land associated with the Rahill Farm complex which it said were of local heritage significance to the Moyne Shire, *“although not formally recognised within the Moyne Planning Scheme”*. The submitters stated that they recognised that their land cannot be included in the C70moyn amendment and any rezoning would instead be subject a separate privately initiated planning scheme amendment but requested the following amendment to the Southern Cross Framework Plan (contained at Clause 21.09-22 Southern Cross) to facilitate the opportunities they saw for their land:

... inclusion of annotations and wording to the south of the proposed Settlement Boundary and west of Southern Cross Road, to reference 'Potential extension to settlement boundary' (or similar) in a southward direction.

Council submitted there are minimal environmental constraints affecting the land proposed to be rezoned at Southern Cross, and more efficient use of the land intended for rural living purposes could be achieved with a 1 hectare minimum lot size. It would reduce the pressure for dwellings on small and larger lots in the FZ around Southern Cross and Koroit, which will assist in preserving productive farmland in the area in accordance with State Planning Policy. In addition, it will avoid the further expansion of the rural residential development footprint at Southern Cross into surrounding agricultural land.

6.4.5 Panel discussion and conclusion

The Panel agrees with Council that the rezoning of the land to RLZ reflects the rural residential nature of the area and will provide a modest supply of additional lots. The Panel also accepts those submissions that suggest there is a demand for rural living in this area, however, there is also a need to balance that need with the existing farm uses surrounding the township.

Therefore the Panel is not convinced that reducing the minimum lot size is appropriate in Southern Cross particularly as there are no services within the township, no intent to provide services and Koroit is within close proximity to account for the modest increase of services required.

The Panel does not accept reducing the lot size will avoid further expansion of Southern Cross. This argument is based on the premise that the demand for growth in Southern Cross ought to be met when the settlement is identified in policy as a 'hamlet' with low growth potential.

There is insufficient strategic work to identify any land for potential extension to the settlement boundary.

The Panel concludes:

- It is not appropriate to reduce the lot size in the area.
- The rezoning is appropriate as exhibited.
- Identifying land for further growth and changes to proposed policy at 21.09 should be addressed by further work and no change should be made to the exhibited policy for Southern Cross.

6.5 Killarney and surrounds

6.5.1 The area

The Killarney district has a history in potato production and dairying supported by excellent agricultural soils and a comparatively reliable rainfall. Groundwater suitable for irrigation is important for intensive primary production, and this is strategically important for the high-quality Tower Hill Basalt land south of the Princes Highway.

It is a high amenity coastal environment with a mix of productive agriculture / intensive horticulture and rural residential development on small lots.

Opportunity exists in the area to continue extensive and intensive primary production enterprises, with high strategic importance to the State and the Shire.

The land is in the FZ and is subject to the following Overlay controls:

- Bushfire Management Overlay (small area in the southeastern part of the exhibited FZ2 area adjacent to the coastal reserve)
- Significant Landscape Overlay Schedule 5 – Port Fairy to Warrnambool Coast (the majority of the exhibited FZ2 area)
- Environmental Significance Overlay Schedule 1 – Coastal Areas And Estuaries (land adjacent to the coastal reserve and Belfast Lough).

Land between the SLO5 and the coast is in public ownership but is zoned FZ.

Figure 29 Significant Landscape Overlay Schedule 5, where 10 hectares applies under the Farming Zone



Figure 30 Environmental Significance Overlay Schedule 1



Towilla Way is a cluster of small lots with one large lot balance (Lot 17 PS422537) in the SLO5 area, which was the result of a past planning approval. There are no services or reticulated sewerage and the settlement totals 25 hectares. The settlement reflects a rural living cluster limited to the existing lot configuration capitalising on its proximity to the coast.

Table 22 Killarney recent growth

Population	2011 Census	2016 Census	2021 Census	Change 2016–2021
Killarney	Not Available	205	195	-10

Source: Australian Bureau of Statistics

6.5.2 Strategic work

Land Capability and Biodiversity Study 2009

The Land Capability and Biodiversity Study 2009 recognised that under the Schedule to the FZ, the Belfast Rural Area had a minimum lot size of 10 hectares for subdivision and dwelling construction.

It considered that the low minimum lot size (10 hectares) would continue to undermine the importance of the land within this area for its agricultural productivity and create a settlement density, which is contrary to the State Coastal Strategy that promotes separation between coastal towns.

The Study recommended that an increase in minimum lot size to 40 hectares was appropriate to assist continued agricultural production, property consolidation, and appropriate settlement densities into the future.

RHSS 2010

The RHSS 2010 recommended the following Planning Scheme changes:

- recommended an Increase to the minimum lot size for ‘as of right’ dwellings from 10 hectares to 40 hectares for all of the land to the south of the Princes Highway, that is, the area shown as FZ2 on exhibited planning scheme mapping
- for Survey Lane/Towilla Way:

- include a Settlement Boundary
- rezone land within the Settlement Boundary to the Rural Living Zone. Minimum Lot size within settlement boundary is 1 hectare except for Lot 17 PS422537 where 7 hectares should be the minimum lot size.

Addendum Report 2015

The Addendum Report 2015 recommended a significant reduction to the land where the minimum lot size for ‘as of right’ dwellings was to be increased from 10 hectares to 40 hectares to the south of the Princes Highway. It recommended increasing the minimum lot size to 40 hectares only in the area south of the Princes Highway, bounded by Mugavins Road to the east of Gormans Road, at Killarney and Tower Hill.

No change to the RHSS 2010 was recommended for Survey Lane/Towilla Way.

Figure 31 shows the Addendum Report 2015 recommendations. The Addendum Report 2015 recommendation was based on an incorrect interpretation of the extent of SLO5 and should have referred to the area south of the Princes Highway, bounded by *Rocks Road* (not Mugavins Road) to the east of Gormans Road, at Killarney and Tower Hill.

Figure 31 Killarney and surrounds – Addendum Report 2015



Authorisation request

No change to the Addendum Report 2015 recommendations for the FZ area.

During the preparation of the Amendment, it was determined that Lot 17 PS422537 in Survey Lane/Towilla Way should remain the FZ (FZ2 minimum lot size of 10 hectare), rather than creating a separate RLZ Schedule for a single lot. Note: A dwelling exists on Lot 17 PS422537. The authorisation request was made that basis.

6.5.3 Authorisation and exhibition

The exhibited Amendment proposed to increase the minimum lot size for ‘as of right’ dwellings from 10 hectares to 40 hectares in the FZ south of the Princes Highway, bounded by Rocks Road to the east of Gormans Road, at Killarney and Tower Hill in accordance with the Addendum Report 2015 recommendations (generally), and authorisation conditions.

The authorisation conditions required the removal of the area currently within the SLO6 (between Mugavins Road and Rocks Road) from the proposed FZ2 and retained as FZ.

Figure 32 shows the exhibited zones annotated to show:

- Area not authorised
- Area where minimum lot size was exhibited to be increased to 40 hectares by applying the FZ1 in place of a policy neutral application of FZ2 – this has been abandoned by Council
- Land which is subject to two FZ Schedules (Sub 13)
- RLZ1 Survey Lane/Towilla Way.

Figure 32 Killarney and surrounds exhibited zones



Table 23 Survey Lane/Towilla Way lot yield

Land proposed to be rezoned to RLZ1	
Existing lots	16
Existing dwellings:	13
Vacant lots:	3
Potential additional lots:	0
Total lot supply:	3

6.5.4 Submissions

Submitter 13 requested that a minor increase to the extent of the FZ2 to accord with the title boundaries of a consolidated lot, so that there is one minimum lot size applying to the land.

Submitter 31 requested that land south of the Princes Highway from Mahoneys Road, Killarney to the Warrnambool City boundary be in FZ1 (that is, increase the minimum lot size from 10 hectares to 40 hectares, in accordance with the RHSS 2010).

No submissions were received in respect of the RLZ at Survey Lane/Towilla Way.

Mr Drew gave evidence that:

The proposed rezoning to RLZ1 reflects the existing pattern of development and recognises a 1990s subdivision and use permit. Although three lots are not developed, the land in Towilla Way is not used for productive agricultural purposes and will not be able to make a future contribution to the agricultural economy.

Council meeting of May 2022

Council resolved to abandon the proposed increase to the minimum lot size for 'as of right' dwellings from 10 hectares to 40 hectares in accordance with section 23 (1) (c) of the PE Act.

Submission 13 relates to land which is subject to two FZ Schedules in the proposed Amendment, FZ1 and FZ2. The Council resolution supports Submission 13, which requested a minor increase to the extent of the FZ2 to accord with the title boundaries of a consolidated lot PC379510Y, so that only one minimum lot size applies to the subject land.

Mr Drew gave evidence that:

To reflect the existing planning controls, the area south of the Princes Highway, bounded by Rocks Road to the east of Gormans Road, at Killarney and Tower Hill will be included in the extent of the FZ2 in the planning scheme mapping.

Submission 13 correctly identifies that it would be more appropriate for the Zone Schedule boundaries to accord with the title boundaries of the property, as the majority of the subject land is within the existing 10 hectare minimum lot size area.

The subject lot has an area of 13.57 hectares and the requested change would not materially affect the development rights of the property and could be viewed as a planning scheme anomaly.

It would be appropriate for the entirety of the property to be within FZ2, as the majority of the subject land is within the existing 10 hectare minimum lot size area.

In addition, the alignment of the boundary between the FZ1 and FZ2 Schedules with the property boundaries is consistent with the approach set out in the Practitioner's Guide.

6.5.5 Panel discussion and recommendation

The Panel agrees with Council that it would be appropriate to include the entirety of the property (Sub 13) to be within FZ2.

Land between the FZ2 and the coast is public land in the FZ. The Amendment could consider applying an appropriate public uses zone. This would be in keeping with one of the purposes of the Amendment which is to apply public use zones to public land (albeit only in certain settlements).

The Panel concludes:

The rezoning is generally appropriate as exhibited.

The Panel recommends:

- 6. Increase the extent of the Farming Zone Schedule 2 to accord with the title boundaries of a consolidated lot PC379510Y, so that only one minimum lot size applies to the subject land.**

Appendix A Submitters to the Amendment referred to the Panel

No	Submitter	No	Submitter
1	Jennifer and Martin Brown	34	Johan Kluijfhout
2	St Joseph's Parish	35	Julie Bos
3	Adrian and Lyn Jones	36	Alastair Davies
7	Lisa and Eddie Dwyer	37	James and Robyn Starling
8	Michael and Maria O'Grady	38	Nathan and Jacqueline Bowman
9	Kyle and Casey Dwyer	40	Adam and Paul Lenehan
12	Ross & Carter	43	David Mahony
13	Amanda Gaw and Elizabeth Jones	44	Matthew and Melissa Thom
14	Andrew and Kate Foster	45	Gerard O'Grady
15	Hawkesdale and District Development Action Committee	46	Therese and Patrick Burke
16	Chris Loorham	47	Bernadette Willis
17	Adam Brian	48	Lance and Maxine Lloyd
18	Jeremy Moloney	49	Graeme Morris, Hazel Morris, Sally Morris and Andrew Beecroft
19	Dayleen and Daryl Roe	50	Graeme Morris
20	Stuart and Wendy Baulch	51	Department of Environment, Land, Water and Planning
21	Environment Protection Authority	52	Tracy O'Connell
23	Richard and Faye Matters	53	Brendan and Barbara Moloney
24	Maurice and Barbara Mahony	54	Victorian Farmers Federation
25	Wannon Water	56	Tamara O'Keefe
26	Anne Mirtschin	57	Erin Giles
27	Bruce Mirtschin	59	Department of Transport
28	Bruce Mirtschin	60	John Bos
29	Kirrilee Nield	61	Warrnambool City Council
30	George Swarbrick	62	Geraldine Mugavin
31	Damian Moloney	63	Nelson Williams and Tara Fry

Appendix B Parties to the Panel Hearing

Submitter	Represented by	Submission
Victorian Farmers Federation	Lisa Gervasoni	54
Moyne Shire Council	Adeline Lane of Jackson Lane Legal, calling evidence on strategic town planning from Damien Drew, Strategic Planner, Moyne Shire Council	
Alastair Davies		36
Ross and Carter	Alastair Davies	12
Adam Brian	Alastair Davies	17
Jeremy Moloney	Alastair Davies	18
James and Robyn Starling	Alastair Davies	37
Nathan and Jacqueline Bowman	Alastair Davies	38
Graeme Morris	Andrew Grey of Stantec	50
M & M O'Grady	Fiona Castley of Coast to Country Building Approvals	8
Brendan and Barbara Moloney Myers Planning Group		53
Chris Loorham	Michael McCarthy of Western District Planners	16
Tracy O'Connell	Michael McCarthy of Western District Planners	52
Sally Morris		49
David Mahony		43
Maurice Mahony		24
the Hawkesdale and District Development Action Committee	Frank Huglin	15
Tamara O'Keefe		56
Matthew and Melissa Thom		44

Appendix C Document list

No.	Date	Description	Presented by
001	4 July 22	Directions Hearing notice letter	Planning Panels Victoria (PPV)
002	1 Aug 22	Letter to Council regarding Council resolution BAM and Associates Pty Ltd to support Submission 17	
003	—"—	Late submission from Myers Planning Group	BAM and Associates Pty Ltd
004	10 Aug 22	Panel Directions and Timetable	PPV
005	12 Aug 22	C70moyn summary of submissions and officer response (Attachment to the Council Agenda Report for the 3 May 2022 Council Meeting)	Moyne Shire Council (Council)
006	—"—	C70moyn overview map	Council
007	15 Aug 22	Letter – Council response to Direction 8	Council
008	5 Sep 22	Moyne Shire Council's Part A submission	Council
009	—"—	Expert witness statement of Damien Drew	—"—
010	9 Sep 22	Version 2 Distribution List and Timetable	PPV
011	15 Sep 22	Distribution List and Version 3 Timetable	PPV
012	—"—	Moyne Shire Council's Part B submission	Council
013	16 Sep 22	Submission of Victorian Farmers Federation	Victorian Farmers Federation
013a	—"—	Minister for Planning election briefing notes – June 2018	—"—
013b	—"—	Victorian Farmers Federation Policy Statement – Right to Farm	—"—
013c	—"—	Victorian Farmers Federation submission – Protecting Melbourne's Green Wedges and Agricultural Land	—"—
013d	—"—	Victorian Farmers Federation submission – Protecting Melbourne's Strategic Agricultural Land	—"—
013e	—"—	Victorian Farmers Federation submission – Reforming the Victoria Planning Provisions	—"—
014	19 Sep 22	Distribution List version 3	PPV
015	—"—	Practice Note 37 (June 2015)	Ms Lane of Jackson Lane Legal, representing Moyne Shire Council
016	—"—	Submissions	Mr Davies, Davies Simpson, representing submitter # 12, 17, 18, 37 and 38

No.	Date	Description	Presented by
017	—"—	Australian Conservation Foundation v Minister for Planning [2004] Victorian Civil and Administrative Tribunal (VCAT) 2029	—"—
018	—"—	Melbourne PSA C309 [2019] PPV - West Melbourne Structure Plan	—"—
019	—"—	Submissions	Ms Castley, Coast to Country Building Approvals, representing Mick and Maria O’Grady
020	—"—	Submissions	Mr Gray, Stantec, representing Graeme Morris
021	20 Sep 22	Submissions	Sally Morris
022	—"—	Submissions	Mr McCarthy, Western District Planners, representing Chris Loorham consultants
023	—"—	Submissions	Mr McCarthy, representing Tracy O’Connell
024	—"—	Submissions	Ms Marson, Best Hooper Lawyers, representing Brendan and Barbara Moloney
025	—"—	Plan of Subdivision 904523C	—"—
026	—"—	Planning permit Application NO. PL21/078, 209 Southern Cross Road, Southern Cross	—"—
027	—"—	Submissions	Mr Huglin, Hawkesdale and District Development Action Committee
028	21 Sept 22	Koroit Structure Plan Part A & B (Sept 2020)	Mr Drew, Moyne Shire Council
029	—"—	Koroit Structure Plan Part C (2019)	—"—
030	—"—	Submissions	Tamara O’Keefe

Appendix D Previous Council resolutions

At its ordinary meeting on 23 February 2010, Council resolved:

1. That Council agree to a public exhibition period of three months from mid March to mid June 2010, of the following:
 - i. Land Capability and Biodiversity Strategy;
 - ii. Rural Housing and Settlement Strategy;
 - iii. Tower Hill Design guidelines; to seek public comment
2. That Council pursuant to Section 9 of the Planning and Environment Act 1987 seek authorisation from the Minister for Planning to exhibit an Amendment to the Moyne Planning Scheme to incorporate the following:
 - i. Land Capability and Biodiversity Strategy
 - ii. Rural Housing and Settlement Strategy
 - iii. Tower Hill Design guidelines.

At its ordinary meeting on 23 November 2010, Council resolved:

1. That Council receive and adopt the Land Capability and Biodiversity Study, the Rural Housing and Settlement Strategy and the Tower Hill Design Guidelines, subject to minor changes as detailed in this report.
2. That Council proceeds to prepare an amendment to the Moyne Planning Scheme to implement the recommendations of the strategies into the Planning Scheme.

At its ordinary meeting on 22 September 2015, Council resolved:

1. That Council adopt the Addendum Report 2015 in addition to the existing adopted Rural Housing and Settlement Strategy and Land Capability and Biodiversity Strategy in accordance with the amendments outlined in the Addendum Report 2015.
2. That Council commence preparation of a planning scheme amendment to implement the recommendations of the Strategies and Addendum Report 2015.

At its ordinary meeting on 26 April 2017, Council resolved:

1. That Council split the Amendment into two parts:
 - a. Amendment C44 – Rural Housing and Settlement Strategy and Land Capability and Biodiversity Strategy and the Addendum Report 2015 items other than outcomes recommended for environmental protection; and
 - b. Prepare a further Amendment to implement environmental overlays at the conclusion of Amendment C44.
2. That Council seek Ministerial Authorisation from the Minister for Planning to prepare Amendment C44 to the Moyne Planning Scheme and exhibit the amendment for a period of 60 days.

At its ordinary meeting on 28 August 2018, Council resolved:

1. That Moyne Shire Council write to the Minister for Planning and GPG (Wind Farm proponent) requesting an increase in the buffer distance between the wind towers and the township of Hawkesdale.¹⁴

¹⁴ The implication of this resolution on the Amendment was a change to the Framework Plan for Hawkesdale to change the settlement boundary to remove the land to the south-east of the township from the proposed rezoning to the Rural Living Zone

Appendix E Authorisation conditions and Council's response

Authorisation condition	How the condition has been met
<p>1 Remove the proposed Rural Living Zone at Bushfield/Wangoom, Illowa East and Yarpurk. The proposed RLZ3 at Bushfield/Wangoom may be replaced by the proposed FZ4.</p>	<p>Accepted</p> <p>The exhibited amendment did not include the proposed Rural Living Zone at Illowa East and Yarpurk. Planning Scheme mapping was revised to extend the proposed FZ4 to include the proposed RLZ3 at Bushfield/Wangoom.</p>
<p>2 Reduce the extent of the proposed Rural Living Zone at Hawkesdale, Koroit West, Southern Cross and Woolsthorpe. Land removed from the proposed RLZ2 at Koroit West should be replaced by the proposed FZ3.</p>	<p>Accepted</p> <p>The Planning Scheme mapping was revised to reduce the extent of the proposed Rural Living Zone at Hawkesdale and Woolsthorpe, and extend the proposed FZ3 to include the land removed from the proposed RLZ2 at Koroit West.</p>
<p>3 Increase the minimum lot size at Southern Cross to 2 hectares.</p>	<p>Accepted</p> <p>The Planning Scheme mapping was revised to include the land at Southern Cross in RLZ2, which has a minimum lot size of 2 hectares.</p>
<p>4 Remove the area currently within the SLO6 from the proposed FZ2 and retain as FZ. Area at Killarney.</p>	<p>Accepted</p> <p>The Planning Scheme mapping was revised to remove the area currently within the SLO6 from the proposed FZ2 and retain as FZ.</p>
<p>5 Amend the zoning map for Nullawarre to correct minor errors and inconsistencies.</p>	<p>Accepted</p> <p>The Planning Scheme mapping for Nullawarre was revised to correct minor errors and inconsistencies.</p>
<p>6 Renumber the existing RLZ schedule to RLZ1 consistent with the Ministerial Direction on the Form and Content of Planning Schemes and update the planning scheme maps accordingly.</p>	<p>Accepted</p> <p>Administrative change to improve the clarity of the Planning Scheme.</p>
<p>7 Consider rezoning RLZ land in Port Fairy and Mailors Flat where a 4 hectare minimum lot size applies to RLZ3 to ensure the areas are more clearly identified in the Scheme, and for consistency with the approach taken by C70moyn to apply different schedules to areas with different minimum lot sizes.</p>	<p>Accepted</p> <p>Administrative changes to improve the clarity of the Planning Scheme</p>

Authorisation condition	How the condition has been met
<p>8 Redraft the proposed Local Planning Policy to take into consideration the Local Planning Policy Framework translation which is currently being undertaken by DELWP as part of the Smart Planning program. The Council should ensure that the proposed local policy content is consistent with the rules in Section 4 and writing instructions in Section 6 of the Practitioners Guide to Victorian Planning Schemes.</p>	<p>DELWP agreed to exhibition proceeding without any change to the proposed Local Planning Policy as the Local Planning Policy Framework translation of the Moyne Planning Scheme is yet to be completed.</p>
<p>9 Amend the Instruction Sheet and Explanatory Report to reflect the above changes.</p>	<p>Accepted</p>