

**ITEM C3.2****AMENDMENT C95: PORT ALBERT RURAL RESIDENTIAL LIFESTYLE LOTS REVIEW IMPLEMENTATION**

DIVISION: DEVELOPMENT  
 ACTION OFFICER: MANAGER LAND USE PLANNING  
 DATE: 21 JUNE 2016

IMPACTS									
Financial	Communication	Legislative	Council Policy	Council Plan	Resources & Staff	Community	Environmental	Consultation	Risk Management
✓			✓	✓	✓		✓		

**OBJECTIVE**

For Council to consider its position in response to the Minister for Planning's approval of Amendment C95 (Port Albert Rural Residential Lifestyle Lots Review and Planning Controls Review Implementation).

**PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY****RECOMMENDATION**

***That Council in response to the Minister for Planning's approval of Amendment C95 (Port Albert Rural Residential Lifestyle Lots Review and Planning Controls Review Implementation) take no further action with rezoning of extra land in Port Albert at this point in time, having regard to the Council Resolution of 2 December 2014:***

***"Should strong growth rates of rural residential lots be evident in Port Albert (following the rezoning of land identified in this motion), Council will review the potential for further rural residential rezoning in the context of the relevant planning policy applicable at the time."***

**BACKGROUND**

The Port Albert Rural Residential Lifestyle Lots Review (RLLR) was prepared in response to community concerns that there was insufficient land zoned to provide rural living lifestyle opportunities for people wanting to live in Port Albert. The RLLR sought to identify specific opportunities for potential rezoning and associated planning scheme changes whilst taking into consideration the current supply of, and likely future demand for rural lifestyle lots and physical opportunities and constraints. Council formally adopted the RLLR on 2 December 2014. At this time, Council also resolved that:

***"Should strong growth rates of rural residential lots be evident in Port Albert (following the rezoning of land identified in this motion), Council will review the potential for further rural residential rezoning in the context of the relevant planning policy applicable at the time"***

Amendment C95 formally incorporated a number of the recommendations identified in the RLLR into the Wellington Planning Scheme, including the rezoning of precinct 2 to the Rural Living Zone, rezoning Precinct 4 to the Low Density Residential Zone and rezoning part of Precinct 5 to the Rural Living Zone to provide for rural residential growth opportunities in the township.



Amendment C95 was formally adopted by Council on 15 March 2016 (see Attachment 1) and gazetted (following the Minister for Planning's approval) on 9 June 2016. As a result, land in Precinct 2, 4 and part of precinct 5 has now been rezoned and is available for rural residential development.

In response to the Amendment C95 Independent Planning Panel report, on 15 March 2016 Council also resolved to request that the Minister for Planning rezone additional land to the Rural Living Zone in Precinct 5, 6 and 7. The Minister for Planning has elected, however, to not rezone 'extra' land in the township to the Rural Living Zone (in precincts 5, 6 and 7) and has instead indicated that the 'most appropriate approach would be for Council to prepare and justify a normal planning scheme amendment.'

In response to this outcome, it is appropriate for Council to consider its position in relation to undertaking (or not undertaking) further strategic planning work in Port Albert to provide the strategic basis to rezone additional land for rural residential purposes. As discussed at past Council workshops, the benefits and costs (approximately \$100,000) of such work needs to be carefully considered by Council in the context of other Shire wide strategic planning projects, potential lot yields which may result should further land be successfully rezoned in Port Albert (approximately 40 additional lifestyle lots in Precincts 5, 6 and 7) and the need for relevant fire, flood and environmental overlays to be applied as part of this process (as suggested by the Amendment C95 Independent Planning Panel). In terms of the upcoming strategic planning work program, it is noted that on 17 May 2016 Council resolved to progress the West Sale/Wurruk Industrial Land Supply Strategy and the Heyfield Low Density Residential Land Supply Strategy in 2016/17, with appropriate budget allocations made.

From a financial and project management resourcing perspective, there is no opportunity for 'additional' strategic planning work to be undertaken in 2016/17. However, further strategic planning work in Port Albert could be undertaken in lieu of the 17 May 2016 project priorities if Council considered further strategic work in Port Albert to be of greater priority.

In determining a position, it is important for Council (and the community) to be aware that the Minister for Planning has just agreed to rezone Precinct 2, 4 and part of precinct 5 to facilitate appropriate rural residential growth in the township.

## OPTIONS

Council has the following options.

1. Take no further action with rezoning of extra land in Port Albert at this point in time, having regard to the Council Resolution of 2 December 2014:

*"Should strong growth rates of rural residential lots be evident in Port Albert (following the rezoning of land identified in this motion), Council will review the potential for further rural residential rezoning in the context of the relevant planning policy applicable at the time."*

2. Undertake further strategic planning work in Port Albert in 2016/17 in lieu of the currently planned West Sale/Wurruk Industrial Land Supply Strategy and the Heyfield Low Density Residential Land Supply Strategy.
3. Communicate to landowners seeking to have extra land rezoned to the Rural Living Zone that they pursue a private rezoning request with required strategic justification.
4. Seek further information for consideration at a future Council meeting.

## PROPOSAL

That Council in response to the Minister for Planning's approval of Amendment C95 take no further action with rezoning of extra land in Port Albert at this point in time, having regard to the Council Resolution of 2 December 2014:

*"Should strong growth rates of rural residential lots be evident in Port Albert (following the rezoning of land identified in this motion), Council will review the potential for further rural residential rezoning in the context of the relevant planning policy applicable at the time".*

## CONFLICT OF INTEREST

No staff and/or contractors involved in the compilation of this Report have declared a Conflict of Interest.

## FINANCIAL IMPACT

Should Council resolve to undertake further strategic planning work in Port Albert, consultant and Independent Planning Panel costs are expected to be in the order of \$100,000, for which no current 2016/17 budget allocation has been made. Should land in Precincts 5, 6 and 7 be successfully rezoned as a result of this process, approximately forty (40) additional lifestyle lots would be available.

## COUNCIL PLAN IMPACT

The Council Plan 2013–2017 - Theme 5: Land Use Planning contains the following strategic objective and related strategy:

Strategic Objective

*"Appropriate and forward looking land use planning that incorporates sustainable growth and development."*

Strategy 5.1

*"Ensure Land Use Policies and Plans utilise an integrated approach to guide appropriate land use and development."*

Amendment C95 (and any further strategic planning work to be undertaken) is considered to support the above objective and strategy.

## RESOURCES AND STAFF

On 17 May 2016 Council resolved to progress the West Sale/Wurruk Industrial Land Supply Strategy and the Heyfield Low Density Residential Land Supply Strategy in 2016/17. Appropriate budget allocations have been made for these projects. From a financial and project management resourcing perspective, there is no opportunity for 'additional' strategic planning work to be undertaken in 2016/17. However, further strategic planning work in Port Albert could be undertaken in lieu of the 17 May 2016 project priorities if Council considered further strategic work in Port Albert to be of greater priority.

## PLANNING POLICY IMPACT

Any further strategic planning work to be undertaken in Port Albert will need to be advanced in the context of the current planning policy framework, including (but not limited to) considering the supply of rural residential land just released via the approval of Amendment C95 (in precinct 2, 4

and part of 5) and current flood policy arising from the recently released Victorian Floodplain Management Strategy.

## **ENVIRONMENTAL IMPACT**

Any further strategic planning work to be undertaken will need to consider and respond to environmental issues and constraints in consultation with relevant stakeholders such as the Country Fire Authority and the West Gippsland Catchment Management Authority (WGCMA). It is noted that, in relation to Precinct 7, the WGCMA would retain its objection to the rural residential rezoning of this area. There is, therefore, no guarantee that the rezoning of Precinct 7 (or indeed any other Precinct) for rural residential use would ultimately be supported by the Minister for Planning via a further planning scheme amendment process.

## ITEM C3.2

**AMENDMENT C95: PORT ALBERT RURAL RESIDENTIAL LIFESTYLE LOTS REVIEW AND PLANNING CONTROLS REVIEW IMPLEMENTATION**

DIVISION: DEVELOPMENT  
 ACTION OFFICER: MANAGER LAND USE PLANNING  
 DATE: 15 MARCH 2016

IMPACTS									
Financial	Communication	Legislative	Council Policy	Council Plan	Resources & Staff	Community	Environmental	Consultation	Risk Management
✓	✓	✓	✓	✓			✓	✓	

**OBJECTIVE**

For Council to resolve to:

1. Consider the Report of the Planning Panel and the associated recommendation for Amendment C95, pursuant to Section 27 of the *Planning and Environment Act 1987*; and
2. Adopt Planning Scheme Amendment C95 with minor changes in Precinct 5 (refer to **Attachment 1**) pursuant to Section 29 of the *Planning and Environment Act 1987*; and
3. Request the Minister for Planning to approve Planning Scheme Amendment C95 with minor changes in Precinct 5 pursuant to Section 31 of the *Planning and Environment Act 1987* and take no further action, having regard to the Council Resolution of 2 December 2014:

*"Should strong growth rates of rural residential lots be evident in Port Albert (following the rezoning of land identified in this motion), Council will review the potential for further rural residential rezoning in the context of the relevant planning policy applicable at the time";*

OR

3. Request the Minister for Planning to approve Planning Scheme Amendment C95 with minor changes in Precinct 5 pursuant to Section 31 of the *Planning and Environment Act 1987* and resolve to prepare a new Planning Scheme Amendment based on further strategic work to investigate replacing the Farming Zone (within the existing study area Precincts) with the most appropriate zone;

OR

3. Request the Minister for Planning to approve Planning Scheme Amendment C95 with minor changes in Precinct 5 pursuant to Section 31 of the *Planning and Environment Act 1987* and resolve to request the Minister for Planning to rezone additional land within Precincts 5, 6 and 7 (or other appropriate Precincts/combination thereof), to the Rural Living Zone 2 as illustrated in **Attachment 4**.

## **PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY**

Don Caithness, Yarram resident

Mr Caithness has a vested interest (Farming Zone Precinct 6 & 7) and is opposed to this development, however on a wider scale the whole area from Port Albert to Old Tarraville Road National Park should reflect the current usage.

Gary Proud, Port Albert resident

Referred Council to recommendations on page 98 and would like to see Council adopt pursuant to section 31 of the *Planning and Environment Act 1987* along with last paragraph of page 18 from the panel report regarding Council undertaking a strategic planning analysis and removal of planning zones where inappropriate.

Michael Glebov, Port Albert resident

Spoke in support of option 3.2 pursuant to planning act however C95 requires further investigation relating to inappropriate default zoning anomalies that are still occurring within Port Albert.

## RECOMMENDATION

### *That Council:*

1. Pursuant to Section 27 of the *Planning and Environment Act 1987*, consider the Report of the Planning Panel and the associated recommendation for Amendment C95; and
2. Pursuant to Section 29 of the *Planning and Environment Act 1987*, resolve to adopt Amendment C95 with minor changes in Precinct 5 (refer to Attachment 1); and
3. Pursuant to Section 31 of the *Planning and Environment Act 1987*, resolve to request the Minister for Planning to approve Amendment C95 with minor changes in Precinct 5 and take no further action, having regard to the Council Resolution of 2 December 2014:  
*"Should strong growth rates of rural residential lots be evident in Port Albert (following the rezoning of land identified in this motion), Council will review the potential for further rural residential rezoning in the context of the relevant planning policy applicable at the time";*

OR

3. Pursuant to Section 31 of the *Planning and Environment Act 1987*, resolve to request the Minister for Planning to approve Amendment C95 with minor changes in Precinct 5 and resolve to prepare a new Planning Scheme Amendment based on further strategic work to investigate replacing the Farming Zone (within the existing study area Precincts) with the most appropriate zone;

OR

3. Pursuant to Section 31 of the *Planning and Environment Act 1987*, resolve to request the Minister for Planning to approve Amendment C95 with minor changes in Precinct 5 and resolve to request the Minister for Planning to rezone additional land within Precincts 5, 6 and 7 (or other appropriate Precincts/combination thereof), to the Rural Living Zone 2 as illustrated in Attachment 4.



## COUNCIL RECOMMENDATION

That Council:

1. Pursuant to Section 27 of the *Planning and Environment Act 1987*, consider the Report of the Planning Panel and the associated recommendation for Amendment C95; and
2. Pursuant to Section 29 of the *Planning and Environment Act 1987*, resolve to adopt Amendment C95 with minor changes in Precinct 5 (refer to Attachment 1); and
3. Pursuant to Section 31 of the *Planning and Environment Act 1987*, resolve to request the Minister for Planning to approve Amendment C95 with minor changes in Precinct 5 and resolve to request the Minister for Planning to rezone additional land within Precincts 5, 6 and 7 (or other appropriate Precincts/combination thereof), to the Rural Living Zone 2 as illustrated in Attachment 4.

**COUNCILLOR WENGER / COUNCILLOR McIVOR**

That Council:

1. Pursuant to Section 27 of the *Planning and Environment Act 1987*, consider the Report of the Planning Panel and the associated recommendation for Amendment C95; and
2. Pursuant to Section 29 of the *Planning and Environment Act 1987*, resolve to adopt Amendment C95 with minor changes in Precinct 5 (refer to Attachment 1); and
3. Pursuant to Section 31 of the *Planning and Environment Act 1987*, resolve to request the Minister for Planning to approve Amendment C95 with minor changes in Precinct 5 and resolve to request the Minister for Planning to rezone additional land within Precincts 5, 6 and 7 (or other appropriate Precincts/combination thereof), to the Rural Living Zone 2 as illustrated in Attachment 4.

**CARRIED**

## BACKGROUND

The Port Albert Rural Residential Lifestyle Lots Review (RLLLR) was prepared in response to community concerns that there was insufficient land zoned to provide rural living lifestyle opportunities for people wanting to live in Port Albert. The RLLLR sought to identify specific opportunities for potential rezoning and associated planning scheme changes whilst taking into consideration the current supply of, and likely future demand for rural lifestyle lots and physical opportunities and constraints. Council formally adopted the RLLLR on 2 December 2014. At this time, Council also resolved that,

*"Should strong growth rates of rural residential lots be evident in Port Albert (following the rezoning of land identified in this motion), Council will review the potential for further rural residential rezoning in the context of the relevant planning policy applicable at the time".*

During the preparation of the RLLLR and with funding from the State Government's Rural Planning Flying Squad initiative, Meinhardt planning consultants also completed the 'Planning Controls Review' (PCR). A key purpose of the PCR study was to investigate and address community concerns that development opportunities and growth within the town were being restricted as a consequence of restrictive planning controls and to make recommendations regarding potential changes/modifications to the existing provisions. More specifically, opportunities to 'cut red tape' were explored, with the aim of providing a greater level of consistency in the decision-making process.

Amendment C95 seeks to implement and formally incorporate a number of the recommendations identified in both the RLLLR and PCR into the Wellington Planning Scheme.

On 21 April 2015 Council resolved to request the Minister for Planning to Authorise Council, as the Planning Authority, to proceed with exhibition of the Amendment. Authorisation was received on 6 May 2015 and Amendment C95 was formally exhibited from 25 June to 27 July 2015. The extent of the proposed changes that were exhibited from 25 June to 27 July 2015 are detailed below.

### Amendment C95 – Exhibited Proposals

#### Clause 21.12-10 - Coastal Areas Strategic Framework

Expand on the current objective for Port Albert and Palmerston in order to provide support for tourism and commercial growth. The proposed Clause 21.12-10 - Coastal Areas Strategic Framework can be found in **Attachment 1** to this Report.



#### Clause 43.02-9 - Design and Development Overlay - Schedule 9 (Port Albert and Palmerston)

Replace the height benchmark, which currently refers to the Port Albert Hotel and incorporate the exemptions recommended by the PCR. Where buildings and works are already exempt under Clause 62 of the Planning Scheme (for example: swimming pools, decks not more than 800mm above ground level) these exemptions have been removed from the Design and Development Overlay - Schedule 9 as they are duplicating exemptions that exist under Clause 62. The proposed Clause 43.02-9 can be found in **Attachment 1** to this Report.

#### Rezoning of Precinct 2 from the Farming Zone to the Rural Living Zone - Schedule 2:

Being land to the north of Old Port Foreshore Road, west of the Yarram-Port Albert Road and south of the Old Rifle Range public land to facilitate rural residential development.





**Rezoning of Precinct 4 from the Farming Zone to the Low Density Residential Zone:** Land to the immediate north of the roundabout between Yarram-Port Albert Road and Lawrence Street to better reflect existing land use patterns.



#### **Rezoning of land within Precinct 5:**

- Rezoning of 68 and 86 Yarram-Port Albert Road to correct mapping anomalies; and
- Rezoning of land along Kilgowers Road from Farming Zone to Rural Living Zone - Schedule 2 in recognition of the existing development levels and their location on the fringe of Langsborough.



**Rezoning of the Caravan Park from the Farming Zone to the Rural Activity Zone:** at 95 Old Port Road in recognition of the significance that the community places on the site as a key tourism asset to the town.

All information in relation to Amendment C95 can be found on Council's website:

<http://www.wellington.vic.gov.au/Developing-Wellington/Planning-Scheme-Amendments/Amendment-C95>

At the close of the exhibition period, a total of twenty (20) submissions were lodged with Council.

Three (3) submissions were received from statutory authorities and one (1) internal submission was received from Council's Heritage Advisor.

- The Department of Environment, Land, Water and Planning (DELWP) support the Amendment.
- The West Gippsland Catchment Management Authority (WGCMA) do not object to the Amendment.
- The Country Fire Authority provided comments for consideration.
- Council's Heritage Advisor has no heritage concerns.

Sixteen (16) submissions were received from local residents and community groups, which raise the following key issues:

- Two (2) of the submissions raised issues in relation to vegetation:
  - One (1) submitter had concerns that further subdivision in Precinct 2 would have significant impacts on the existing vegetation due to clearing for dwellings, fence lines, driveways and other buildings.
  - One (1) submitter believes the vegetation assessment in Precinct 1, which identified that the biodiversity and environmental values of the precinct required protection, was erroneous and inaccurate.
- Three (3) of the submissions raised issues in relation to fire risk:
  - One (1) submitter questioned why fire risk was given as a reason not to rezone some areas whilst other areas that are also subject to fire risk (Precinct 2) are being rezoned.
  - Two (2) submissions questioned why some areas subject to fire risk (Precinct 2 and part Precinct 5) are being rezoned whilst land in Precinct 3 and other areas unaffected by fire are not being rezoned.
- Nine (9) of the submissions raised issues in relation to land use and the current zonings. More particularly that the Farming Zone was incorrectly applied in 2007 and doesn't reflect the existing land use or recognise (the submitters' views) that the land isn't suitable for farming.
- Four (4) of the submissions raised issues in relation to the use of 'precincts' instead of individually assessing properties based on size, attributes and most appropriate use.
- Four (4) of the submissions raised issues in relation to the justification of not rezoning certain areas due to inundation and flooding.
- Three (3) of the submissions raised issues with the accuracy of the supply/demand figures used in the RRLLR.
- Three (3) of the submissions raised questions about infrastructure levels, particularly, why the land proposed for rezoning is preferred over other land with better services and infrastructure.
- Two (2) of the submissions raised issues with the decision to retain their property in the Farming Zone despite the level of existing development on neighbouring properties.

### **Planning Panel**

At its meeting of 15 September 2015, Council resolved to request the Minister for Planning to appoint an independent Planning Panel under Part 8 of the *Planning and Environment Act 1987* to consider the submissions received. The Panel Hearing took place on 30 November and 1 December 2015 in Yarram.

Council's submission to the Planning Panel can be found in **Attachment 2** to this Report.

The Panel Report and its recommendations was received on 13 January 2016 and has been publicly available to view since Wednesday 10 February 2016. A copy of the Panel Report can be found in **Attachment 3** to this Report.



An overview of the Panel recommendations can be found in the Executive Summary on page (i) of the Report. Based on the reasons set out in the Report, the Panel made one recommendation to Council as follows:

- 1. Adopt Amendment C95 to the Wellington Planning Scheme as exhibited, subject to deleting Precinct 5 – rezoning of land at 68 and 86 Yarram-Port Albert Road.***

In its findings, the Panel concluded that:

*“...the proposed Amendment has strategic justification. The Panel supports the inclusion of the RRLLR as a Reference Document and the inclusion of changes to clause 21.12-10 and 43.02-9 as exhibited.”*

With regard to the deletion of Precinct 5 – rezoning of land at 68 and 86 Yarram-Port Albert Road, which involves two separate parcels of land currently lying within two zones, the Panel noted that although it is generally good practice not to have land in more than one zone, zone boundaries do not necessarily have to follow a cadastre. In its view, rezoning the two parcels of land to suit property boundaries in this instance would only create further anomalies such as rural interface issues and as such did not support these changes. In response, it is proposed that Amendment C95 be changed to omit these two minor changes (refer to **Attachment 1** for a copy of Amendment C95 that is proposed for adoption).

As discussed at the Council Workshop of 2 February 2016, in addition to the recommendation contained in the Report, the Panel also provided commentary in relation to a number of other matters, including:

- Inappropriate application of the Farming Zone.

The Panel considered that the existing Farming Zone is inappropriate for most Precincts, but provided little specific guidance about appropriate future zoning except in relation to:

- Potentially applying the Rural Conservation Zone to Precinct 1 and the western areas (bordering the coast) of Precincts 2, 5 and 6; and
- Potentially applying the Rural Living Zone 2 to the north side of Gibson Street in Precinct 7 (in conjunction with relevant overlays).

The Panel considered that the appropriate zoning regime (to replace the inappropriate Farming Zone) should be addressed through further strategic work and could not be resolved through Amendment C95 as it would ‘transform’ the Amendment.

- A need to apply additional Overlays (Land Subject to Inundation Overlay (LSIO); Bushfire Management Overlay (BMO) and Environmental Significance Overlay (ESO))

The Panel is of the view that any future Amendment seeking to address the appropriateness of the Farming Zone should also incorporate relevant Overlays to areas identified as being at risk from fire and inundation.

## **OPTIONS**

Council has the following options:

1. Pursuant to Section 27 of the *Planning and Environment Act 1987* consider the Panel Report and associated recommendation for Amendment C95 and; pursuant to Section 29 of the *Planning and Environment Act 1987* resolve to adopt Amendment C95 with minor changes in Precinct 5 (refer to **Attachment 1**) and; pursuant to Section 31 of the *Planning and*

*Environment Act 1987*, resolve to request the Minister for Planning to approve Amendment C95 with minor changes in Precinct 5 and;

- a. Take no further action, having regard to the Council Resolution of 2 December 2014:

*"Should strong growth rates of rural residential lots be evident in Port Albert (following the rezoning of land identified in this motion), Council will review the potential for further rural residential rezoning in the context of the relevant planning policy applicable at the time"*

OR

- b. Resolve to prepare a new Planning Scheme Amendment based on further strategic work to investigate replacing the Farming Zone (within the existing study area Precincts) with the most appropriate zone;

OR

- c. Resolve to request the Minister for Planning to rezone additional land within Precincts 5, 6 and 7 (or other appropriate Precincts/combination thereof), to the Rural Living Zone 2 as illustrated in **Attachment 4**.

2. Pursuant to Section 27 of the *Planning and Environment Act 1987* consider the Panel Report and associated recommendation and seek further information or changes to Planning Scheme Amendment C95 for consideration at a future Council Meeting.
3. Pursuant to Sections 27 and 28 of the *Planning and Environment Act 1987* consider the Panel Report and associated recommendation and resolve to abandon Planning Scheme Amendment C95.

## PROPOSAL

*That Council:*

1. Consider the Report of the Planning Panel and the associated recommendation for Amendment C95, pursuant to Section 27 of the *Planning and Environment Act 1987*; and
2. Adopt Planning Scheme Amendment C95 with minor changes in Precinct 5 (refer to **Attachment 1**) pursuant to Section 29 of the *Planning and Environment Act 1987*; and
3. Request the Minister for Planning to approve Planning Scheme Amendment C95 with minor changes in Precinct 5 pursuant to Section 31 of the *Planning and Environment Act 1987* and take no further action, having regard to the Council Resolution of 2 December 2014:

*"Should strong growth rates of rural residential lots be evident in Port Albert (following the rezoning of land identified in this motion), Council will review the potential for further rural residential rezoning in the context of the relevant planning policy applicable at the time";*

OR

3. Request the Minister for Planning to approve Planning Scheme Amendment C95 with minor changes in Precinct 5 pursuant to Section 31 of the *Planning and Environment Act 1987* and resolve to prepare a new Planning Scheme Amendment based on further strategic work to investigate replacing the Farming Zone (within the existing study area Precincts) with the most appropriate zone;

OR

3. Request the Minister for Planning to approve Planning Scheme Amendment C95 with minor changes in Precinct 5 pursuant to Section 31 of the *Planning and Environment Act 1987* and resolve to request the Minister for Planning to rezone additional land within Precincts 5, 6 and 7 (or other appropriate Precincts/combination thereof), to the Rural Living Zone 2 as illustrated in Attachment 4.

### CONFLICT OF INTEREST

No staff and/or contractors involved in the compilation of this Report have declared a Conflict of Interest.

### FINANCIAL IMPACT

Council is required to pay the requisite statutory planning fees to the Minister for Planning for this Amendment. Should Council resolve to undertake further strategic planning work in Port Albert appropriate budget allocations would need to be made and project prioritisation would need to be evaluated against Council's other strategic planning priorities.

### COMMUNICATION IMPACT

Should the Minister for Planning approve Amendment C95, notice of the approval of the Amendment will appear in the Government Gazette and will be published in the Gippsland Times and Yarram Standard. All affected landowners will also be directly notified by letter.

### LEGISLATIVE IMPACT

The adoption of Amendment C95 and the request for the Minister's approval is in accordance with the requirements of the *Planning and Environment Act 1987*.

Wellington Shire Council is committed to upholding the Human Rights principles as outlined in the *Charter of Human Rights and Responsibilities Act 2006 (Vic)* and referred to in Council's Human Rights Policy. The Human Rights Checklist has been completed and the proposed Amendment to the Wellington Planning Scheme is in accordance with Council's policy commitment to uphold human rights principles.

### COUNCIL PLAN IMPACT

The Council Plan 2013–2017 - Theme 5: Land Use Planning contains the following strategic objective and related strategy:



Strategic Objective

*"Appropriate and forward looking land use planning that incorporates sustainable growth and development."*

Strategy 5.1

*"Ensure Land Use Policies and Plans utilise an integrated approach to guide appropriate land use and development."*

Amendment C95 is considered to support the above objective and strategy.

## **PLANNING POLICY IMPACT**

Amendment C95 is consistent with the State Planning Policy Framework (SPPF) and will amend the Coastal Areas Strategic Framework within the Municipal Strategic Statement (MSS) of the Wellington Planning Scheme.

The change to the MSS seeks to introduce a further objective to Clause 21.12-10 supporting tourism and commercial growth in Port Albert.

## **ENVIRONMENTAL IMPACT**

The recommendations contained within the Port Albert RRLR considered existing environmental constraints in assessing the suitability of land for rezoning for rural living purposes.

It is noted that in relation to the proposed rezoning of Precinct 2 to the Rural Living Zone, the CFA has confirmed its support for the preparation of a 'Memorandum of Understanding' with Council to ensure the referral of planning permit applications within the Precinct, until such time that appropriate Bushfire Management Overlay's are formally applied to the land. Officers will progress this initiative and present to Council for consideration once finalised.

It is also noted that, in relation to Precinct 7, notwithstanding the Panel's comments, the West Gippsland Catchment Management Authority would retain its objection to the rural residential rezoning of this area. There is therefore no guarantee that the rezoning of Precinct 7 (or indeed any other Precinct) for rural residential use would be fully supported – particularly without the appropriate strategic justification.

## **CONSULTATION IMPACT**

The public exhibition of Amendment C95 took place between 25 June and 27 July 2015 and included:

- Approximately 395 notification letters with Information Fact Sheets sent to all land owners/occupiers directly affected by the Amendment and to all landowners/occupiers on adjacent lots.
- Eleven (11) notification letters were sent to the relevant Statutory Authorities and Ministers.
- Notification in Gippsland Times (23 June 2015) and Yarram Standard (24 June 2015).
- Council Strategic Planner was available at the Yarram Service Centre each Tuesday of the public exhibition period to speak with the community about the Amendment.

Information regarding Amendment C95 was also provided in the following locations:

- Fact Sheets were placed in the Port Albert General Store.
  - Information provided to the Port Albert Progress Association for inclusion in its newsletter, *'The Tattler'*.
  - Hard copy available for viewing in Council's Yarram and Sale Customer Service Centres.
- In the event that the Amendment is approved by the Minister for Planning:

- all landowners directly affected by the Amendment will be notified of the Minister's decision by letter; and
- public notification will be given in both the local newspaper and Government Gazette.

*Planning and Environment Act 1987*

## WELLINGTON PLANNING SCHEME

### AMENDMENT C95

### EXPLANATORY REPORT

#### Who is the planning authority?

This amendment has been prepared by the Wellington Shire Council, which is the planning authority for this amendment.

The Amendment has been made at the request of Wellington Shire Council.

#### Land affected by the Amendment

The Amendment applies to all land in Port Albert and its surroundings with specific land parcels proposed for rezoning listed below:

Title Details	Property Address	Proposed
Lot 1: TP: 909418 (CA: 78C)	45-53 Kilgowers Rd, LANGSBOROUGH	Rezone from FZ to RLZ2
Lot: 2 TP: 909418 (PCA: 74A) and Lot: 1 TP: 159829 (PCA: 74A)	35-43 Kilgowers Rd, LANGSBOROUGH	Rezone from FZ to RLZ2
Lot 1: TP: 740953 (PCA: 74B)	25-33 Kilgowers Rd, LANGSBOROUGH	Rezone from FZ to RLZ2
Lot: 1 TP 120168 (PCA: 74B)	Kilgowers Rd, LANGSBOROUGH	Rezone from FZ to RLZ2
Lot: 1 TP: 120167 (PCA: 74B)	Kilgowers Rd, LANGSBOROUGH	Rezone from FZ to RLZ2
CA: 75B	5-13 Kilgowers Rd, LANGSBOROUGH	Rezone from FZ to RLZ2
CA: 78B	55-63 Kilgowers Rd, LANGSBOROUGH	Rezone from FZ to RLZ2
LOT: 3 PS: 145912	185 Yarram-Port Albert Rd, PORT ALBERT	Rezone from FZ to RLZ2
LOT: 2 PS: 145912	183 Yarram-Port Albert Rd, PORT ALBERT	Rezone from FZ to RLZ2
LOT: 4 PS: 145912	Old Port Foreshore Rd, PORT ALBERT	Rezone from FZ to RLZ2
LOT: 1 PS: 145912	181 Yarram-Port Albert Rd, PORT ALBERT	Rezone from FZ to RLZ2
LOT: 1 TP: 744656H	Old Port Foreshore Rd, PORT ALBERT	Rezone from FZ to RLZ2
LOT: 1 TP: 330200N	80 Old Port Foreshore Rd, PORT ALBERT	Rezone from FZ to RLZ2
LOT: 1 TP: 803338W	130 Yarram-Port Albert Rd, LANGSBOROUGH	Rezone from FZ to RLZ2
CA: 139	106 Old Port Foreshore Rd, PORT ALBERT	Rezone from FZ to RLZ2
CA: 140	130 Old Port Foreshore Rd, PORT ALBERT	Rezone from FZ to RLZ2
CA: 78A	Port Albert-Tarraville Rd, LANGSBOROUGH	Rezone from FZ to RLZ2
CA: 145A	Yarram-Port Albert Rd, PORT ALBERT	Rezone from PPRZ to RLZ2
CA: 1 SEC: 11	170 Yarram-Port Albert Rd, PORT ALBERT	Rezone from FZ to LDRZ
CA: 6 SEC: 11 and CA: 7 SEC: 11	33 Fitzroy St, PORT ALBERT	Rezone from FZ to LDRZ
PC: 356366H (UR: 40688)	172 Yarram-Port Albert Rd, PORT ALBERT	Rezone from FZ to LDRZ
Lot: E TP: 253 (CA: 5 SEC: 8), Lot: B TP: 253 (CA: 6 SEC: 8), Lot: C TP: 253, Lot: F TP: 253, Lot: D TP: 253	22 Fitzroy St, PORT ALBERT	Rezone from FZ to LDRZ



CA: 9 SEC: 7	39 Lawrence St, PORT ALBERT	Rezone from FZ to LDRZ
Lot: 1 TP: 120781 (PCA: 8 SEC: 7)	37 Lawrence St, PORT ALBERT	Rezone from part FZ and part PUZ6 to LDRZ
Lot: 1 TP: 12078 (PCA: 7 SEC: 7)	35 Lawrence St, PORT ALBERT	Rezone from part FZ and part PUZ6 to LDRZ
LOT: 1 TP: 14607U and CA: 2 SEC: 7	23-25 Lawrence St, PORT ALBERT	Rezone from FZ to LDRZ
LOT: 2 & 3 TP: 14607U	23-25 Lawrence St, PORT ALBERT	Rezone from part FZ and part PUZ6 to LDRZ
CA: 3 SEC: 7	15 Egerton St, PORT ALBERT	Rezone from FZ to LDRZ
CA: 4 SEC: 7	13 Egerton St, PORT ALBERT	Rezone from FZ to LDRZ
CA: 5 SEC: 7	31 Lawrence St, PORT ALBERT	Rezone from FZ to LDRZ
Lot: 1 TP: 120779 (PCA: 6 SEC: 7)	33 Lawrence St, PORT ALBERT	Rezone from FZ to LDRZ
CA: 1 SEC: 7	Lawrence St, PORT ALBERT	Rezone from FZ to LDRZ
CA: 10 SEC: 8, Lot: 1 TP: 10339, PCA: 7 SEC: 8, CA: 14 SEC: 8, CA: 15 SEC: 8	24 Fitzroy St, PORT ALBERT	Rezone from FZ to LDRZ
CA: 2002	Egerton/Lawrence St, PORT ALBERT	Rezone from FZ to LDRZ
CA: 10 SEC 7	Lawrence St, PORT ALBERT	Rezone from FZ to LDRZ
CA: 8 SEC: 11	Yarram-Port Albert Rd, PORT ALBERT	Rezone from PPRZ to LDRZ
CA: 46, LOT: 1 PS: 510876M and CA: 48	95 Old Port Rd, LANGSBOROUGH	Rezone from FZ to RAZ

#### What the amendment does

The Amendment proposes to implement the recommendations of the *Port Albert Planning Controls Review (June 2014)* and the *Port Albert Rural Residential Lifestyle Lots Review (December 2014)*. The amendment seeks to apply the Rural Living Zone to appropriate areas in the Port Albert Hinterland to provide additional rural living opportunities, apply the Low Density Residential Zone to an area of land in recognition of the existing level and pattern of development, apply the Rural Activity Zone to land in recognition of its existing use as a caravan park, amend Clause 21.12-10 to encourage tourism and economic growth in Port Albert and amend Schedule 9 to Clause 43.02-9 to remove unnecessary requirements and introduce exemptions to minor buildings and works to effectively manage land development in Port Albert.

The Amendment proposes to:

- Rezone land at 95 Old Port Road, Langsborough being Lot: 1 PS: 510876M, CA: 46 and CA: 48 in the Parish of Alberton East from Farming Zone to Rural Activity Zone
- Rezone land at 130 Yarram-Port Albert Road, Langsborough being Lot: 1 TP: 803338 and PT75C in the Parish of Alberton East from Farming Zone to Rural Living Zone Schedule 2
- Rezone land at 5-13 Kilgowers Road, Langsborough being CA: 75B in the Parish of Alberton East from Farming Zone to Rural Living Zone Schedule 2
- Rezone land at 25--53 Kilgowers Road, Langsborough being Lot: 1 TP: 740953 (PCA: 74B), Lot 1: TP: 120167 (PCA: 74B), Lot: 1 TP: 120168 (PCA: 74B), Lot: 1 TP: 159829 (PCA: 74A), Lot: 2 TP: 909418 (PCA: 74A) and Lot: 1 TP: 909418 (PCA: 78C) in the Parish of Alberton East from Farming Zone to Rural Living Zone Schedule 2.
- Rezone land at 55-63 Kilgowers Road, Langsborough being CA: 78B in the Parish of Alberton East from Farming Zone to Rural Living Zone Schedule 2

- Rezone land at Port Albert-Tarraville Road, Langsborough being CA: 78A in the Parish of Alberton East from Farming Zone to Rural Living Zone Schedule 2
- Rezone land at 130 Old Port Foreshore Road, Port Albert being CA:140 in the Parish of Alberton East from Farming Zone to Rural Living Zone Schedule 2
- Rezone land at 106 Old Port Foreshore Road, Port Albert being CA: 139 in the Parish of Alberton East from Farming Zone to Rural Living Zone Schedule 2
- Rezone land at Old Port Foreshore Road, Port Albert being Lot: 1 TP: 744656H in the Parish of Alberton East from Farming Zone to Rural Living Zone Schedule 2
- Rezone land at 80 Old Port Foreshore Road, Port Albert being Lot: 1 TP:330200N in the Parish of Alberton East from Farming Zone to Rural Living Zone Schedule 2
- Rezone land at Old Port Foreshore Road, Port Albert being Lot: 4 PS: 145912 in the Parish of Alberton East from Farming Zone to Rural Living Zone Schedule 2
- Rezone land at 183 Yarram-Port Albert Road, Port Albert being Lot: 2 PS: 145912 in the Parish of Alberton East from Farming Zone to Rural Living Zone Schedule 2
- Rezone land at 185 Yarram-Port Albert Road, Port Albert being Lot: 3 PS: 145912 in the Parish of Alberton East from Farming Zone to Rural Living Zone Schedule 2
- Rezone land at Yarram-Port Albert Road, Port Albert being CA: 145A in the Parish of Alberton East from Public Park and Recreation Zone to Rural Living Zone Schedule 2
- Rezone land at 181 Yarram-Port Albert Road, Port Albert being Lot: 1 PS: 145912 in the Parish of Alberton East from Farming Zone to Rural Living Zone Schedule 2
- Rezone land at Yarram-Port Albert Road, Port Albert being CA: 8 SEC: 11 in the Parish of Alberton East from Public Park and Recreation Zone to Low Density Residential Zone
- Rezone land at 33 Fitzroy Street, Port Albert being CA: 7 SEC: 11 and CA: 6 SEC 11 in the Parish of Alberton East from Farming Zone to Low Density Residential Zone
- Rezone land at 170 Yarram-Port Albert Road, Port Albert being CA: 1 SEC: 11 in the Parish of Alberton East from Farming Zone to Low Density Residential Zone
- Rezone land at 24 Fitzroy Street, Port Albert being Lot: 1 TP: 10339, PCA: 7 SEC: 8, CA: 10 SEC: 8, CA: 14 SEC: 8 and CA: 15 SEC: 8 in the Parish of Alberton East from Farming Zone to Low Density Residential Zone
- Rezone land at 22 Fitzroy Street, Port Albert being Lot: B (CA: 6 SEC: 8), Lot C, Lot D, Lot E (CA: 5 SEC: 8) and Lot F on TP:253 in the Parish of Alberton East from Farming Zone to Low Density Residential Zone
- Rezone land at 172 Yarram-Port Albert Road, Port Albert being PC: 356366 in the Parish of Alberton East from Farming Zone to Low Density Residential Zone
- Rezone CA 2002 in the Parish of Alberton East from Farming Zone to Low Density Residential Zone
- Rezone land at Lawrence Street, Port Albert being CA: 1 SEC: 7 in the Parish of Alberton East from Farming Zone to Low Density Residential Zone
- Rezone land at 23-25 Lawrence Street, Port Albert being CA: 2 SEC: 7 in the Parish of Alberton East from Public Use Zone 6 to Low Density Residential Zone
- Rezone land at 23-25 Lawrence Street, Port Albert being Lot: 1 14607U in the Parish of Alberton East from Farming Zone to Low Density Residential Zone
- Rezone land at 23-25 Lawrence Street, Port Albert being Lot: 2 & 3 TP: 14607U from part Farming Zone and part Public Use Zone 6 to Low Density Residential Zone
- Rezone land at 15 Egerton Street being CA: 3 SEC: 7 in the Parish of Alberton East from Public Use Zone 6 to Low Density Residential Zone



- Rezone land at 13 Egerton Street, Port Albert being CA: 4 SEC: 7 in the Parish of Alberton East from Public Use Zone 6 to Low Density Residential Zone
- Rezone land at 31 Lawrence Street, Port Albert being CA: 5 SEC: 7 in the Parish of Alberton East from Public Use Zone 6 to Low Density Residential Zone
- Rezone land at 33 Lawrence Street, Port Albert being Lot: 1 TP: 120779 (PCA: 6 SEC: 7) in the Parish of Alberton East from Public Use Zone 6 to Low Density Residential Zone.
- Rezone land at 35 Lawrence Street, Port Albert being Lot 1 TP120780 (PCA: 7 SEC: 7) in the Parish of Alberton East from part Farming Zone and part Public Use Zone 6 to Low Density Residential Zone
- Rezone land at 37 Lawrence Street, Port Albert being Lot: 1 TP: 120781 (PCA: 8 SEC: 7) in the Parish of Alberton East from part Farming Zone and part Public Use Zone 6 to Low Density Residential Zone
- Rezone land at 39 Lawrence Street, Port Albert being CA: 9 SEC: 7 in the Parish of Alberton East from Farming Zone to Low Density Residential Zone
- Rezone land at Lawrence Street, Port Albert being CA: 10 SEC: 7 in the Parish of Alberton East from Farming Zone to Low Density Residential Zone
- Amend Clause 21.12-10 - Coastal Areas Strategic Framework to expand on the current objective for Port Albert and Palmerston in order to provide support for tourism and commercial growth
- Amend Schedule 9 to Clause 43.02 - DDO9 to replace a redundant height benchmark for precincts 1 and 2 of DDO9 which currently refers to the Port Albert Hotel; and to align permit exemptions with the Heritage Overlay (HO34)
- Amend Planning Scheme Maps 207, 208, 209 and 211

## **Strategic assessment of the Amendment**

### **Why is the Amendment required?**

Amendment C55 to the Wellington Planning Scheme, which implemented the findings of the *Wellington Shire Rural Zones Review Volumes 1 and 2 (2009)*, received 16 submissions from the Port Albert, Langsborough and Alberton areas raising issues regarding the application of the Farming Zone to their land. The submissions suggested farming to be an inaccurate description of the land and that it should be rezoned for rural residential purposes. While the decision was made that the issues raised were not for the Panel to resolve, the Panel recommended that:

*"Council proceed with review of rural residential lot opportunities in Port Albert and surrounding areas in the 2013/14 strategic planning work program and resolves to rezone land in this area for its most appropriate use, whether that be for rural/residential living, farming or conservation values."*

As a result, Council engaged planning consultants Spiire in 2014 to undertake the *Port Albert Rural Residential Lifestyle Lots Review (December 2014)* to investigate the perceived mismatch of zoning to rural properties and review rural living opportunities for the coastal township of Port Albert.

The Port Albert community has also recently raised concerns that development opportunities and growth in the town are being restricted by Port Albert's planning framework. This prompted Council to seek assistance from the State Government's 'Rural Council Planning Flying Squad', to undertake a focussed review of the existing planning controls that apply to the Port Albert Township. Meinhardt planning consultants were appointed to undertake the study.

The *Planning Controls Review (June 2014)* study explored opportunities to 'cut red tape', with the aim of providing a greater level of consistency in the decision making process across the controls, than currently exists. The report identified short and medium-long term opportunities to improve the existing planning framework and reduce red tape.

Amendment C95 is now required to implement a number of recommendations from the *Port Albert Rural Residential Lifestyle Lots Review* (adopted by Council on 2 December 2014) and the *Port Albert Planning Controls Review (June 2014)*. The amendment seeks to rezone land to provide for additional rural living opportunities, reduce unnecessary and duplicate planning regulation and align permit exemptions.

### **How does the Amendment implement the objectives of planning in Victoria?**

The amendment is consistent with and implements the objectives of planning in Victoria specified in Section 4 of the *Planning and Environment Act 1987*. In particular, the amendment implements:

- Objective 4(1) (a) – by providing for the fair and orderly, economic and sustainable use and development of the land.

The rezoning of the identified land will make provision for appropriately located rural living land in Port Albert while the amendments to local provisions will reduce unnecessary and duplicate controls which will reduce red tape and provide for a more simplified planning framework for Port Albert.

### **How does the Amendment address any environmental, social and economic effects?**

The *Port Albert Rural Residential Lifestyle Lot Review* and *Port Albert Planning Controls Review* have given consideration to environmental, social and economic impacts. The reports have given consideration the relevant practice notes including Practice Note 37 which recognises that rural living requires special consideration due to its '*environmental, social and economic impacts that can be significantly higher than those of standard residential development*'.

#### **• Environmental**

The rezoning recommendations contained within the *Port Albert Rural Residential Lifestyle Lots Review* gave consideration to existing environmental constraints when considering the suitability of land for rezoning for Rural Living purposes. Of the nine (9) precincts identified in the study area, six (6) of the precincts were identified as unsuitable for rural living use due to the following environmental constraints:

- The extent of existing significant vegetation coverage within the area, including identified Ecological Vegetation Classes (EVCs), some of which is classified as endangered.
- The extent of fire risk due to the significant density of vegetation on both public and private land.
- The extent of potential flooding and inundation risk within the area, drainage constraints as well as the potential for increased tidal inundation.
- The location at the edge of Ramsar Convention listed and significant coastal wetland areas.
- The close proximity of coal resources to the north of the study area.

The areas proposed for rezoning have existing levels of rural residential development and are relatively free from environmental constraints.

In reviewing the planning framework in Port Albert, Meinhardt reviewed the application of the controls applying to the main township area in order to assess their suitability and application extent. A key finding was that Port Albert has a number of special



characteristics which warrant a level of protection through planning systems including environmental and landscape protection and that the planning framework for Port Albert is complex in recognition of these values. As such no changes have been recommended in regards to the extent or suitability of the controls.

- **Social**

It is recognised that there are limited social services and infrastructure within Port Albert and its Hinterland with residents relying on Yarram as the nearest service centre. Existing residents must travel for education and health, public transport is not available and retail services are limited to small operations in the Port Albert town area. In addition to this, some land in the *Port Albert Rural Residential Lifestyle Lot Review* study area is in close proximity to land utilised for significant levels of agricultural production which acts as a constraint due to the potential impact of residential development on agriculture arising from a conflict in land uses.

The extent of land identified for rezoning will not create an increased demand for costly or inefficient social services nor will it result in conflicting uses with adjoining land. The social impacts of the proposed changes are considered to be minimal.

- **Economic**

- The extent of land proposed to be rezoned has been influenced by considerations such as the ability to appropriately and sustainably service additional rural residential land. There is currently limited infrastructure within the Port Albert Hinterland and the extent of land proposed for rezoning reflects this.
- The importance of agriculture to the Shire's economy has also been considered and where appropriate, productive agricultural land within the region is to be protected through the retention of the Farming Zone in these areas.
- The proposed rezonings have the ability to foster additional economic development through increased residential development and increased population levels.
- It has been recognised in the *Port Albert Planning Controls Review* that there is a shortcoming in the objective of Clause 21.12-10 which is potentially impacting tourism and commercial growth in Port Albert. The scheme contains a number of strategies encouraging economic development, tourism, and major tourism uses in Port Albert though it is currently difficult to achieve this with the single objective in Clause 21.12-10 - *To protect and enhance the character and environment of Port Albert*. It has been recommended to introduce a further objective to Clause 21.12-10 supporting tourism and commercial growth which has the potential to positively contribute to the economy in Port Albert

#### **Does the Amendment address relevant bushfire risk?**

The land within the Study Area is not currently affected by the Bushfire Management Overlay (BMO). However under the building regulations the area is within a Bushfire Prone Area. Recent fire history for the area and the density and status of existing vegetation cover in the area leads to a high level of fire risk. The CFA in particular indicated additional rural residential development would need to be cognisant of fire protection guidelines which may require certain land sizes and vegetation setbacks.

Development can be achieved in accordance with the relevant State and Local Planning Policies and in a manner that will not increase risk to life or property from a bushfire, or the need for any ongoing land management controls.

The implementation of the short term recommendations of the *Port Albert Planning Controls Review* will have no impact on the level of bushfire risk. Notwithstanding this, the CFA will be consulted again during the public exhibition stage of the amendment process.

#### **Does the Amendment comply with the requirements of any Minister's Direction applicable to the amendment?**

The amendment complies with the requirements of the Ministerial Direction on the Form and Content of Planning Scheme pursuant to s 7(5) of the *Planning and Environment Act 1987* (the Act).

Pursuant to section 12 of the *Planning and Environment Act 1987*, the amendment complies with the following applicable Ministerial Directions:

- Ministerial Direction No. 11 - Strategic Assessment of Amendments; and
- Ministerial Direction No. 15 - The Planning Scheme Amendment Process.

This planning scheme amendment is accompanied by all the required information.

#### **How does the Amendment support or implement the State Planning Policy Framework and any adopted State policy?**

The amendment supports the State Planning Policy Framework relating to Settlement (Clause 11), Built Environment and Heritage (Clause 15) and Housing (Clause 16) through the provision of Rural Living land that will provide for a range of lot sizes to meet the needs and aspirations of different groups of people and will ensure sufficient land is available to meet forecast demand.

The proposed changes to existing provisions applying to the township will help to facilitate and encourage tourism and economic development (Clause 17) and encourage development while ensuring that it respects the existing character and heritage qualities of Port Albert.

The amendment also supports the State Planning Policy Framework relating to Environmental and Landscape Values (Clause 12), Environmental Risk (Clause 13) and Natural Resource Management (Clause 14). Specifically, the proposed changes take into consideration the extent of existing significant vegetation coverage within the area and associated fire risk; flooding and inundation including potential for increased tidal inundation; the existence of Ramsar Convention listed and significant coastal wetland areas; the close proximity of coal resources to the north and the use of surrounding land for significant levels of agricultural production.

#### **How does the Amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?**

The amendment supports and implements the Local Planning Policy Framework and Municipal Strategic Statement in a number of different ways. The amendment addresses the objectives of Clause 21.04 – Settlement, Clause 21.12 – Coastal Areas Strategic Framework, Clause 22.02 – Rural Policy and Clause 22.03 – Heritage Policy and the MSS by encouraging tourism, economic and residential development and also providing for rural living areas located in close proximity to an existing settlement while taking into consideration:

- Environmental values such as existing wetland areas and significant levels vegetation.
- Environmental risks including the existence of both fire and flooding/inundation risk in the area.
- The importance of protecting natural resources such as the coal resources and highly productive agricultural land in the Port Albert Hinterland.
- The limited infrastructure in the Port Albert Hinterland and the ability to properly service additional rural residential land.
- The existing heritage qualities of Port Albert

#### **Does the Amendment make proper use of the Victoria Planning Provisions?**

The amendment uses the most appropriate Victorian Planning Provision tools to achieve the strategic objective of the Scheme. This proposed amendment seeks to utilise existing zones and apply them to appropriate areas within the Port Albert Hinterland while amending



existing provisions applying to the township to appropriately manage land development in Port Albert.

#### **How does the Amendment address the views of any relevant agency?**

In undertaking the *Port Albert Rural Residential Lifestyle Lot Review*, Spiire engaged with a number of statutory authorities who subsequently provided submissions which were factored into the final recommendations report. A summary of these submissions can be found below.

DEPI/DELWP – RCZ implementation is supported in Precincts 1 and 3. Precinct 6 expansion of ESO1 is consistent with environmental objectives. Council should take into account VPP Amendment VC109 in relation to RCZs, clearance and defensible space for dwellings.

South Gippsland Water - any proposed smaller lots (less than 4000m<sup>2</sup>) will need to connect to South Gippsland Water's sewerage network and larger allotments will need to have the ability to treat and retain effluent on site in accordance with EPA standards and approved by Council.

West Gippsland Catchment Management Authority (WGCMA) - Final recommendations supported.

Country Fire Authority - indicated additional rural residential development would need to be cognisant of fire protection guidelines which may require certain land sizes and vegetation setbacks.

The views of the relevant agencies will be sought during the public exhibition process.

#### **Does the Amendment address relevant requirements of the Transport Integration Act 2010?**

The amendment is not likely to have a significant impact on the transport system, as recognized in Section 3 of the *Transport Integration Act 2010*. The statements of policy principles under Section 22 of the *Transport Integration Act 2010* are not relevant to the current proposal.

#### **Resource and administrative costs**

- **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

It is considered that implementation of the recommendations of the *Port Albert Rural Residential Lifestyle Lots Review* and the *Port Albert Planning Controls Review* into the Wellington Planning Scheme will have a positive effect on Council resources and decrease administrative costs through the provision of updated, clear and concise planning regulations.

### **Where you may inspect this Amendment**

The Amendment is available for public inspection, free of charge, during office hours at the following places:

Wellington Shire Council  
Sale Service Centre  
18 Desailly Street  
Sale VIC 3850

Wellington Shire Council  
Yarram Service Centre  
156 Grant Street  
Yarram VIC 3971

The Amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at [www.dtpli.vic.gov.au/publicinspection](http://www.dtpli.vic.gov.au/publicinspection) .



## **21.12 COASTAL AREAS STRATEGIC FRAMEWORK**

01/05/2014  
Proposed C95

### **21.12-1 Loch Sport**

19/12/2013  
C70

#### **Vision**

Manage the future development of Loch Sport in accordance with the following vision:

"Loch Sport will be a major and central Gippsland Lakes settlement and key boating node, attractive to both permanent residents and visitors."

"The town will consolidate within its boundaries and new buildings will contribute to the streetscape and respect the coastal character and environment of Loch Sport."

"The town centre will become a focus for the community and will be linked through to the main access spine of the town. Excellent walking and cycling opportunities will exist throughout the settlement, which will particularly capitalise on the natural beauty of the lake foreshores."

"Development will be sustainable and recognise the environmental constraints of the area, particularly known bushfire risks."

"Enhanced boating facilities will be available, the recreation reserve will function more effectively and there will be activities and destinations for visitors throughout Loch Sport, including links to the National Parks, which will stimulate the economic and social life of the town."

#### **Objective 1**

To create a town centre that provides a focus for the community.

#### **Strategies.**

- Develop effective public spaces within the town centre to provide for passive recreation.
- Define the major access route as the central spine of the town.

#### **Objective 2**

To minimise the environmental impacts of development.

#### **Strategies**

- Ensure development is sustainable and appropriately recognises local environmental constraints, particularly fire risk.
- Avoid the removal of coast banksia.
- Ensure that any new residential lots created within the town of Loch Sport are serviced with reticulated sewerage and water.

#### **Objective 3**

To improve the design and siting of buildings.

**Strategies**

- Ensure a mechanism in the planning scheme will allow for the use of these guidelines to assess planning permit applications.
- Ensure the design and siting of buildings respects the unique character of Loch Sport with regard to vegetation clearance, site disturbance, building height, colours and materials and fencing.

**Objective 4**

To enhance the town's role as a boating centre.

**Strategies**

- Support facilities that promote boating visitation to Loch Sport from other boating centres in the Gippsland Lakes network.

**Objective 5**

To contain urban development within defined settlement boundaries.

**Strategies**

- Facilitate development in accordance with the Loch Sport Coastal Settlement Boundary Plan shown in this clause and consider any relevant coastal hazard vulnerability assessment for the town.
- Encourage further business uses to locate in the Commercial 1 Zone area around Second Street subject to the provision of reticulated services.
- Encourage medium density residential development in proximity to the town centre, subject to the provision of reticulated services.
- Allow other Commercial 1 Zone areas throughout the town to retain a local neighbourhood convenience service role.

**Coastal Settlement Boundary Plan**



**Key:**

- Settlement Boundary
- Extent of Existing Urban Zoned Land

**COASTAL SETTLEMENT BOUNDARY PLAN  
LOCH SPORT**

**21.12-2 Golden Beach/Paradise Beach**

19/12/2013  
C70

**Vision**

Manage the future development of Golden Beach/Paradise Beach in accordance with the following vision:

"Golden Beach/Paradise Beach will develop as a residential holiday township, set in coastal bushland."

"Buildings will be of high quality and reflect the coastal environment through the use of materials, colours and building styles."

"The settlement will have an active 'village centre', which will be a focal point for the community with high quality public spaces and commercial uses for local and visitor needs."

"Development will be sustainable and recognise the environmental constraints of the area, particularly known bushfire risks."

"The town will be further developed as an important node for the Shire."

**Objective 1**

To create a functional town centre.

**Strategies**

- Facilitate the establishment of a mixed use development area based around a village square (corner Surf Edge Drive and Shoreline Drive) that would include commercial, community and residential uses when a reticulated sewerage system is available.
- Provide for commercial development in the town centre with a Commercial 1 Zone when a reticulated sewerage system is available.

**Objective 2**

To improve town character.

**Strategies**

- Upgrade Shoreline Drive/town entry from Seaspray.
- Ensure the design and siting of buildings respects the unique character of Golden Beach/Paradise Beach.
- Ensure the design and siting of buildings minimises native vegetation removal.

**Objective 3**

- To contain urban development within defined settlement boundaries.

**Strategies**

- Facilitate development in accordance with the Golden Beach/Paradise Beach Coastal Settlement Boundary Plan shown in this Clause and consider any relevant coastal hazard vulnerability assessment for the town.



WELLINGTON PLANNING SCHEME

- Ensure sustainable development and appropriate recognition of local environmental constraints, particularly bushfire risk.

**Coastal Settlement Boundary Plan**



**Key:**

-  Settlement Boundary
-  Extent of Existing Urban Zoned Land

**COASTAL SETTLEMENT BOUNDARY PLAN  
GOLDEN BEACH & PARADISE BEACH**



### 21.12-3 Ninety Mile Beach – Area between Golden Beach and The Honeysuckles

19/12/2013  
C70

#### Objective 1

To facilitate development in accordance with the Ninety Mile Beach Policy included in clause 22.08.

#### Strategies

- Ensure that urban development occurs in the urban nodes of Paradise Beach, Golden Beach, Delray Beach, and at The Honeysuckles, in locations within the settlement boundaries as defined on the Ninety Mile Beach Policy in Clause 22.08, and is provided with reticulated services to a residential standard.
- Promote low density residential development on land at Delray Beach and Paradise Beach, in locations within the settlement boundaries as defined on the Ninety Mile Beach Policy, and ensure that development is provided with reticulated services to an appropriate standard.
- Limit development in Glomar Beach to:
  - completed restructure lots, in locations as defined on the Ninety Mile Beach Policy Plan; and
  - locations that are not vulnerable to environmental impacts.

#### Objective 2

To protect and enhance the environment and character of the area between Golden Beach and The Honeysuckles.

#### Strategies

- Ensure that urban development primarily occurs in the townships of Paradise Beach, Golden Beach, and at The Honeysuckles and is provided with reticulated services.
- Strongly discourage development on the Lake Reeve islands, and other areas subject to flooding and environmental constraints.
- Ensure that development on lots with frontage to Shoreline Drive is setback at least 10 metres from the front boundary, in recognition of the natural character of the area.

### 21.12-4 The Honeysuckles

19/12/2013  
C70

#### Vision

Manage the future development of The Honeysuckles in accordance with the following vision:

"The Honeysuckles will develop as a low density residential holiday hamlet, set in banksia woodland."

"Buildings will be of high quality but of simple design and reflect the coastal environment through the use of materials, colours and building styles."

"Development will be sustainable and recognise the environmental constraints of the area, particularly known bushfire risks."

"Pedestrian movement throughout the settlement is safe with a shared use pathway provided to Seaspray."

**Objective 1**

To protect and enhance the coastal character of the settlement.

**Strategies**

- Ensure development is consistent with the particular character of The Honeysuckles.
- Ensure that new development provides for the retention of coast banksia in the siting of buildings and public works construction.
- Maintain an informal road network and streetscape.
- Encourage local indigenous tree planting in association with new development.
- Reinforce the natural landscape setting in development of public areas.

**Objective 2**

To contain urban development within defined settlement boundaries.

**Strategies**

- Facilitate development in accordance with The Honeysuckles Coastal Settlement Boundary Plan as shown in this Clause and consider any relevant coastal hazard vulnerability assessment for the town.
- Ensure sustainable development and appropriate recognition of local environmental constraints, particularly fire risk.



**Coastal Settlement Boundary Plan**



**Key:**

- Settlement Boundary
- Extent of Existing Urban Zoned Land

**COASTAL SETTLEMENT BOUNDARY PLAN  
THE HONEYSUCKLES**

**21.12-5**

18/12/2013  
C70

**Seaspray**

**Vision**

Manage the future development of Seaspray in accordance with the following vision:

"Seaspray will retain its character as a holiday and residential village tucked behind the dunes on the Ninety Mile Beach. It will have excellent parks, picnic areas and facilities for holidaymakers staying in the settlement and day visitors from Sale and surrounding areas."

Seaspray's streets will be tree lined, with good walking and cycle paths. New buildings will reflect the 'coastal village' setting and history of the settlement and the character of older areas will be respected."

"The main activity area, the foreshore, will be conveniently and safely accessed on foot and will be enhanced and linked to a village focal point with a limited range of commercial facilities, open space and public amenities."

**Objective 1**

To maintain and enhance the existing character of Seaspray.

**Strategies**

- Ensure development respects the unique character of the older parts of Seaspray.
- Develop the foreshore as an attractive and functional recreational area for residents and visitors.
- Preserve and enhance the coastal dune systems.

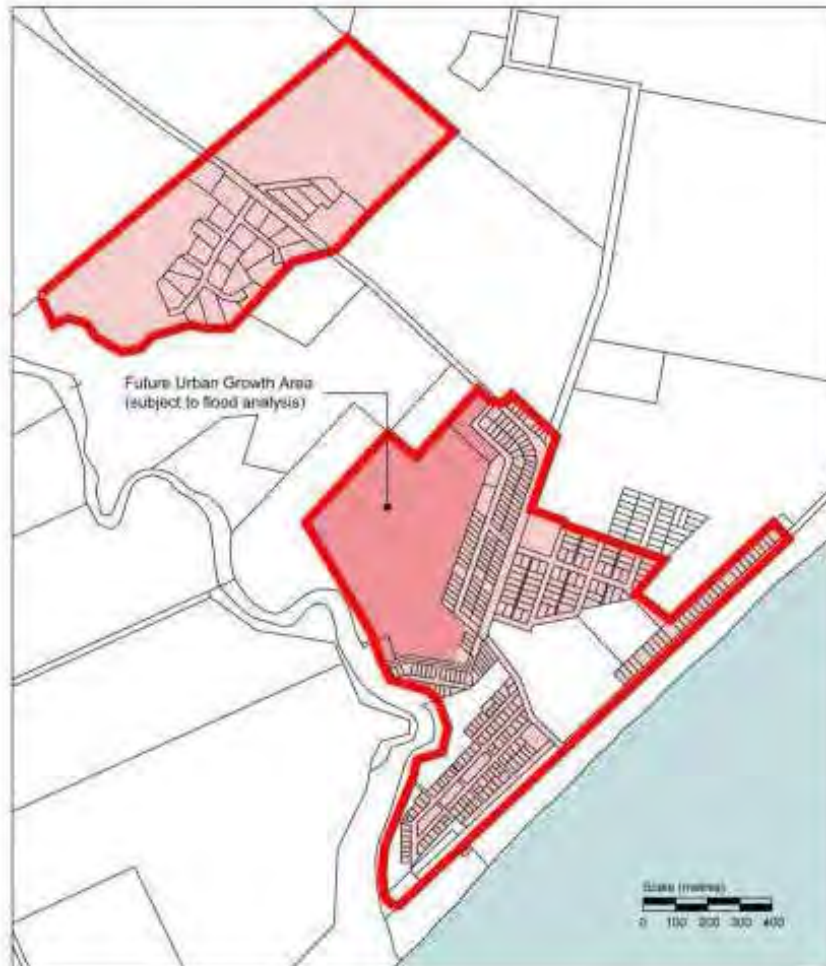
**Objective 2**

To contain urban development within defined settlement boundaries.

**Strategies**

- Facilitate development in accordance with the Seaspray Coastal Settlement Boundary Plan as shown in this Clause and consider any relevant coastal hazard vulnerability assessment for the town.
- Provide for limited expansion of the town to the west of Davies Street and Ellen Avenue subject to a detailed flood risk assessment of this area.
- Constrain further low density development on the edge of the settlement to the existing Low Density Residential Zone area.
- Minimise the visual impact of future development in the Low Density Residential Zone area.

**Coastal Settlement Boundary Plan**



**Key:**

- Settlement Boundary
- Extent of Existing Urban Zoned Land
- Future Urban Growth Area

**COASTAL SETTLEMENT BOUNDARY PLAN  
SEASPRAY**



**21.12-6**

18/12/2013  
C70

**Woodside Beach**

**Vision**

Manage the future development of Woodside Beach in accordance with the following vision:

"As Woodside Beach grows it will retain its character as a holiday hamlet at the western end of the Ninety Mile Beach. It will be a desirable destination for visitors from Woodside, Yarram and the surrounding region."

"The natural environmental setting will be protected, streets will be leafy and buildings will reflect the 'coastal village' character of the hamlet."

"The main activity focus of the settlement, the foreshore, will be easily accessed on foot and will be enhanced as an attractive destination with community facilities."

**Objective 1**

To protect the natural setting and retain and enhance the character of the settlement.

**Strategies**

- Ensure the protection of indigenous vegetation in new development areas and in relation to all redevelopment/upgrade proposals.

**Objective 2**

To enhance the foreshore as a settlement focus whilst containing urban development within defined settlement boundaries.



**Strategies**

- Facilitate development in accordance with the Woodside Beach Coastal Settlement Boundary Plan shown in this Clause and consider any relevant coastal hazard vulnerability assessment for the town.
- Ensure the development of the vacant Township Zone land is based on a comprehensive outline plan, estate landscaping, provision for stormwater management and connection to a package sewerage treatment plant.
- Contain residential development to the existing zoned areas.

**Coastal Settlement Boundary Plan**



**Key:**

-  Settlement Boundary
-  Extent of Existing Urban Zoned Land

**COASTAL SETTLEMENT BOUNDARY PLAN  
WOODSIDE BEACH**

## 21.12-7 McLoughlins Beach

19/12/2013  
C70

### Vision

Manage the future development of McLoughlins Beach in accordance with the following vision:

"McLoughlins Beach will develop as a seaside holiday village and a key regional boating access point for the waters of the Ninety Mile Beach and Nooramunga Marine and Coastal Park.

Residential streets will be attractive, incorporate landscaping and provide for safe pedestrian movement.

Development will be sustainable and recognise the environmental constraints of the area, particularly known flooding risks and coastal vulnerability.

The importance of the area for boating and recreational fishing will be recognised with the provision of appropriate facilities.

The foreshore will provide a focal point for the community and contain high quality facilities for residents and visitors. A pathway network will give safe access to key destinations around the village."

### Objective 1

To upgrade the appearance of the settlement and function of the locality to provide boating access on a regional basis.

### Strategies

- Upgrade the settlement foreshore area and improve the landside and boating facilities and amenities.

### Objective 2

To contain urban development within defined settlement boundaries.

### Strategies

- Facilitate development in accordance with the McLoughlins Beach Coastal settlement Boundary Plan shown in this Clause and consider any relevant coastal hazard vulnerability assessment for the town.
- Contain the settlement within the existing area subject to a detailed assessment of those areas (generally west of Seaward Street) with potential environmental value or hazard.



**Coastal Settlement Boundary Plan**



**Key:**

- Settlement Boundary
- Extent of Existing Urban Zoned Land

**COASTAL SETTLEMENT BOUNDARY PLAN  
MCLAUGHLINS BEACH**

**21.12-8 Manns Beach**

19/12/2013  
C70

**Vision**

Manage the future development of Manns Beach in accordance with the following vision:

"Manns Beach will retain its character as a small, remote holiday hamlet, bordered by the Nooramunga Marine and Coastal Park and with excellent access to local islands and inlets.

It will retain a strong recreational fishing focus for residents and the surrounding area with attractive and functional foreshore facilities.

Buildings will improve over time, but retain the 'coastal cottage' character. The foreshore will be easily accessed on foot and will be enhanced as a community hub.

Development will be sustainable and recognise the environmental constraints of the area, particularly flooding risks and coastal vulnerability."

**Objective 1**

To upgrade the appearance and function of the settlement.

**Strategies**

- Contain urban development within defined settlement boundaries.
- Facilitate development in accordance with the Manns Beach Coastal Settlement Boundary Plan shown in this Clause and consider any relevant coastal hazard vulnerability assessment for the town.
- Contain the settlement within the existing developed area.

### Coastal Settlement Boundary Plan



**Key:**

- Settlement Boundary
- Extent of Existing Urban Zoned Land

### COASTAL SETTLEMENT BOUNDARY PLAN MANNS BEACH



**21.12-9**19/12/2013  
C70**Robertsons Beach****Vision**

Manage the future development of Robertsons Beach in accordance with the following vision:

"Robertsons Beach will retain its character as a contained residential and holiday hamlet, bordered by the Nooramunga Marine and Coastal Park.

It will have facilities for small boat use, and provide attractive areas on the foreshore for residents and day visitors.

Buildings will remain low key but will improve in quality over time, while still reflecting the 'coastal village' character of the hamlet.

The main focus of the settlement, the foreshore, will be easily accessed on foot and pathways will provide links to the adjoining natural areas.

Development will be sustainable and recognise the environmental constraints of the area, particularly flooding risks and coastal vulnerability."

**Objective 1**

To protect and enhance the character and environment of Robertsons Beach.

**Strategies**

- Ensure the retention of natural vegetation areas within the settlement and on the Farming Zoned land to the north.
- Identify and protect significant Aboriginal cultural heritage sites adjacent to the pathway network.
- Improve the appearance and function of the foreshore area.

**Objective 2**

To contain urban development within defined settlement boundaries



**Strategies**

- Facilitate development in accordance with the Robertsons Beach Coastal Settlement Boundary Plan shown in this Clause and consider any relevant coastal hazard vulnerability assessment for the town.
- Limit residential development to the existing Township Zone and subject to a review of suitable zoning for Illawong Lodge, retain the Farming Zone to the north.
- Limit commercial and other land uses within the settlement and adjoining land to self contained tourist accommodation facilities.

**Coastal Settlement Boundary Plan**



**Key:**

-  Settlement Boundary
-  Extent of Existing Urban Zoned Land

**COASTAL SETTLEMENT BOUNDARY PLAN  
ROBERTSONS BEACH**

## 21.12-10 Port Albert & Palmerston

19/12/2013  
Proposed C95

### Objective

To protect and enhance the character and environment of Port Albert and provide a sustainable business environment for existing and future retail, commercial, and tourism based uses.

### Strategies

- Encourage modest expansion of commercial activity within the Port Albert town.
- Encourage those activities which cater for the needs of the town's growing permanent and tourist populations.
- Encourage tourism development which responds to the town's environmental constraints and special character.
- Ensure that urban development occurs in stages that can be appropriately serviced.
- Ensure that development is sympathetic to the heritage/character qualities of the town.
- Encourage major tourism uses or developments which are not dependent on a coastal location to develop within the main existing townships of Loch Sport and Port Albert.

## 21.12-11 Implementation

01/06/2014  
C55(Part 1)

The strategies for Loch Sport, Golden Beach / Paradise Beach, Ninety Mile Beach between Golden Beach and The Honeysuckles, The Honeysuckles, Seaspray, Woodside Beach, McLoughlins Beach, Manns Beach, Robertsons Beach, Port Albert and Palmerston will be implemented by:

### Using zones, overlays, policy and the exercise of discretion

Applying appropriate zones and overlays.

Applying the *Special Water Supply Catchment Areas* policy at Clause 22.01

Applying the *Rural* policy at Clause 22.02

Applying the *Heritage* policy at Clause 22.03

Applying the *Car Parking* policy at Clause 22.04

Applying the *Aerodrome and Environs* policy at Clause 22.05

Applying the *Coal Resources* policy at Clause 22.06

Applying the *Coal Buffers* policy at Clause 22.07

Applying the *Ninety Mile Beach* policy at Clause 22.08

Applying the Design & Development Overlay Schedule at Clause 43.02 for the coastal town of Port Albert.

Applying the Design & Development Overlay Schedule at Clause 43.02 to the coastal towns of Loch Sport, Golden Beach/Paradise Beach, The Honeysuckles, Seaspray, Woodside Beach, McLoughlins Beach, Manns Beach, and Robertsons Beach.

Refer to the Country Fire Authority guidelines on subdivision, group accommodation and recreation accommodation when assessing whether a development proposal adequately addresses fire safety issues.

Refer to the Healthy by Design guidelines to ensure development facilitates healthy communities through well planned networks of walking and cycling routes, streets with direct, safe and convenient access to local destinations within the Shire's towns within easy walking distance from homes, public open space, public transport, shops and services.

Require that development plans are prepared prior to subdivision of green-field sites that show the proposed layout of lots and road reservations and include infrastructure schemes that show where power, water, and sewerage will be located. These development plans will identify site advantages and constraints, main road networks and associated movement patterns, and social and community facilities.

Implement any relevant coastal action plan.

#### **Other actions**

Support the relevant water authority with identification and installation of appropriate effluent disposal and/ or water supply systems for unsewered settlements, focusing on priority areas identified in the Municipal Domestic Wastewater Management Plan, following confirmation of the need (on environmental and health grounds)

#### **Undertaking further strategic work**

Prepare outline development plans for the future development of residential and industrial areas that have regard to potential impacts on the natural environment and include these in a development plan overlay.

Provide a set of design guidelines applicable to the unique character of Loch Sport that address in particular, vegetation clearance, site disturbance, building height, colours and materials and fencing.

Review the extent and future demand for land zoned Low Density Residential and Rural Living in particular areas, subject to there being a demonstrated need for such reviews.

Prepare an Industrial Strategy for Sale with particular emphasis on the Wurruk South Industrial area.

Investigate the appropriate extent of the Heritage Overlay (HO34) in Port Albert in conjunction with a review of the Port Albert Conservation Study, 1982.

Review the Port Albert Drainage Study, 1983 to determine the feasibility of introducing an appropriate overlay.

Review and then implement the recommendations of the draft UDF Master Plans prepared for the coastal towns of Loch Sport, Golden Beach/Paradise Beach, The Honeysuckles, Seaspray, Woodside Beach, McLoughlins Beach, Manns Beach, and Robertsons Beach.

Maintain the existing Township Zone in McLoughlins Beach and consider for inclusion land in the Farming Zone to the north of Tallamy Street and land accessed from Edwina Street and Janette Street. Proposals to rezone this land should be supported by a detailed environmental assessment and a flood risk assessment.

Review the Farming Zone area to the north west of Davies Street and Ellen Avenue in Seaspray and consider rezoning to Township Zone subject to the outcome of a detailed flood risk evaluation of this land.

Review future zoning and overlay provisions for Golden Beach/Paradise Beach and The Honeysuckles as part of the implementation of the Wellington Coast Subdivision Strategy.



12/07/2007  
Proposed  
C86

## SCHEDULE 9 TO THE DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO9**

### PORT ALBERT AND PALMERSTON

#### 1.0

12/07/2007  
C28

#### Design objectives

To ensure existing and future development located within the Precincts shown on the Precinct Boundary Map below does not detract from the natural and built character of Port Albert.

To provide an opportunity to consider the effect of the design of buildings on their surrounds.

To enable the township of Port Albert / Palmerston to evolve in a manner generally consistent with the precinct objectives contained within the *Port Albert / Palmerston Urban Design Guidelines, 2007*.

#### Precinct Boundary Map



#### 2.0

12/07/2007  
Proposed C86

#### Buildings and works

A permit is not required to construct buildings and carry out works in any of the following circumstances:

- The construction or carrying out of works for a chimney or flu pipe.
- The construction or carrying out of works for an outbuilding ancillary to a dwelling that is less than 3 metres high, has a floor area less than 50 square metres, is located behind the front setback of the dwelling and is not within 2 metres of a side boundary.

- An alteration or extension to an existing dwelling provided the floor area of the alteration or extension is not more than 100 square metres, is located behind the front setback of the dwelling and is not within 2 metres of a side boundary.
- For land also subject to the Heritage Overlay, buildings and works that are exempt under the Port Albert Heritage Precinct Permit Exemptions Incorporated Plan

Applications for buildings and works within the Precinct Boundary Map should comply with the following criteria:

DDO AREA	PRECINCT BOUNDARY TITLE	PREFERRED BUILDING SETBACK CRITERIA	PREFERRED MAXIMUM HEIGHT CRITERIA
1	Heritage Tourism	Zero lot lines to Wharf Street 4m setbacks to North Street	Buildings should not exceed a height of 9 metres above natural ground level
2	Secondary Tourism	Setbacks are to be equivalent to adjoining developments 6m setbacks to North Street	Buildings should not exceed a height of 9 metres above natural ground level
3	Tarraville Road Historic	Commercial buildings and works should have zero lot lines to Tarraville Road. Buildings setbacks should have regard to the setback of adjacent and nearby buildings	Buildings should not exceed a height of two storeys
4	Residential	Building setbacks should have regard to the setbacks of adjacent buildings Building setbacks should be a minimum of 6m if adjoining vacant land	Buildings should not exceed a height of two storeys
5	Central Arrival Spine	Building setbacks should have regard to the setbacks of adjacent buildings Building setbacks should be a minimum of 6m if adjoining vacant land	Buildings should not exceed a height of two storeys

### 3.0

12/07/2007  
C29

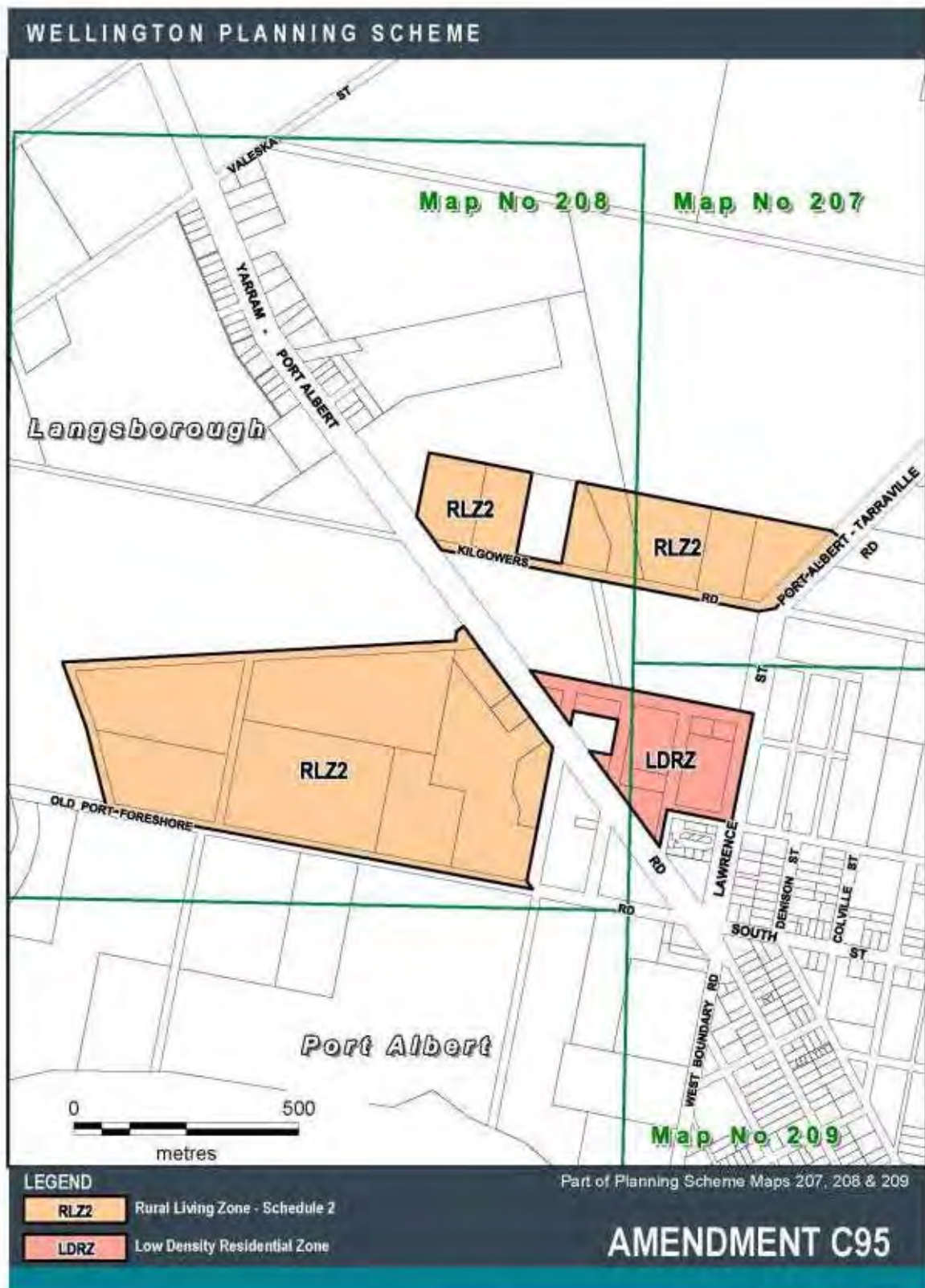
#### Decision guidelines

Before deciding on an application the responsible authority must consider:

- The guidelines for each particular Precinct contained within the *Port Albert / Palmerston Urban Design Guidelines*.

#### Reference Document

Port Albert / Palmerston Urban Design Guidelines, 2007.



| Planning Mapping Services |  
 | Planning Information Services |  
 | Planning |



Department of  
 Environment, Land,  
 Water & Planning









*Planning and Environment Act 1987*

**WELLINGTON PLANNING SCHEME**

**AMENDMENT C95**

**INSTRUCTION SHEET**

The planning authority for this amendment is the Wellington Shire Council.

The Wellington Planning Scheme is amended as follows:

**Planning Scheme Maps**

The Planning Scheme Maps are amended by a total of 2 attached maps sheets.

***Zoning Maps***

1. Amend Planning Scheme Map Nos. 207, 208, 209 and 211 in the manner shown on the 2 attached maps marked "Wellington Planning Scheme, Amendment C95".

**Planning Scheme Ordinance**

The Planning Scheme Ordinance is amended as follows:

2. In Local Planning Policy Framework – replace Clause 21.12 with a new Clause 21.12 in the form of the attached document.
3. In Overlays – Clause 43.02, replace Schedule 9 with a new Schedule 9 in the form of the attached document.

End of document

# **PART A SUBMISSION**

**Planning Panel Hearing**

## **AMENDMENT C95**

**to the Wellington Planning Scheme**

**PORT ALBERT RURAL RESIDENTIAL LIFESTYLE LOTS  
REVIEW AND PLANNING CONTROLS REVIEW  
IMPLEMENTATION**

**Submission by Wellington Shire Council  
23 November 2015**



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## Attachments

- Attachment 1: C95 Submission Summary & Response table
- Attachment 2: New Zones for Rural Victoria Final Package (DSE, 2009)
- Attachment 3: Rural Zones Review: Volume 1 (Maunsell/Aecom, 2009)
- Attachment 4: Rural Zones Review: Volume 2 (Maunsell/Aecom, 2009)
- Attachment 5: Environmental Investigations Report (Aecom, 2010)
- Attachment 6: Strategic Planning for Gippsland Rural Areas (Maunsell/Aecom, 2007)



## 1. Introduction

This submission is made by the Wellington Shire Council (the Council), which is the Planning Authority for Planning Scheme Amendment C95 – Port Albert Rural Residential Lifestyle Lots Review and Planning Controls Review Implementation.

Amendment C95 has been prepared to implement the recommendations of both the '*Port Albert Rural Residential Lifestyle lots Review*' (Spiire, December 2014) and the '*Port Albert Planning Controls Review*' (Meinhardt, July 2014) into the Wellington Planning Scheme.

The Part A Submission provides the following:

- previous Planning Scheme Amendments considered to be relevant to Amendment C95
- Strategic Justification for Amendment C95:
  - background to the Planning Controls Review (Meinhardt, July 2014);
  - background to the Rural Residential Lifestyle Lots Review (Spiire, December 2014);
- an explanation of the proposed Planning Scheme Amendment;
- the chronology of events in relation to the Planning Scheme Amendment process;
- the strategic land use planning assessment; and
- the key issues raised in submissions and Council's responses.

Additional supporting documentation, which was not already included as part of the Panel Documents, is available to view on Council's website. This includes the following documents:

- Strategic Planning for Gippsland Rural Areas (Maunsell/Aecom, 2007)
- Rural Zones Review Volumes 1 & 2 (Maunsell/Aecom 2009), and
- Environmental Investigation Report (Aecom 2010).





## 2. Port Albert Land Use Planning Context

The following Amendments and studies contain important information regarding the planning history in Port Albert and are considered to be relevant in providing an important land use planning context for Amendment C95.

### Planning Scheme Amendment VC24

(Approved/Gazetted 11/06/2004)

The 'Final Report New Format Planning Schemes' (Planning Panels Victoria, April 1999) reviewed the suite of rural zones (Rural Zone, Environmental Rural Zone) and issues arising from their application in new format planning schemes. The Review identified a number of significant shortcomings including:

- The ambit of discretion in the zones was too wide.
- The zone purposes were unclear and did not match the use and development controls in the zone.
- There was no zone that unambiguously catered for agriculture.
- There was significant potential for conflict between agricultural and non-agricultural land uses within the zones.

The Explanatory Report associated with Amendment VC24 acknowledged that:

*'Since the existing rural zones were introduced in 1996 there has been concern that the zones do not adequately recognise the importance of agriculture and have led to increased land use conflicts by allowing a range of non-agricultural uses to establish in rural areas.'*

Amendment VC24 sought to address these issues through the introduction of the Farming Zone and Rural Activity Zone into the Victorian Planning Provisions. The purpose of the new Farming Zone was to unambiguously cater for and encourage agricultural land uses whilst discouraging uses that could undermine this key purpose of the zone. The purpose of the Rural Activity Zone on the other hand, was/is to cater for areas where agricultural activities and other land uses can co-exist, allowing for non-agricultural uses where they are compatible with the agricultural, environmental and landscape qualities of the area. Changes were also made to relevant State Planning Policy at Clause 17.05 (Agriculture) to recognise the important role of productive agricultural land in Victoria.

### Planning Scheme Amendment C43

(Approved/Gazetted 12 July 2007)

Amendment C43 was prepared by the Minister for Planning and introduced the Farming Zone (FZ) and Rural Conservation Zone (RCZ) into the Wellington Planning Scheme. The Amendment resulted in the direct translation of the 'old' rural zones (Rural Zone &



*The Heart of Gippsland*

Environmental Rural Zone) to the new rural zones (Farming Zone & Rural Conservation Zone).

### **Strategic Planning for Gippsland Rural Areas**

(Known as the 'Gippsland Rural Areas Project' or GRAP) (Maunsell/Aecom, August 2007)

During 2007 Wellington Shire participated in the 'Strategic Planning for Gippsland Rural Areas Project', which was completed shortly after the direct translation of the new rural zones into Gippsland planning schemes. This study provided a basis for a review of rural land uses and a model framework for the review and application of rural zones. The study included contributions from six Gippsland Councils, the Department of Planning and Community Development (DPCD), the Department of Primary Industries (DPI) and the Municipal Association of Victoria (MAV) and was completed by consultants Maunsell/AECOM. In the case of Wellington Shire, the study recommended that:

- Agricultural strategic importance is defined;
- Physical Land Units are identified;
- Rural Planning Policy Units are identified; and
- A draft Planning Scheme Amendment is prepared.

Consequently, Wellington Shire Council allocated funds for the completion of a 'Wellington Shire Rural Zones Review' to assess the application of the new zones across the Shire.

### **Rural Zones Review & Environmental Investigation Report**

(Maunsell/Aecom & EnPlan Partners, January 2009) & (Aecom, July 2010)

The primary purpose of the Rural Zones Review was to propose the application of the rural land use zones introduced by Amendment VC24 in 2004. The Review made six key recommendations, subject to further environmental considerations, which were as follows:

1. Introduction of Planning Units.
2. Introduction of a local Rural Areas Policy.
3. The application of Schedule 8 of the Environmental Significance Overlay (ESO8) to all Special Water Supply Catchment Areas.
4. Rezoning of land in the Dargo area from Rural Conservation Zone to Farming Zone – Landowners in this area suggested translation to the RCZ was incorrect and further investigations confirmed this. The previous zone, Rural (River Valley) Zone, under the Avon Planning Scheme had the purpose: 'To provide for the continued use of the land for commercial farming purposes.'
5. Rezoning of land on Old Port Foreshore Road from Farming Zone to Rural Conservation Zone (subject to clarification of environmental considerations).

(NB: During community consultation sessions held in Yarram and within written submissions to the *Wellington Shire Rural Zones Review*, landholders suggested that



*The Heart of Gippsland*



land along the Old Port Foreshore Road in Port Albert should be rezoned from its existing Farming Zone to allow for rural lifestyle lots (e.g. Rural Living Zone or Low Density Residential Zone)).

6. The application of the Rural Activity Zone to specific sites around the Shire.

The Rural Zones Review (Volumes 1 & 2) was formally adopted by Council in January 2009.

On the basis of the recommendation that land only be rezoned subject to environmental considerations, an *Environmental Investigation Report* (Aecom, July 2010) was subsequently completed, which provided a number of recommendations on whether to rezone land throughout the Shire to Farming Zone or retain it in the Rural Conservation Zone. Land on Old Port Foreshore Road in Port Albert was also considered in the *Environmental Investigation Report*. The report concluded that:

- For land north of Old-Port Foreshore Road, no environmental values were identified which would warrant rezoning of the land to RCZ.
- For land south of Old-Port Foreshore Road, consideration should be given to rezoning the area to RCZ as the land is well vegetated and adjoins the Nooramunga Marine and Coastal Park. The report recommended that:

*'the rezoning of these properties to RCZ should be considered following a study of the whole Port Albert Area and its surrounds to consider the application of the Rural Conservation Zone and other rural zoning options available under the VPPs. p. 12'*

### **Planning Scheme Amendment C55**

(Authorised 11 November 2011 – Approved/Gazetted 1 May 2014)

In its original form, Amendment C55 proposed to implement the findings of the adopted Rural Zones Review. The Amendment proposed:

- Rezoning of agricultural land in the Wonnangatta and Dargo River Valleys from the Rural Conservation Zone to the Farming Zone.
- Rezoning of 4 Crown Land parcels in the Dargo area from Rural Conservation Zone to the Public Conservation and Resource Zone.
- Extending the application of Schedule 8 to the Environmental Significance Overlay to all areas within a Special Water Supply Catchment Area.
- Inserting 'Planning Units' into the Municipal Strategic Statement.
- Inserting a new local Rural Policy.
- Consequential changes to the local provisions of the Wellington Planning Scheme.

The Amendment was exhibited from 30 August to 12 October 2012 with 29 submissions received during this period, 16 of which were from the Port Albert, Langsborough and Alberton areas.



*The Heart of Gippsland*

The submissions received from the Port Albert area questioned the appropriateness of the application of the Farming Zone to land around Port Albert and suggested that the Rural Living Zone or Low Density Residential Zone be applied to these areas instead. In its submission to the Panel, Council commented:

*'Without exception the submissions received from the Port Albert area made comment on the potential for residential zones to be applied to land surrounding Port Albert. The Environmental Investigation Report completed as part of the Wellington Shire Rural Zones Review focused only on land in Old Port Foreshore Road and identified land to the south of the road as having potential for rezoning to the Rural Conservation Zone subject to a study of the whole Port Albert Area. A review of zoning for residential purposes in the Port Albert area needs to be separately considered to ensure the complexities of the planning controls, opportunities and constraints are all taken into account.'*

In its submission to the Panel, Officers reported that in response to these submissions, Council, at its 2 April 2013 meeting, had resolved:

*'That Council proceeds with a dedicated review of rural residential lot opportunities in Port Albert in the 2013/14 strategic planning work program (subject to approving the draft 2013/14 budget allocation made for this project).'*

The Panel recommended that the Amendment be adopted as exhibited (with changes) and in consideration of the submissions from the Port Albert area provided the additional recommendation (consistent with Council's resolution) that:

*'Council proceed with review of rural residential lot opportunities in Port Albert and surrounding areas in the 2013/14 strategic planning work program and resolves to rezone land in this area for its most appropriate use, whether that be for rural/residential living, farming or conservation values.'*

The Panel acknowledged that there may be properties that were translated into the Farming Zone that could not be farmed, though it was also made clear by the Panel in its report that it was, '... not suggesting that these properties all become Rural Residential or Rural Living Zones (as the strategic work has not been undertaken or provided), but that the review investigate the appropriateness of zoning in this area.'

Amendment C55 was ultimately split into two parts with Part 1 comprising all components of the Amendment except all matters relating to the Special Water Supply Catchments and Part 2 which included all matters relating to the special water supply catchments. C55 (Part 1) was formally adopted by Council on 17 December 2013 and forwarded to the Minister for Planning on 2 January 2014 for approval with Part 2 of the Amendment being abandoned. Amendment C55 (Part 1) was approved by the Minister for Planning and came into effect 1 May 2014.

### **Planning Scheme Amendment C33**

(Authorised 25 May 2009 – Approved/Gazetted 16 January 2014)

Amendment C33 to the Wellington Planning Scheme was prepared by Wellington Shire Council at the request of the West Gippsland Catchment Management Authority.



*The Heart of Gippsland*



Amendment C33 sought to apply updated/new flood overlays to areas known to be affected by mainstream flooding during a 100-year ARI (average recurrence interval) flood. The Amendment affected various flood-prone areas within the Shire (including Port Albert), as identified by the East & West Gippsland Catchment Management Authorities (EGCMA & WGCMA), in association with the Wellington Shire Council.

The new flood extents were informed by, and representative of, current and best available scientific data (at the time) and were based on numerous studies, including the Flood Data Transfer Project (DSE 2000), the Rosedale Flood Warning Upgrade Project (GHD 2002), the Gippsland Lakes Flood Level Modelling Project (CEAH 2004), the Port of Sale Hydrological Study (SMEC 2004), aerial flood photography taken during major floods in 2001 and 2007 (WGCMA) and detailed topographical data (LIDAR) captured by DSE during 2008.

The Amendment was exhibited from 4 February to 18 March 2010. 139 submissions were received, a large number of which were unresolved with the main issues raised relating to the accuracy of data used to define overlay boundaries; the applicability of overlays to individual properties; and the social and economic impact of the overlays on individual landowners and affected communities, particularly in the township of Port Albert. 95 submissions were received from Port Albert alone, most of which remained unresolved because submitters objected to the imposition of a Land Subject to Inundation Overlay (LSIO) over much of the town when no such overlay had existed in the past. Submitters also disagreed with the LSIO on the grounds that a realistic basis did not exist in respect to the 1 in 100 year tidal inundation elevation used and consequently it was excessive in its extent.

The Panel Hearing for Amendment C33 was held on 23 and 24 November 2010. In relation to the submission raised by those in Port Albert, the Panel noted that:

- The predictions in the CSIRO report (Climate Change in Eastern Victoria – Stage 3 Report, 2006) relied upon to inform the extent of the LSIO and FO in Port Albert report were made on the basis of limited data and may not have reliably represented the complexity of the marine/terrestrial/climatic interface and, consequently, the elevation of the 1 in 100 year ARI tidal storm surge event for Port Albert. On this basis, the Panel recommended a review of the CSIRO report to determine the extent to which it could be relied upon.
- The CSIRO report, however, represented the best available information and that, with the precautionary principle in mind, should be applied until better data becomes available.

The Panel recommended that Amendment C33 be adopted as amended and endorsed by Council at its 7 September 2010 meeting, subject to a number of minor changes.

The Amendment was adopted by Council in April 2011. In 2014 the Minister for Planning approved the Amendment, with changes. These changes included the exemption of the urban areas (Residential 1 Zone (R1Z), Commercial 1 Zone (C1Z / B1Z) and Commercial 2 Zone (C2Z/ B4Z)) of Port Albert from the Land Subject to Inundation Overlay and Flood Overlay controls. The Amendment appeared in the Government Gazette and came into effect on 16 January 2014.



### 3. Strategic Justification for Amendment C95

#### Port Albert Planning Controls Review (PCR)

The PCR (Planning Controls Review) was undertaken by Meinhardt planning consultancy (through the then Department of Planning and Community Development's 'Rural Council Planning Flying Squad' funding) and a final report was provided to Council in June 2014.

A key component of the PCR was to investigate and address community concerns that development opportunities and growth in the town are being restricted by Port Albert's planning framework and to make recommendations regarding potential changes/modifications to the existing planning controls. More specifically, opportunities to 'cut red tape' were explored, with the aim of providing a greater level of consistency in the decision-making process across the controls, than currently exists.

In undertaking the review, Meinhardt critically reviewed:

- The existing planning framework for Port Albert - undertaken in order to identify key requirements relating to the use and development of land and to understand the purpose and application of the various provisions that apply to Port Albert, including relevant State and Local Planning Provisions as well as reference material.
- Recent permit trends - in order to understand recent and historical development patterns and trends in Port Albert.
- Planning issues raised by Council, or that had been identified through community consultation.

#### Key issues and implications

##### *Complexity of the Existing Planning Framework*

Port Albert has a number of special characteristics which warrant a level of protection through planning systems including heritage, character, design, environmental protection, and landscape protection. The planning framework for Port Albert is complex in recognition of these values. While the review found no need to consider specific changes to the application of these controls, it was identified that difficulties are most likely to arise through the requirements of the Heritage Overlay, Design and Development Overlay, and reference documents which contribute to these controls. A review of these provisions was a key focus of the report and a number of recommendations were made in this regard.

##### *Impact of Controls on Development*

Although the planning framework is complex, the vast majority of permit applicants obtain planning approval and as such there are no clear grounds to suggest that the planning framework is restricting development.

##### *Opportunities to Reduce Red Tape*

The report identified short and medium-long term opportunities to improve the existing planning framework and reduce red tape. As previously mentioned, difficulties are most likely to arise through the application of the requirements of the Heritage Overlay, Design and Development Overlay, and reference documents which contribute to these controls. It is in these provisions where the main opportunities to reduce red tape exist.

#### Recommendations of the Review

##### Short Term Recommendations:





*Municipal Strategic Statement and Local Planning Policy Framework:*

Inconsistencies exist between the objectives and strategies identified in both 21.04-3 and 21.12-10. These clauses provide the key guiding principles for development in Port Albert and other coastal towns in Wellington Shire. Clause 21.12-10 which relates specifically to Port Albert currently has but one objective:

- To protect and enhance the character and environment of Port Albert.

Strategies include:

- *Encourage modest expansion of commercial activity within the Port Albert town.*
- *Encourage those activities which cater for the needs of the town's growing permanent and tourist populations.*
- *Encourage tourism development which responds to the town's environmental constraints and special character.*
- *Encourage major tourism uses or developments which are not dependent on a coastal location to develop within the main existing townships of Loch Sport and Port Albert.*

There are a number of strategies encouraging economic development, tourism and major tourism uses, however it is difficult to achieve this with the single objective listed above. It has been recommended to introduce a further objective to Clause 21.12-10 supporting tourism and commercial growth.

*Design and Development Overlay - Schedule 9 (DDO9)*

- Align DDO9 exemptions with the current Port Albert Heritage Precinct Permit Exemptions.
- Exempt minor buildings and works such as outbuildings, sheds and extensions where the floor area of the building is relatively small and is confined to the rear of the existing building (those works which do not impact street amenity, heritage, or neighbourhood character would be exempt).
- The table to Clause 2.0 in DDO9 currently identifies the Port Albert Hotel as the height benchmark for Precincts 1 and 2. The hotel no longer exists. Meinhardt have recommended replacing the current benchmark with a similar specification - e.g. two storeys, as is used for the other DDO9 precincts. It is considered that the simplest approach is to specify a preferred building height of 9 metres above ground level, based on the previously surveyed and documented height of the former Port Albert Hotel.

*Key Non statutory measures*

- Publicly display reference and decision guidelines to help the public understand the decision making process.

*Key Medium-Long Term:*

- Review the extent of the Heritage Overlay (HO34)

**Amendment C95 - Proposed Changes to the Wellington Planning Scheme**

Amendment C95 to the Wellington Planning Scheme will seek to implement the recommendations of both the RLLR and the short-term recommendations of the PCR in one single amendment. The extent of the proposed changes are detailed below.

**Amend Clause 21.12-10 - Coastal Areas Strategic Framework**

Expand on the current objective for Port Albert and Palmerston in order to provide support for tourism and commercial growth.



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#### **Amend Clause 43.02-9 - Design and Development Overlay - Schedule 9**

Replace the current height benchmark which currently refers to the Port Albert Hotel and incorporate the exemptions recommended by the PCR. Where buildings and works are already exempt under Clause 62 of the Planning Scheme (for example: swimming pools, decks not more than 800mm above ground level) these exemptions have been removed from DDO-9 as they are duplicating exemptions that exist under Clause 62.

#### **Port Albert Rural Residential Lifestyle Lots Review (RLLR)**

The Rural Residential Lifestyle Lot Review (RLLR) was prepared in response to community concerns that there was insufficient land zoned to provide rural living lifestyle opportunities for people wanting to live in Port Albert. The need for the study was also endorsed in the Planning Panel Report (July 2013) for Planning Scheme Amendment C55 (Rural Zones Review), a recommendation of which was that:

*'Council proceed with review of rural residential lot opportunities in Port Albert and surrounding areas in the 2013/14 strategic planning work program and resolves to rezone land in this area for its most appropriate use, whether that be for rural/residential living, farming or conservation values.'*

Spire town planning consultants were appointed to undertake the RLLR, which began in March 2014 and was developed through a process that involved a significant amount of background and research work, detailed analysis and community involvement.

A key component of the RLLR was to investigate and address (community) concerns regarding the perceived mismatch of zoning to rural properties and other anomalies brought about by more recent changes to the Wellington Planning Scheme and the associated uncertainty surrounding ongoing land use and development rights. In particular, concerns were raised over the direct translation of land from the Rural Zone (RUZ) to the Farming Zone (FZ) in 2007.

The purpose of the RLLR was to determine the extent of available land that has a rational potential to be rezoned to increase the provision of rural lifestyle living opportunities in Port Albert. The RLLR provides a sequenced analysis of the following key strategic considerations:

- The role and significance of the Study Area (refer to Figure 1) in both a regional and local context.
- The significant physical opportunities and constraints of the Study Area (refer to Figure 2).
- Housing need, including the existing supply and likely future demand for rural residential development within the locality.
- The issues and concerns raised by local residents and landowners.
- The pertinent planning context of the Study Area at the state, regional and local levels - including planning policy and controls.

The above analysis is based on a thorough review of:

- The Wellington Planning Scheme and relevant recent Planning Scheme Amendments.
- A series of relevant strategic studies.
- The outcomes of targeted community and stakeholder consultation.







Figure 1: Study Area

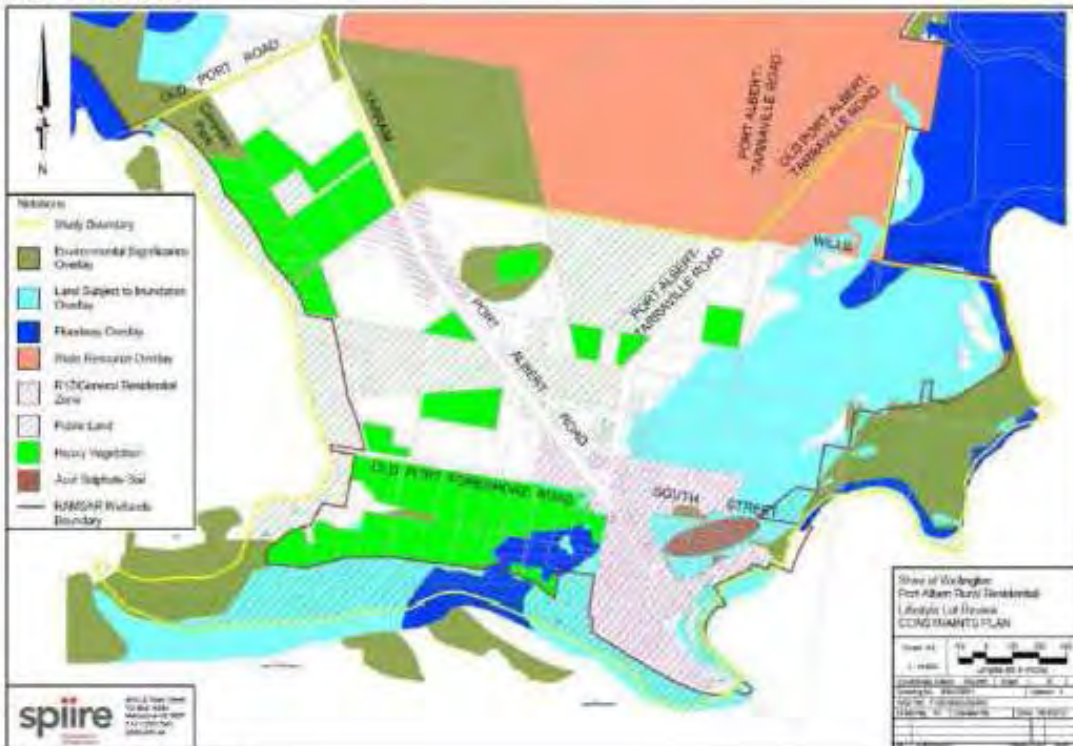


Figure 2: Constraints Map



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### Review Methodology

The Study Area was divided into a total of nine (9) individual precincts as shown in Figure 3 (below) in accordance with state government guidance, which advocated an approach focused on larger strategic areas rather than on an individual 'lot-by-lot' basis.

The extent of the precincts was determined on an assessment of both the planning controls that apply to the land and an on-site assessment including: land use, vegetation cover, environmental issues and access constraints. All of the precincts are currently within the Farming Zone.



Figure 3: Study Precinct Areas

### Final Review Recommendations

Overall, the final RRLR report found that there is some scope to provide rural living opportunities within the Study Area.

The findings of the RRLR are based on the following key considerations:

- The significant supply of standard town lots within the area for sale or development.
- A low level of anticipated population growth for the Study Area.
- Low projected demand for rural living lots based on demographics and growth projections.
- The extent of existing significant vegetation coverage within the area, including identified Ecological Vegetation Classes.



- The extent of fire risk due to the significant density of vegetation on both public and private land.
- The extent of potential flooding and inundation risk within the area, drainage constraints as well as the potential for increased tidal inundation.
- The ability to appropriately and sustainably service additional rural residential land.
- The location of the area to the immediate south of land within the State Resource Overlay in recognition of its valuable coal.
- The close proximity of the area to land utilised for significant levels of agricultural production, including dairy farms and timber harvesting.
- The location at the edge of Ramsar Convention listed and significant coastal wetland areas.

In the context of State and Local Planning Policy and having regard to the relevant Planning Practice Notes<sup>1</sup>, the Review provides the following recommendations in respect of each of the nine individual precinct areas:

**Precinct 1:** Investigate rezoning Precinct 1 to Rural Conservation Zone – Schedule 1.

**Precinct 2:** Rezone Precinct 2 to Rural Living Zone – Schedule 2 to facilitate rural residential development.

**Precinct 3:** Investigate rezoning Precinct 3 to Rural Conservation Zone – Schedule 1 in recognition of the environmental constraints and potential impacts that development could have on the characteristics and function of the wetlands and disturbance of Coastal Acid Sulphate Soils.

**Precinct 4:** Rezone Precinct 4 to Low Density Residential Zone to better reflect existing land use patterns (*excluding land at 180 Yarram-Port Albert Road which will be subject to an alternative rezoning process based on previous detailed discussions with Council*).

**Precinct 5:** Rezone land at 68 and 86 Yarram-Port Albert Road to correct mapping anomalies, investigate the rezoning of land at Lot 2 LP95313 from the General Residential Zone to Farming Zone and rezone land along Kilgowers Road to Rural Living Zone – Schedule 2 in recognition of the existing development levels and their location on the edge of Langsborough.

**Precinct 6:** Retain Precinct 6 in the Farming Zone. Investigate extending the Environmental Significance Overlay Schedule 2 to land at 19 Old Port Road. Investigate applying the Rural Activity Zone on a 'site-specific' basis to the existing caravan park.

**Precinct 7:** Retain land in Precinct 7 within the Farming Zone to reflect existing constraints.

**Precinct 8:** Retain Precinct 8 within the Farming Zone in view of the existing environmental constraints - including inundation and the potential for agricultural activity to occur.

**Precinct 9:** Retain Precinct 9 in the Farming Zone given the need to protect the land because of its identification in the Regional Growth Plan for coal resources and the constraints placed on development due to the land's inundation levels.

Subject to meeting the provisions of the Wellington Planning Scheme and obtaining planning approval, the recommended rezonings could provide the potential for 17 new dwellings.

<sup>1</sup> Planning Practice Note 37: *Rural Residential Development* (DTPLI, 2013)  
Planning Practice Note 42: *Applying the Rural Zones* (DTPLI, 2013)



In view of the existing Strategic Planning Work Program and competing priorities, the further investigative work required to support the potential rezoning within Precincts 1, 3, 5 and 6 is highly likely to be a longer-term action for Council. In addition, given that the focus for the Review was to identify opportunities for rural living growth, implementation actions focus on rezoning Precincts 2 and part of Precinct 5 to the Rural Living Zone – Schedule 2, rezoning mapping anomalies at 68 and 86 Yarram-Port Albert Road and rezoning the caravan park in Precinct 6 to the Rural Activity Zone.





#### 4. Planning Scheme Amendment C95

##### Land affected by the Amendment

The Amendment applies to all land in Port Albert and its surroundings with specific land parcels proposed for rezoning listed below:

Property Address	Title Details	Proposed
45-53 Kilgowers Rd, LANGSBOROUGH	Lot 1: TP: 909418 (CA: 78C)	Rezone from FZ to RLZ2
35-43 Kilgowers Rd, LANGSBOROUGH	Lot: 2 TP: 909418 (PCA: 74A) and Lot: 1 TP: 159829 (PCA: 74A)	Rezone from FZ to RLZ2
25-33 Kilgowers Rd, LANGSBOROUGH	Lot 1: TP: 740953 (PCA: 74B)	Rezone from FZ to RLZ2
Kilgowers Rd, LANGSBOROUGH	Lot: 1 TP: 120168 (PCA: 74B)	Rezone from FZ to RLZ2
Kilgowers Rd, LANGSBOROUGH	Lot: 1 TP: 120167 (PCA: 74B)	Rezone from FZ to RLZ2
5-13 Kilgowers Rd, LANGSBOROUGH	CA: 75B	Rezone from FZ to RLZ2
55-63 Kilgowers Rd, LANGSBOROUGH	CA: 78B	Rezone from FZ to RLZ2
185 Yarram-Port Albert Rd, PORT ALBERT	LOT: 3 PS: 145912	Rezone from FZ to RLZ2
183 Yarram-Port Albert Rd, PORT ALBERT	LOT: 2 PS: 145912	Rezone from FZ to RLZ2
Old Port Foreshore Rd, PORT ALBERT	LOT: 4 PS: 145912	Rezone from FZ to RLZ2
181 Yarram-Port Albert Rd, PORT ALBERT	LOT: 1 PS: 145912	Rezone from FZ to RLZ2
Old Port Foreshore Rd, PORT ALBERT	LOT: 1 TP: 744656H	Rezone from FZ to RLZ2
80 Old Port Foreshore Rd, PORT ALBERT	LOT: 1 TP: 330200N	Rezone from FZ to RLZ2
130 Yarram-Port Albert Rd, LANGSBOROUGH	LOT: 1 TP: 803338W	Rezone from FZ to RLZ2
106 Old Port Foreshore Rd, PORT ALBERT	CA: 139	Rezone from FZ to RLZ2
130 Old Port Foreshore Rd,	CA: 140	Rezone from FZ to RLZ2



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<b>PORT ALBERT</b>		
<b>Port Albert-Tarraville Rd, LANGSBOROUGH</b>	CA: 78A	Rezone from FZ to RLZ2
<b>Yarram-Port Albert Rd, PORT ALBERT</b>	CA: 145A	Rezone from PPRZ to RLZ2
<b>68 Yarram-Port Albert Rd, LANGSBOROUGH</b>	PCA: 76A	Rezone from part GRZ1 to FZ
<b>86 Yarram-Port Albert Rd, LANGSBOROUGH</b>	LOT: 1 PS: 39784	Rezone from part FZ to GRZ1
<b>170 Yarram-Port Albert Rd, PORT ALBERT</b>	CA: 1 SEC: 11	Rezone from FZ to LDRZ
<b>33 Fitzroy St, PORT ALBERT</b>	CA: 6 SEC: 11 and CA: 7 SEC: 11	Rezone from FZ to LDRZ
<b>172 Yarram-Port Albert Rd, PORT ALBERT</b>	PC: 356366H (UR: 40688)	Rezone from FZ to LDRZ
<b>22 Fitzroy St, PORT ALBERT</b>	Lot: E TP: 253 (CA: 5 SEC: 8), Lot: B TP: 253 (CA: 6 SEC: 8), Lot: C TP: 253, Lot: F TP: 253, Lot: D TP: 253	Rezone from FZ to LDRZ
<b>39 Lawrence St, PORT ALBERT</b>	CA: 9 SEC: 7	Rezone from FZ to LDRZ
<b>37 Lawrence St, PORT ALBERT</b>	Lot: 1 TP: 120781 (PCA: 8 SEC: 7)	Rezone from part FZ and part PUZ6 to LDRZ
<b>35 Lawrence St, PORT ALBERT</b>	Lot: 1 TP: 12078 (PCA: 7 SEC: 7)	Rezone from part FZ and part PUZ6 to LDRZ
<b>23-25 Lawrence St, PORT ALBERT</b>	LOT: 1 TP: 14607U and CA: 2 SEC: 7	Rezone from FZ to LDRZ
<b>23-25 Lawrence St, PORT ALBERT</b>	LOT: 2 & 3 TP: 14607U	Rezone from part FZ and part PUZ6 to LDRZ
<b>15 Egerton St, PORT ALBERT</b>	CA: 3 SEC: 7	Rezone from FZ to LDRZ
<b>13 Egerton St, PORT ALBERT</b>	CA: 4 SEC: 7	Rezone from FZ to LDRZ
<b>31 Lawrence St, PORT ALBERT</b>	CA: 5 SEC: 7	Rezone from FZ to LDRZ
<b>33 Lawrence St, PORT ALBERT</b>	Lot: 1 TP: 120779 (PCA: 6 SEC: 7)	Rezone from FZ to LDRZ
<b>Lawrence St, PORT ALBERT</b>	CA: 1 SEC: 7	Rezone from FZ to LDRZ
<b>24 Fitzroy St, PORT ALBERT</b>	CA: 10 SEC: 8, Lot: 1 TP: 10339, PCA: 7 SEC: 8, CA: 14 SEC: 8, CA: 15 SEC: 8	Rezone from FZ to LDRZ
<b>Egerton/Lawrence St, PORT ALBERT</b>	CA: 2002	Rezone from FZ to LDRZ





Lawrence St, PORT ALBERT	CA: 10 SEC 7	Rezone from FZ to LDRZ
Yarram-Port Albert Rd, PORT ALBERT	CA: 8 SEC: 11	Rezone from PPRZ to LDRZ
95 Old Port Rd, LANGSBOROUGH	CA: 46, LOT: 1 PS: 510876M and CA: 48	Rezone from FZ to RAZ

### What the Amendment does:

The Amendment implements the recommendations of the Port Albert Rural Residential Lifestyle Lots Review (2014) and Planning Controls Review (2014).

### Local Planning Policy changes are:

#### Amend Clause 21.12-10 - Coastal Areas Strategic Framework

Expand on the current objective for Port Albert and Palmerston in order to provide support for tourism and commercial growth.

#### Amend Clause 43.02-9 - Design and Development Overlay - Schedule 9

Replace the current height benchmark which currently refers to the Port Albert Hotel and incorporate the exemptions recommended by the PCR. Where buildings and works are already exempt under Clause 62 of the Planning Scheme (for example: swimming pools, decks not more than 800mm above ground level) these exemptions have been removed from DDO-9 as they are duplicating exemptions that exist under Clause 62.

### Proposed zoning changes are:



**Rezone Precinct 2 to RLZ 2:** Land to the north of Old Port Foreshore Road, west of the Yarram Port Albert Road and south of the Old Rifle Range public land.

**Rezone Precinct 2 to Rural Living Zone – Schedule 2** to facilitate rural residential development.

**Rezone Precinct 4 to LDRZ:** Land to the immediate north of the roundabout between Yarram Port Albert Road and Lawrence Street.

**Rezone Precinct 4 to Low Density Residential Zone** to better reflect existing land use patterns (excluding land at 180 Yarram-Port Albert Road which will be subject to an alternative rezoning process)



**Rezone areas of Precinct 5:** Land either side of the Langsborough residential area generally between Kilgowers Road and Valeska Street.

Rezone land at 68 and 86 Yarram-Port Albert Road to correct mapping anomalies and rezone land along Kilgowers Road to Rural Living Zone – Schedule 2 in recognition of the existing development levels and their location on the edge of Langsborough.



**Rezone Caravan Park to RAZ:** 95 Old Port Road

Rezone land at 95 Old Port Road to the Rural Activity Zone in recognition and support of the significance that the community places on the site as a key asset to the town.

**Consequent changes to the Planning Scheme maps are:**

- Amend Planning Scheme Maps 207, 208, 209 and 211



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## 5. Chronology of Events

### Council resolution and request for Authorisation

At the Council meeting of 21 April 2015 it was resolved:

*'That Council request the Minister for Planning to Authorise Council as the planning authority to prepare Amendment C95 pursuant to Section 8A of the Planning and Environment Act 1987 and once Authorisation is granted, proceed to exhibit Amendment C95.'*

Council received Authorisation (No.A03063) to prepare Amendment C95 on 6 May 2015.

### Exhibition of the Amendment

The Amendment was placed on public exhibition from 25 June to 27 July 2015.

The Planning Scheme Amendment and supporting documents were made available on the internet and to view in hard copy at both the Sale Service Centre and the Yarram Service Centre.

Notification letters with Fact Sheets were sent to:

- The prescribed ministers
- 8 statutory authorities
- 395 landowners and occupiers directly affected by the Amendment and to all landowners and occupiers on adjacent lots.

Notices appeared in the following publications:

- Gippsland Times (Tuesday 23 June 2015);
- Yarram Standard (Wednesday 24 June 2015); and
- Government Gazette (Thursday 25 June 2015).

Fact Sheets were made available at the Port Albert General Store and notice information was provided to the Port Albert Progress Association to distribute via its newsletter 'The Tattler'. A Council Planner was available to meet at the Yarram Service Centre each Tuesday of the exhibition period to speak with the community about the Amendment.

At the end of the exhibition period a total of 20 submissions were received.

### Request for a Panel

At its meeting of 15 September 2015 Council resolved:

*'That:*

1. *Council pursuant to Section 22 of the Planning and Environment Act 1987 consider all submissions made to Planning Scheme Amendment C95.*
2. *Council having considered all submissions made, resolve to request the Minister for Planning to appoint a panel pursuant to Section 23 of the Planning and Environment Act 1987.'*



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A Planning Panel Hearing to consider all submissions to Amendment C95 was requested on 17 September 2015.



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## 6. Strategic Assessment

### Why is the Amendment required?

Amendment C55 to the Wellington Planning Scheme, which implemented the findings of the *Wellington Shire Rural Zones Review Volumes 1 and 2 (2009)*, received 16 submissions from the Port Albert, Langsborough and Alberton areas raising issues regarding the application of the Farming Zone to their land. The submissions suggested farming to be an inaccurate description of the land and that it should be rezoned for rural residential purposes. While the decision was made that the issues raised were not for the Panel to resolve, the Panel endorsed the need for the study by recommending that:

*'Council proceed with review of rural residential lot opportunities in Port Albert and surrounding areas in the 2013/14 strategic planning work program and resolves to rezone land in this area for its most appropriate use, whether that be for rural/residential living, farming or conservation values.'*

Council engaged planning consultants Spiire in March 2014 to undertake the *Port Albert Rural Residential Lifestyle Lots Review (December 2014)* to investigate the perceived mismatch of zoning to rural properties and review rural living opportunities for the coastal township of Port Albert.

The Port Albert community has also recently raised concerns that development opportunities and growth in the town are being restricted by Port Albert's planning framework. This prompted Council to seek assistance from the State Government's *'Rural Council Planning Flying Squad'*, to undertake a succinct, focussed review of the existing planning controls that apply to the Port Albert Township. Meinhardt planning consultants were appointed to undertake the study.

The *Planning Controls Review (June 2014)* study explored opportunities to 'cut red tape', with the aim of providing a greater level of consistency in the decision-making process across the controls, than currently exists. The report identified short and medium-long term opportunities to improve the existing planning framework and reduce red tape.

Amendment C95 is now required to implement a number of recommendations from the *Port Albert Rural Residential Lifestyle Lots Review* (adopted by Council on 2 December 2014) and the *Port Albert Planning Controls Review* (June 2014). The Amendment seeks to rezone land to provide for additional rural living opportunities, correct a number of zoning anomalies, reduce unnecessary and duplicate planning regulation and align permit exemptions.

### How does the Amendment implement the objectives of planning in Victoria?

The Amendment is consistent with and implements the objectives of planning in Victoria specified in Section 4 of the *Planning and Environment Act 1987*. In particular, the Amendment implements:

- Objective 4(1)(a) – by providing for the fair and orderly, economic and sustainable use and development of the land.

The rezoning of the identified land will make provision for appropriately located rural living land in Port Albert while the amendments to local provisions will reduce unnecessary and



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duplicate controls which will reduce red tape and provide for a more simplified planning framework for Port Albert.

### **How does the Amendment address the environmental effects and any relevant social and economic effects?**

The *RLLLR* and *PCR* have been prepared having regard to environmental, social and economic impacts. The reports have given consideration to the relevant practice notes including Practice Note 37 which recognises that, '...rural living requires special consideration due to its *'environmental, social and economic impacts that can be significantly higher than those of standard residential development'*.

#### **• Environmental**

The rezoning recommendations contained within the *Port Albert Rural Residential Lifestyle Lots Review* considered existing environmental constraints when assessing the suitability of land for rezoning for Rural Living purposes. Of the nine (9) precincts identified in the Study Area, six (6) of the precincts were identified as being unsuitable for rural living use given the following environmental constraints:

- The extent of existing significant vegetation coverage within the area, including identified Ecological Vegetation Classes (EVCs), some of which is classified as endangered.
- The extent of fire risk due to the significant density of vegetation on both public and private land.
- The extent of potential flooding and inundation risk within the area, drainage constraints as well as the potential for increased tidal inundation.
- The location at the edge of Ramsar Convention listed and significant coastal wetland areas.
- The close proximity of coal resources to the north of the Study Area.

The areas proposed for rezoning have existing levels of rural residential development and are relatively free from the more extensive environmental constraints of land elsewhere within the Study Area.

In reviewing the planning framework within Port Albert, Meinhardt reviewed the application of the controls applying to the main township area in order to assess their suitability and application extent. A key finding was that Port Albert has a number of special characteristics which warrant a level of protection through planning systems including environmental and landscape protection and that the planning framework for Port Albert is complex in recognition of these values. As such no changes have been recommended in regards to the extent or suitability of the controls.

#### **• Social**

It is recognised that there are limited social services and infrastructure within Port Albert and its hinterland with residents relying on Yarram as the nearest service centre. Existing residents must travel for education and health, public transport is not available and retail services are limited to small operations in the Port Albert town area. In addition to this,



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some land in the *Port Albert Rural Residential Lifestyle Lot Review* Study Area is in close proximity to land utilised for significant levels of agricultural production, which acts as a constraint due to the potential impact of residential development on agriculture arising from a conflict in land uses.

The extent of land identified for rezoning will not create an increased demand for costly or inefficient social services nor will it result in conflicting uses with adjoining land. The social impacts of the proposed changes are considered to be minimal.

• **Economic**

- The extent of land proposed to be rezoned has been influenced by considerations such as the ability to appropriately and sustainably service additional rural residential land. There is currently limited infrastructure within the Port Albert Hinterland and the extent of land proposed for rezoning reflects this.
- The importance of agriculture to the Shire's economy has also been considered and where appropriate, productive agricultural land within the region is to be protected through the retention of the Farming Zone in these areas.
- The proposed rezonings have the ability to foster additional economic development through increased residential development and increased population levels.
- It has been recognised in the *Port Albert Planning Controls Review* that there is a shortcoming in the objective of Clause 21.12-10 which is potentially impacting tourism and commercial growth in Port Albert. The scheme contains a number of strategies encouraging economic development, tourism, and major tourism uses in Port Albert though it is currently difficult to achieve this with the single objective in Clause 21.12-10 - *To protect and enhance the character and environment of Port Albert*. It has been recommended to introduce a further objective to Clause 21.12-10 supporting tourism and commercial growth which has the potential to positively contribute to the economy in Port Albert

**Does the Amendment address relevant bushfire risk?**

The land within the (RRLR) Study Area is not currently affected by the Bushfire Management Overlay (BMO). However under the provisions of the Building Regulations the whole of Port Albert is located within a Bushfire Prone Area.

Recent fire history and the density and status of existing vegetation cover in the area leads to a high level of fire risk. The CFA, whose views were sought in relation to the RRLR indicated additional rural residential development would need to be cognisant of fire protection guidelines, which may require certain land sizes and vegetation setbacks.

Development can be achieved in accordance with the relevant State and Local Planning Policies and in a manner that will not increase risk to life or property from a bushfire, or the need for any ongoing land management controls.

The implementation of the short term recommendations of the *Port Albert Planning Controls Review* will have no impact on the level of bushfire risk.

Notwithstanding this, the CFA were consulted again during the public exhibition stage of the Planning Scheme Amendment process. The CFA did not object to the Amendment, however it did recommend the application of the BMO as the land proposed for Rural Living Zone – Schedule 2 in both Precinct 5 (north side of Kilgowers Road, Langsborough) and Precinct 2



(North of Old Port Foreshore Road) is in an area where the vegetation meets the criteria for BMO mapping.

Council and the CFA have been engaged in ongoing discussions relating to the CFA's submission and the level of fire risk in the area affected by the Amendment to ensure that it (the CFA) is satisfied with the proposal and to determine the most appropriate way to deal with any potential risk. The CFA has indicated that the fire safety requirements can be considered and addressed separately from Amendment C95 as part of any future development proposal in Port Albert, which will be adequately dealt with as part of the existing planning and building permit processes.

### **Does the Amendment comply with the requirements of any Minister's Direction applicable to the Amendment?**

The Amendment complies with the requirements of the Ministerial Direction on the Form and Content of Planning Scheme pursuant to s 7(5) of the *Planning and Environment Act 1987* (the Act).

Pursuant to section 12 of the Act, the Amendment complies with the following applicable Ministerial Directions:

- **Ministerial Direction No. 11 - Strategic Assessment of Amendments** ensures a comprehensive strategic evaluation of a Planning Scheme Amendment and the outcomes it produces. This section of the submission addresses the strategic considerations outlined in the guidelines.
- **Ministerial Direction No. 13**  
This Planning Scheme Amendment has considered the views of the relevant floodplain manager and is consistent with all policies, objectives and strategies for coastal Victoria as outlined in the State Planning Policy Framework.
- **Ministerial Direction No. 15 - The Planning Scheme Amendment Process.**  
This Planning Scheme Amendment is accompanied by all of the required information.

### **How does the Amendment support or implement the State Planning Policy Framework and any adopted State policy?**

The following Clauses of the State Planning Policy Framework (SPPF) are considered to be relevant to the proposed Amendment:

#### **CLAUSE 11 - SETTLEMENT**

**11.02-1: Supply of urban land**, which seeks to:

*'...ensure a sufficient supply of urban land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.'*

The Amendment supports and implements State Policy relating to settlement through the provision of sufficient rural residential land to meet forecast demand. The Amendment proposes to rezone 66ha of land to the Rural Living Zone – Schedule 2. Taking into consideration existing levels of demand in Port Albert and the potential for further subdivision



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in the proposed zone, this will accommodate projected population growth over at least a 15 year period.

## **CLAUSE 12 – ENVIRONMENTAL AND LANDSCAPE VALUES**

**Clause 12.01-1: Protection of biodiversity, which seeks to:**

*'... To assist the protection and conservation of Victoria's biodiversity, including important habitat for Victoria's flora and fauna and other strategically valuable biodiversity sites'*

**12.02-1: Protection of coastal areas, which seeks to:**

*'...recognise and enhance the value of the coastal areas to the community and ensure sustainable use of natural coastal resources.'*

**12.02-2: Appropriate development of coastal areas, which seeks to:**

*'...ensure development conserves, protects and seeks to enhance coastal biodiversity and ecological values.'*

**12.04-1: Environmentally sensitive areas, which seeks to:**

*'...protect and conserve environmentally sensitive areas.'*

The Amendment has taken into consideration the potential impacts of land use change on the biodiversity and environmental sensitivity of the area. The Amendment recognises the significant levels of vegetation and areas of environmental sensitivity, the existence of acid sulphate soils and the location of the area being adjacent to Ramsar Convention listed and significant coastal wetlands (Nooramunga Marine and Coastal Park). These considerations have contributed to the identification of the land proposed for rezoning.

## **CLAUSE 13 - ENVIRONMENTAL RISK**

**13.01-1: Coastal inundation and erosion, which seeks to:**

*'...plan for and manage the potential coastal impacts of climate change.'*

**13.02-1: Floodplain management, which seeks to:**

*'...assist the protection of:*

- *Life, property and community infrastructure from flood hazard.*
- *The natural flood carrying capacity of rivers, streams and floodways;*
- *The flood storage function of floodplains and waterways.*
- *Floodplain areas of environmental significance or of importance to river health.'*

Council has undertaken extensive consultation with West Gippsland Catchment Management Authority at both the study (RLLR) stage and during exhibition of the Amendment, to identify land affected by inundation under current conditions and the potential impacts of a 0.8 metre rise in sea levels by 2100. Land affected by coastal hazards is being retained in Farming Zone to avoid development in these areas.

**13.05-1: Bushfire planning strategies and principles, which seeks to:**

*'...assist to strengthen community resilience to bushfire.'*



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Although the land proposed for rezoning is not affected by the Bushfire Management Overlay, bushfire hazard in the area has been identified and been given consideration. The CFA were consulted at both the study stage and during the Amendment to ensure fire risk was adequately considered and the risk to residents, property and community infrastructure will not increase as a result of future land use and development.

#### **CLAUSE 14 - NATURAL RESOURCE MANAGEMENT**

##### **14.01-1: Protection of agricultural land, which seeks to:**

*'...protect productive farmland which is of strategic significance in the local or regional Context.'*

The Amendment recognises the areas of productive agricultural land to the north of the Study Area and also, that while the Port Albert Hinterland isn't used for traditional agricultural pursuits, that it is utilised for agriculture at a smaller or more intensive scale. The Hinterland area is important in both the agricultural productivity of the region and preventing incompatible land uses affecting productive agricultural land to the north. The farming zone has been retained in the Hinterland where appropriate.

##### **14.03: Resource Exploration and Extraction, which seeks to:**

*'...encourage exploration and extraction of natural resources in accordance with acceptable environmental standards and to provide a planning approval process that is consistent with the relevant legislation.'*

The Amendment recognises the close proximity of coal resources to the north of Port Albert and the importance of ensuring that the opportunity for exploration and extraction of natural resources is protected. Land affected by the State Resource Overlay is not proposed for rezoning and will remain in the Farming Zone.

#### **CLAUSE 15 – BUILT ENVIRONMENT AND HERITAGE**

##### **15.01-1: Urban design, which seeks to:**

*'...create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.'*

The Amendment proposes to make a number of changes to the Design and Development Overlay 9 that applies to the Port Albert Township. These changes will remove unnecessary requirements and introduce exemptions to minor buildings and works to effectively manage land development in Port Albert. The changes will not affect the intention of the Design and Development Overlay and the overlay will still ensure development does not detract from the natural and built character of Port Albert.

#### **CLAUSE 16 - HOUSING**

##### **16.02-1: Rural residential development, which seeks to:**

*'...identify land suitable for rural living and rural residential development'*

The Port Albert Rural Residential Lifestyle Lots Review was undertaken to review rural Living opportunities for the coastal township of Port Albert and provides the strategic justification for the proposed rezonings that form a component of Amendment C95. The study was prepared in accordance with the guiding principles for rural residential development and applying the rural zones as set out in Planning Practice Notes 37 and 42, respectively.





## CLAUSE 17 – ECONOMIC DEVELOPMENT

### 17.01-1: Business, which seeks to:

*'...encourage development which meet the communities' needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.'*

### 17.03-1: Facilitating tourism, which seeks to:

*'...encourage tourism development to maximise the employment and long-term economic, social and cultural benefits of developing the State as a competitive domestic and international tourist destination.'*

The proposed changes to the existing provisions applying to the township will align the current objective for Port Albert with existing strategies for the town and in doing so will help to facilitate and encourage tourism and economic development. The proposed rezonings have the ability to foster additional economic development through increased residential development and an increased population level.

## How does the Amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?

The following Clauses of the Local Planning Policy Framework (LPPF) are considered to be relevant to the proposed Amendment:

**Clause 21.04: Settlement & Housing** - *refers to how and where growth should be accommodated over the next fifteen years. Appropriateness of development depends on infrastructure services and the encroachment of urban settlement on highly valuable agricultural land, coal related land and natural environment.*

Based on current data and recent trends, the Amendment will potentially provide an additional 17 years of land for the future growth of Port Albert. The extent of land identified for rezoning will not create a requirement to provide additional infrastructure nor will it encroach on the highly valuable agricultural land and coal resources to the north of the Township. The sensitive natural environment in the Port Albert hinterland, including the Nooramunga Marine and Coastal Park, has been considered and has greatly influenced the location and extent of land proposed for rezoning.

**Clause 21.12: Coastal Areas Strategic Framework** - *sets out the current direction for land use and development within Port Albert.*

The proposed revision to Clause 21.12-10 seeks to strengthen support for existing strategies identified for Port Albert in the Wellington Planning Scheme by expanding on the currently limited objective and in doing so providing additional support for tourism and commercial growth in Port Albert.

**Clause 21.13: Environment and Landscape Values** – *recognises that the Shire's rural areas contain some of the most ecologically important and diverse areas in the State, that these areas have high natural value and require protection from the significant issues, including inappropriate development and removal of native vegetation.*



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As addressed in the previous section, the Amendment has taken into consideration the potential impacts of land use change on the biodiversity and environmental sensitivity of the area. The Amendment recognises the significant levels of vegetation and areas of environmental sensitivity, the existence of acid sulphate soils and the location of the area being adjacent to Ramsar Convention listed and significant coastal wetlands (Nooramunga Marine and Coastal Park). These considerations have informed the location and extent of land identified for rezoning.

**Clause 21.14: Environmental Risk** - *acknowledges that the Shire contains areas which are liable to flooding and susceptible to fire, and also other environmental risks including climate change and land degradation and that potential impacts of these risks need to be managed appropriately through land management practices and the prevention of inappropriate development.*

Council has undertaken extensive consultation with West Gippsland Catchment Management Authority at both the Review (RLLR) stage and during exhibition of the Amendment, to identify land affected by inundation under current conditions and the potential impacts of a 0.8 metre rise in sea level by 2100. Land affected by coastal hazards is being retained within Farming Zone to avoid development in these areas. Extensive consultation has also been undertaken with CFA to ensure fire risk in the area has been appropriately considered.

**Clause 21.15: Natural Resource Management', Clause 22.06: Coal Resources Policy and Clause 22.07: Coal Buffers Policy** - *acknowledges the Shires natural resources including significant coal resources and productive agricultural land and the need for recognition and protection of these important resources.*

As discussed in the previous section, consideration has been given to the close proximity of coal resources to the north of Port Albert and the importance of ensuring that the opportunity for exploration and extraction of natural resources is protected. Land affected by the State Resource Overlay is not proposed for rezoning and will remain in the Farming Zone.

**Clause 22.02: Rural Policy** – *The rural policy recognises the importance of agriculture to the Shire's economy and the need to protect productive agricultural land from fragmentation and inappropriate land use and development that has the potential to threaten the future value of the Shires agricultural sector.*

The Amendment also recognises the areas of productive agricultural land to the north of the Study Area and also, that while the Port Albert Hinterland isn't used for traditional agricultural pursuits, it is utilised for agriculture at a smaller or more intensive scale. The Hinterland area is important in both the agricultural productivity of the region and preventing incompatible land uses affecting productive agricultural land to the north. The farming zone has been retained in the Hinterland where appropriate.

**Clause 21.16: Built Environment and Heritage** - *acknowledges that the built form within the Shire requires careful consideration and guidance due to significant variation within the municipality and significant heritage assets need to be considered in land use and development decisions.*

**Clause 22.03: Heritage Policy** – *provides direction for the most appropriate ways to undertake works in heritage places and encourages a community climate of respect for, and appreciation of, Wellington Shire's heritage.*



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The Amendment proposes to make a number of changes to the Design and Development Overlay 9 that applies to the Port Albert Township. These changes will remove extraneous requirements and introduce exemptions to minor buildings and works to effectively manage land development in Port Albert. The changes will not affect the intent of the Design and Development Overlay, which will still ensure that development does not detract from the natural and built character of Port Albert.

**Clause 21.17: Economic Development** – *refers to the importance of tourism and its significant potential for growth, the need to diversify the Shire's economic base and the need to protect the Shire's rural areas and high quality agricultural land.*

The proposed changes to existing provisions applying to the township will align the current objective for Port Albert with existing strategies for the town and in doing so will help to facilitate and encourage tourism and economic development. The proposed rezonings have the ability to foster additional economic development through increased residential development and increased population levels.

#### **Does the Amendment make proper use of the Victoria Planning Provisions?**

The Amendment uses the most appropriate Victorian Planning Provision tools to achieve the strategic objectives of the Scheme. This proposed Amendment seeks to utilise existing zones and apply them to appropriate areas within the Port Albert Hinterland while amending existing provisions applying to the township to appropriately manage land development in Port Albert.

#### **How does the Amendment address the views of any relevant agency?**

In undertaking the *Port Albert Rural Residential Lifestyle Lot Review (2014)*, Spiire engaged with a number of statutory authorities who subsequently provided submissions which were factored into the final recommendations report. A summary of these submissions can be found below:

**DEPI/DELWP** – Rural Conservation Zone Implementation is supported in Precincts 1 and 3. Precinct 6 expansion of ESO1 is consistent with environmental objectives. Council should take into account VPP Amendment VC109 in relation to RCZs, clearance and defensible space for dwellings.

**South Gippsland Water** – any proposed smaller lots (less than 4000m<sup>2</sup>) will need to connect to South Gippsland Water's sewerage network and larger allotments will need to have the ability to treat and retain effluent on site in accordance with EPA standards and approved by Council.

**West Gippsland Catchment Management Authority (WGCMA)** – Final recommendations supported.

**Country Fire Authority (CFA)** – indicated additional rural residential development would need to be cognisant of fire protection guidelines, which may require certain land sizes and vegetation setbacks.

As part of the exhibition for the Amendment, letters were sent to 8 statutory authorities. Responses were received from three (3) Authorities (West Gippsland Catchment Management Authority, Department of Environment, Land, Water and Planning; Country Fire Authority). One (1) internal response was also received from Council's heritage advisor.



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**Department of Environment, Land Water and Planning (DELWP)** - indicated its support for the proposed Amendment in its current form.

**West Gippsland Catchment Management Authority (WGCMA)** - raised no objections.

**Country Fire Authority (CFA)** - Recommend application of the BMO to the land proposed for Rural Living Zone – Schedule 2 in both Precinct 5 (north side of Kilgowers Road, Langsborough) and Precinct 2 (north of Old Port Foreshore Road) as these areas of vegetation meet the criteria for BMO mapping and would ensure that bushfire mitigation measures are considered and incorporated into future development.

**Councils Heritage Advisor** - raised no objections to the proposed Amendment.

Following the directions hearing held in Yarram on 20 October 2015, Council reached out to the remaining authorities providing an additional opportunity to make a submission to the Amendment. No further submissions were received.

**Does the Amendment address relevant requirements of the Transport Integration Act 2010?**

The Amendment is not likely to have a significant impact on the transport system due to the small scale of the proposed rezonings. New rural living zoned land will utilise existing road infrastructure

**What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

It is considered that implementation of the recommendations of the *Port Albert Rural Residential Lifestyle Lots Review* and the *Port Albert Planning Controls Review* into the Wellington Planning Scheme will have a positive effect on Council resources and decrease administrative costs through the provision of updated, clear and concise planning regulations.



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## 7. Summary of issues raised in submissions and Council's response

At the close of the exhibition period, twenty (20) submissions were lodged with Council. Three (3) submissions were received from statutory authorities, one (1) internal response was received from Council's heritage advisor and sixteen (16) submissions were received from members of the community.

All submissions and responses can be found in the response to submissions table (Attachment 1).

The submissions will be addressed as follows:

- A. Statutory Authorities
- B. Zoning/Land use Issues
- C. Environmental Issues
- D. 'Other' planning matters

### A. Statutory Authorities

#### Submissions:

**West Gippsland Catchment Management Authority (WGCMA)** - Does not object to the Amendment.

**Country Fire Authority (CFA)** - recommend application of the BMO to the land proposed for Rural Living Zone – Schedule 2 in both Precinct 5 (north side of Kilgowers Road, Langsborough) and Precinct 2 (north of Old Port Foreshore Road) as these areas of vegetation meet the criteria for BMO mapping.

**Department of Environment, Land, Water and Planning (DELWP)** - supports the Amendment.

**Council's Heritage Advisor** - No heritage concerns with the proposed Amendment.

#### Council response to the comments from statutory authorities

In response to the submission made by the CFA, Council consider the recommended application of the Bushfire Management Overlay as a matter that is outside the scope of the current Planning Scheme Amendment and as such should be considered as a separate process on a more holistic basis in consultation with both the CFA and DELWP.

Notwithstanding this, Council has been engaged in ongoing discussions with the CFA regarding its submission and the level of fire risk in the area to ensure that it (the CFA) is satisfied with the proposal and to determine the most appropriate way to deal with any potential fire risk.

The CFA has indicated that fire safety requirements can be considered and addressed separately from Amendment C95 as part of any future development proposal in Port Albert and can be dealt with through existing planning and building permit processes.



## B. Zoning/Land Use Issues

(Submissions 5, 6, 7, 9, 10, 11, 12, 13, 14, 16, 17, 18)

### Key issues raised by submitters

Twelve (12) of the submissions raised issues regarding the relationship between existing land uses and the current zonings. More particularly, that the Farming Zone was incorrectly applied to land in 2007 and doesn't reflect the existing land use or recognise (the submitters' views) that the land isn't suitable for farming.

### Council response to the submissions

#### *Application of the Farming Zone in 2007:*

The submitters' believe that the translation of the former Rural Zone (RUZ) to the Farming Zone (FZ) in 2007 was incorrect and 'removed' property owners existing use rights. Whilst the former RUZ allowed for a wide range of uses, the purpose of the zone was: *'To provide for the sustainable use of land for Extensive animal husbandry (including dairying and grazing) and Crop raising (including Horticulture and Timber production)'* - in other words, to provide for agricultural uses. A permit was required for a dwelling on lots less than 40Ha in the RUZ.

In assessing an application for a dwelling in the RUZ, consideration had to be given as to whether the dwelling was 'reasonably required' for the operation of the rural activity conducted on the land. Despite these requirements, the ambit of discretion in the zone was regarded as being (amongst other things), too wide, which was leading to the loss of agricultural land and creating land use conflicts as incompatible uses were allowed to be established in close proximity to one another.

The purpose of the new FZ was to provide a zone that *unambiguously* catered for agriculture. The reason for the introduction of the zone was to address the issues evident with the RUZ since its application into the new format planning scheme (refer to [Section 2](#)).

As detailed in the document, *'New Zones for Rural Victoria Final Package'* (DSE, 2009) ([Attachment 2](#)), the Minister for Planning recognised the need at the time to retain existing rights and early in the consultation period announced that existing use rights would remain for dwellings within the FZ. These retained rights were that:

- A property owner will continue to be able to seek a permit for a dwelling on lots less than 40 hectares or the scheduled lot size.
- A property owner will continue to be able to seek a permit for a second dwelling on a lot.
- A property owner will continue to be able to seek a permit to excise an existing dwelling, subject to a condition preventing further subdivision of the resultant lots.

A key difference between the zones was that the FZ introduced the requirement for permit applications to be supported by a written statement explaining how the proposal responds to the decision guidelines of the zone.

The application of the FZ in 2007 was a direct translation from the former RUZ and was undertaken as a 'Ministerial Amendment' by the Minister for Planning.



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### ***RRLLR and Amendment C95:***

The Rural Residential Lifestyle Lots Review being implemented as part of Amendment C95 was required to consider a range of factors beyond the existing land use in assessing the most appropriate zone for each precinct (including environmental constraints, access, agricultural productivity, services and infrastructure levels). Where it has been determined that rural living development would not be suitable due to constraints, it was considered that the retention of the existing Farming Zone is the most appropriate way to prevent inappropriate land use and development.

## **C. Environmental Issues**

*(Submissions 3, 4, 7, 11, 13 15 & 17)*

### **Key issues raised by submitters:**

- Two (2) of the submissions (3 & 7) raised issues in relation to vegetation:
  - a) One (1) submitter had concerns that further subdivision in Precinct 2 would have significant impacts on the existing vegetation due to clearing for dwellings, fence lines, driveways and other buildings.
  - b) One (1) submitter believes the vegetation assessment in Precinct 1, which identified that the biodiversity and environmental values of the precinct required protection, was erroneous and inaccurate.
- Four (4) of the submissions (3, 4, 13 & 15) raised issues in relation to fire risk. The submission raised in relation included:
  - a) General agreement with the fire risk assessment
  - b) Concern with proposed level of human activity in Precinct 2 given level of fire risk
  - c) Questioned why areas affected by bushfire are being proposed for rezoning if this was given as a reason not to rezone other land.
  - d) Questioned why areas affected by bushfire are proposed for rezoning when there is filled, vacant (Farming Zone) land in the township that is unaffected by fire.
- Four (4) of the submissions (4, 7, 11 & 17) raised issues in relation to the justification of not rezoning certain areas due to inundation and flooding.

### **Council response to the submissions**

#### **1. Vegetation:**

- a) The views of DELWP were sought as part of the consultation process. DELWP raised no issues regarding vegetation removal and responded in support of the Amendment. Any removal, destruction or lopping of native vegetation requires a planning permit (unless specifically exempted) and must comply with the requirements of Clause 52.17. In instances where native vegetation is permitted to be removed, it is required that an offset is provided in a manner that makes a contribution to Victoria's biodiversity that is equivalent to the contribution made by the native vegetation being removed.
- b) The biodiversity significance identified in Precinct 1 is based on the findings of a professional study undertaken in 2010 by consultants Aecom – *'Environmental Investigation Report: Wonnangatta Valley and Port Albert*



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(2010)<sup>1</sup>. The significance of the vegetation, in combination with its location in the context of the neighbouring Nooramunga Marine and Coastal Park, means that it is valuable and requires protection.

## 2. Fire

As outlined above, in determining the potential for Precincts to be rezoned, a range of factors were considered - one of which was fire risk. None of the Precincts are currently affected by the Bushfire Management Overlay (BMO) under the planning system, but all land is affected by Bushfire Prone Area mapping under the building provisions.

During the preparation of the RRLLR, advice was sought from the Country Fire Authority (CFA) who had no objection to the proposed rezonings. Advice was again sought from the CFA during the exhibition of Amendment C95, at which time it was indicated that land affected by the proposed rezoning is not currently affected by the BMO, but the vegetation in these areas meets the criteria in DELWP 'Advisory Note 46: Bushfire Management Overlay Mapping Methodology and Criteria'.

Accordingly, the CFA welcomed further discussion with Council about the application of the BMO. Council believes that the potential application of the BMO to land in Port Albert (and in other relevant areas of the municipality) is a matter for consideration outside of the current C95 Amendment process, which will allow consideration of the matter to be conducted in a more holistic (not piecemeal) manner in full consultation with both the CFA and DELWP.

Following discussions between Council and CFA regarding the level of fire risk in the Port Albert area, the CFA has indicated that the fire safety requirements can be considered and addressed separately from Amendment C95 as part of any future development proposal in Port Albert, which can/will be adequately dealt with as part of existing planning and building permit processes.

## 3. Flooding

During the preparation of the RRLLR and as part of Amendment C95, technical flooding advice was sought from the relevant statutory authority, which in this instance is the West Gippsland Catchment Management Authority (WGCMA). The WGCMA advised that higher standards apply to the proposed rezoning of land compared to infill development:

- a. For rezoning that is likely to increase the number of residents, the WGCMA's first test is to determine if the land is predominately flood free in a 1% AEP (Annual Exceedance Probability) flood (i.e. enough flood free land to build a house, shed and driveway).
- b. The 'Guidelines for Coastal Catchment Management Authorities: Assessing development in relation to sea level rise (June 2012)', state that greenfield development (i.e. conversion of rural land to an urban use) will be assessed against a 1% AEP benchmark that includes an allowance of 0.8m rise in mean sea level.

Where the WGCMA has indicated that it would not support rezoning due to potential inundation and flooding, the land is either already subject to inundation under current





climatic conditions or would be affected under future climatic conditions (2100) to an extent that the land would not satisfy the first test of being 'predominantly flood free'.

#### **D. 'Other' planning matters**

*(Submissions, 7, 10, 11, 12, 13, 16 & 17)*

##### **Key issues raised by submitters:**

1. Four (4) of the submissions (7, 10, 11 & 17) raised issues in relation to the use of 'precincts' instead of individually assessing properties based on size, attributes and most appropriate use.
2. Three (3) of the submissions (7, 10 & 16) raised issues with the accuracy of the supply/demand figures used in the RRLLR.
3. Three (3) of the submissions (12, 13 & 17) raised questions about infrastructure levels, particularly, why the land proposed for rezoning is preferred over other land with better services and infrastructure.
4. Two (2) of the submissions (11 & 17) raised issues with the decision to retain their property in the Farming Zone despite the level of existing development on neighbouring properties.

##### **Council response to the submissions**

1. Assessment of properties on an individual basis is neither an accepted strategic planning approach nor best practice – a view advocated and supported by DELWP. Properties need to be considered within the wider landscape context with precincts having been determined by a combination of factors including existing planning controls, land use, vegetation and access constraints. This approach is also consistent with *Practice Note 37: Rural Residential Development* (DELWP), which focuses on areas rather than individual lots and land parcels.
2. The RRLLR looked at a number of data sources when assessing supply and demand for housing/residential lots in Port Albert. This included:
  - a) Anecdotal evidence gathered from discussions with the community and local estate agents who suggested that there is a level of demand for rural residential land in the Port Albert hinterland.
  - b) Victoria in Future 2012 (VIF 2012 – DELWP) projections.
  - c) Council building/planning permit data.

Officers believe that this provided the most accurate, up-to-date data available at the time that the RRLLR was undertaken. This also complies with State Planning Policy, which requires consideration, where relevant, of Victorian Government population projections and land supply estimates when planning for sufficient supply of land to meet forecast demand.

3. In relation to both issues 3 & 4 above - as previously discussed, the RRLLR was required to consider a number of different factors (including the existing land use, environmental constraints, access, agricultural productivity, service provision and infrastructure levels) when assessing the most appropriate zone for each precinct. Where properties have access and services but are not recommended for rezoning, other constraints are present that make residential development inappropriate in these areas.



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## Attachments



*Planning and Environment Act 1987*

**Panel Report**

Wellington Planning Scheme Amendment C95

Port Albert Rural Residential Lifestyle Lots Review

13 January 2016

*Planning and Environment Act 1987*

Panel Report pursuant to Section 25 of the Act

Wellington Planning Scheme Amendment C95

Port Albert Rural Residential Lifestyle Lots Review

13 January 2016



Brett Davis, Chair



Geoffrey Carruthers, Member



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## List of Abbreviations

AEP	Annual Exceedance Probability
AHD	Australian Height Datum
ARI	Average Recurrence Interval
BMQ	Bushfire Management Overlay
CFA	Country Fire Authority
DELWP	Department of Environment, Land, Water and Planning
FZ	Farming Zone
GRZ	General Residential Zone
LSIO	Land Subject to Inundation Overlay
PAPA	Port Albert Progress Association
PCR	Planning Controls Review (Meinhardt June 2014)
RAMSAR <sup>1</sup>	Convention on Wetlands
RCZ	Rural Conservation Zone
RLZ	Rural Living Zone
RRLLR	Rural Residential Lifestyle Lots Review (Spiire October 2014)
RZ	Rural Zone
SLR	Sea Level Rise
SPPF	State Planning Policy Framework
WGCMA	West Gippsland Catchment Management Authority

<sup>1</sup> RAMSAR – an intergovernmental treaty that provides the framework for national action and international cooperation for the conservation and use of wetlands and their resources.



## Overview

### Amendment Summary

The Amendment	Wellington Planning Scheme Amendment C95
Common Name	Port Albert Rural Residential Lifestyle Lots Review
Subject Site	Port Albert township
The Proponent	Wellington Shire Council
Planning Authority	Wellington Shire Council
Authorisation	Requested 21 April 2015
Exhibition	25 June to 27 July 2015
Submissions	20

### Panel Process

The Panel	Brett Davis (Chair) and Geoffrey Carruthers
Directions Hearing	Yarram Service Centre, Yarram, 20 October 2015
Panel Hearing	Yarram Service Centre, Yarram, 30 November and 1 December 2015
Site Inspections	Unaccompanied, 20 October and 30 November 2015
Date of this Report	13 January 2016

## Executive Summary

Wellington Planning Scheme Amendment C95 (the Amendment) was prepared by Wellington Shire Council (Council) as Planning Authority. As exhibited, the Amendment proposes to:

- Implement the recommendations and findings of the Port Albert Rural Residential Lifestyle Lots Review (2014) and the Port Albert Planning Controls Review (2014)
- Rezone nominated land near Port Albert to Rural Living Zone, Low Density Residential Zone, Rural Activity Zone, Farming Zone and General Residential Zone
- Make associated changes to Clause 21.12 - Coastal Areas Strategic Framework and to the Design and Development Overlay, Schedule 9.

Council received 20 submissions, with the majority opposing the Amendment. The reasons for opposition included:

- Inappropriate justification
- Council is too conservative (not rezoning enough land)
- The Farming Zone translation is flawed
- Effect on property values and rates
- Inefficient in-depth investigation.

In the majority of cases, the Panel finds that the existing the Farming Zone (FZ) for most precincts is inappropriate. It was disappointing that Council did not look to go further with its recommendations in order to rectify this. However it is beyond the role of this Panel to recommend broad scale rezoning of land when there remain several outstanding issues - particularly flood inundation and fire risks.

The Country Fire Authority (CFA) preference was for a Bushfire Management Overlay to be used, however for various reasons the Amendment was not exhibited with one. As such, the CFA relied upon bushfire management planning Memorandum of Understanding with Council. This has yet to be finalised.

The West Gippsland Catchment Management Authority (WGCMA) outlined that a majority of the subject sites will be affected with an increase in AHD level predictions to the year 2100. The WGCMA was of the view that this ruled out rezoning of land. What was not clear to the Panel is why this could still not be mitigated through an overlay or planning control, and was not a reason to 'quarantine' unviable farmland.

Neither the Council nor any submitters presented the Panel with expert evidence on matters such as land supply, fire and inundation issues. Council relied on the work undertaken by Spiire, the Port Albert Rural Residential Lifestyle Lots Review (2014) (RRLLR). This document clarifies precinct boundaries.

The focus of the RRLLR is to identify opportunities for rural living growth, rather than broader issues of the applicability or relevance of the FZ as it has been applied to Port Albert.

Limited land supply was raised by a number of submitters. There is evidently little apparent land supply or demand issue. The empirical data that was presented to the Panel by Council is the best available reasoning, and satisfies the Panel.

The Panel encourages Council as a priority to undertake a rigorous strategic approach to predicted climate change implications in Port Albert, and that the input of the WGCMA and CFA is applied on a precinct basis, rather than rely upon applying conditions on an individual site-by-site permit basis. The precincts adopted as part of this Amendment should be the basis on which to prepare future Amendments with all information at hand.

The close proximity to a RAMSAR listed marine reserve and wetlands require further attention. As part of further strategic work, a contiguous Rural Conservation Zone (RCZ) buffer at the RAMSAR interface is suggested as a salient consideration.

The Panel is empathetic to issues raised in Precinct 7 however it agrees with the recommendation of Council not to rezone any further land at this stage.

With regard to the 'anomalies' put forward by Council, the Panel notes that zone boundaries don't necessarily have to follow a cadastre. In this case, rezoning the land to suit property boundaries would create another anomaly and it did not support these changes.

The Panel believes that the responsible course of action for Council is to conduct a review of the issues identified by the Panel, and consider the factors that have changed and update the RRLR accordingly. The review should, as a minimum, consult the WGCMA, Port Albert Progress Association (PAPA) and the CFA; and preferably also involve a community consultation component in order to gain back some of the lost ownership of the outcome expressed by the Port Albert community. This should address the appropriateness of the FZ (with a view to removing it), meaningful land supply analysis and include how to apply Land Subject to Inundation and Bushfire Management Overlays concurrently with any future Planning Scheme Amendments relating to the Port Albert precincts.

#### **Recommendation**

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

- 1 Adopt Amendment C95 to the Wellington Planning Scheme as exhibited, subject to deleting Precinct 5 - rezoning of land at 68 and 86 Yarram-Port Albert Road.**



# 1 Background

Wellington Planning Scheme Amendment C95 (the Amendment) was prepared by Council as Planning Authority. As exhibited, the Amendment proposes to:

- Implement the recommendations and findings of the Port Albert Rural Residential Lifestyle Lots Review (RLLR) (2014) and the Port Albert Planning Controls Review (2014);
- Rezones nominated land near Port Albert variously to Rural Living Zone (RLZ), Low Density Residential Zone (LDRZ), Rural Activity Zone (RAZ), Farming Zone and General Residential Zone (GRZ) and;
- Makes associated changes to Clause 21.12 - Coastal Areas Strategic Framework and to the Design and Development Overlay, Schedule 9 (DDO9).

Those in attendance at the Panel Hearing are listed in Table 1.

Table 1: Parties to the Panel Hearing

Submitter	Represented by
Wellington Shire Council	Mr Barry Hearsey (Coordinator on Planning) Mr Ben Proctor (Strategic Planner)
West Gippsland Catchment Management Authority	Mr Wayne Gilmore
Country Fire Authority	Mr Jude Kennedy and Ms Ann Coxon
Mr Don Cairthness	
Mr John Coghill and J Kerndge	
Mr Michael Glebov	
Port Albert Progress Association	Mr Saul Stainer Mr Michael Hobson
Mr Gary Proud	
Mr Peter and Mrs Jill Coates	
Ms Jacqueline Chelebian (by phone)	

## 1.1 Right of reply

At the conclusion of the Hearing, the Panel requested Council to provide its 'right of reply' in writing addressing the following issues:

- *Noting the new information tabled by the WGCMA during the Hearing, expand its reasons why the RLZ and RAZ have been chosen, and if it relies on the Spiire report in forming its recommendations*
- *Clarification on the criteria applied in determining zones and precincts and how was this applied*
- *Clarification regarding how the CFA and bushfire requirements could be dealt with in the absence of applying the BMO*

- Council provides an electronic copy of the 2002 Port Albert Master Plan and EnPlan document raised in submissions.

The Right of Reply was submitted to Planning Panels Victoria and all parties on 7 December 2015.

## 1.2 Procedural matter

Gary Proud (submitter 16) raised a procedural issue in writing on 24 July 2015, and again at the Directions Hearing on 20 October 2015, questioning whether the Panel Hearing should be convened at all, when the Council has not complied with the Section 4 Objectives requirements of the *Planning and Environment Act 1987* (the Act). He submitted that Council had failed to provide for fair, orderly, economic, and sustainable use and development of land. He asserted that Council had never undertaken the review of the previous use of the subject sites prior to Amendment C43, which was recommended in the Amendment C55 Panel report in 2013<sup>2</sup>.

At the Directions Hearing the Panel ruled that the Amendment had been properly prepared by Council and approved by DELWP in accordance with Ministerial Direction 11 (Strategic Assessment Guidelines) and the Form and Content of Planning Schemes under Section 7(5) of the Act.

## 1.3 Previous amendments

### Amendment C43

Amendment C43 was prepared by the Minister for Planning and introduced the FZ and RCZ into the Wellington Planning Scheme. The Amendment resulted in the direct translation of the 'old' rural zones (Rural Zone and Environmental Rural Zone) to the new rural zones FZ and RCZ.

### Amendment C55

In its original form, Amendment C55 proposed to implement the findings of the adopted Rural Zones Review by:

- Rezoning of agricultural land in the Wonnangatta and Dargo River Valleys from the Rural Conservation Zone to the Farming Zone.
- Rezoning of 4 Crown Land parcels in the Dargo area from Rural Conservation Zone to the Public Conservation and Resource Zone.
- Extending the application of Schedule 8 to the Environmental Significance Overlay to all areas within a Special Water Supply Catchment Area.
- Inserting 'Planning Units' into the Municipal Strategic Statement.
- Inserting a new local Rural Policy.
- Consequential changes to the local provisions of the Wellington Planning Scheme.

The Panel acknowledged that there may be properties that were translated into the Farming Zone that could not be farmed, though it was also made clear by the Panel in its report that it was, "... not suggesting that these properties all become Rural Residential or Rural Living

<sup>2</sup> Panel report Amendment C55, July 2013, para 16



*Zones (as the strategic work has not been undertaken or provided), but that the review investigate the appropriateness of zoning in this area.'*

Amendment C55 was ultimately split into two parts with Part 1 comprising all components of the Amendment except all matters relating to the Special Water Supply Catchments and Part 2 which included all matters relating to the special water supply catchments. C55 (Part 1) was formally adopted by Council on 17 December 2013 and forwarded to the Minister for Planning on 2 January 2014 for approval with Part 2 of the Amendment being abandoned. Amendment C55 (Part 1) was approved by the Minister for Planning and came into effect 1 May 2014.

### **Amendment C33**

Amendment C33 was prepared by Wellington Shire Council in 2010 at the request of the WGCMA. Amendment C33 sought to apply updated/new flood overlays to areas known to be affected by mainstream flooding during a 1 in 100 year ARI (Average Recurrence Interval) flood. ARI is the likelihood of occurrence, expressed in terms of the long-term average number of years, between flood events as large as or larger than the design flood event.

The Amendment affected various flood prone areas within the Shire (including Port Albert), as identified by the East and West Gippsland Catchment Management Authorities in association with the Wellington Shire Council.

The new flood mapping extents were informed by, and representative of, best available data at the time, and were based on numerous studies: including the Flood Data Transfer Project (DSE 2000), the Rosedale Flood Warning Upgrade Project (GHD 2002), the Gippsland Lakes Flood Level Modelling Project (CEAH 2004), the Port of Sale Hydrological Study (SMEC 2004), aerial flood photography taken during major floods in 2001 and 2007 (WGCMA) and detailed topographical data (LIDAR) captured by DSE during 2008.

Amendment C33 was exhibited from 4 February to 18 March 2010, and 139 submissions were received. A large number of submissions were unresolved with the main issues raised relating to the accuracy of data used to define overlay boundaries; the applicability of overlays to individual properties; and the social and economic impact of the overlays on individual landowners and affected communities, particularly in the township of Port Albert.

Ninety-five submissions were received from Port Albert, most of which remained unresolved because submitters objected to a Land Subject to Inundation Overlay (LSIO) being introduced over much of the town, when no such overlay had existed in the past. Submitters also disagreed with the LSIO on the grounds that a realistic basis did not exist in respect to the 1 in 100 year tidal inundation elevation used, and consequently the LSIO was excessive in its extent.

The C33 Panel noted that:

- *The predictions in the CSIRO report (Climate Change in Eastern Victoria – Stage 3 Report, 2006) relied upon to inform the extent of the LSIO and FO in Port Albert report were made on the basis of limited data and may not have reliably represented the complexity of the marine/terrestrial/climatic interface and, consequently, the elevation of the 1 in 100 year ARI tidal storm surge event for Port Albert. On this basis, the Panel recommended a*



*review of the CSIRO report to determine the extent to which it could be relied upon.*

- *The CSIRO report, however, represented the best available information and that, with the precautionary principle in mind, should be applied until better data becomes available.*

Council adopted the Amendment in April 2011, and subsequently in 2014 the Minister for Planning approved the Amendment, with changes. These changes included the exemption of the town centre urban areas (Residential 1 Zone (R1Z), Commercial 1 Zone (C1Z / B1Z) and Commercial 2 Zone (C2Z/ B4Z)) of Port Albert from the Land Subject to Inundation Overlay and Flood Overlay controls. The Amendment came into effect on 16 January 2014.

#### 1.4 Precinct recommendations

The Amendment includes the RRLR as a reference document. Council informed that Panel that further investigative work would be required to support potential rezoning within Precincts 1, 3, 5 and 6.

Table 2 RRLR Recommendations

Precinct	Recommendation
Precinct 1	Investigate rezoning to RCZ1 (long term and not included in this Amendment)
Precinct 2	Rezone to RLZ2
Precinct 3	Investigate rezoning to RCZ1 (long term and not included in this Amendment)
Precinct 4	Rezone to LDRZ
Precinct 5	Rezone land to correct mapping anomalies and investigate the rezoning of land at Lot 2 LP95313 from GRZ to FZ and rezone land along Kilgowers Road to RLZ2
Precinct 6	Retain in the FZ. Investigate extending the ESO2 to land at 19 Old Port Road. Apply the RAZ to the caravan park.
Precincts 7,8,9	Retain in FZ.

#### 1.5 Issues dealt with in this report

The Panel considered all written submissions, as well as submissions presented to it during the Hearing. In addressing the issues raised in those submissions, the Panel has been assisted by the information provided to it as well as its observations from inspections of specific sites.

This report deals with the following matters:

- Planning Context
- Strategic Justification
- General Issues with the Farming Zone
- Other issues
- Precincts.

## 1.6 Property devaluation and rates

A number of submitters were concerned that the Amendment would or may devalue their property. There are numerous factors that can influence property value and no evidence was presented to indicate or prove the Amendment would influence a property's value.

The Panel informed submitters that it has been a long held legal principle at PPV and VCAT hearings that the impact or otherwise of planning decisions upon property values is not a matter that should influence our considerations.

The Panel refers to Mitchell C92:

*The core consideration for amendments in clause 10.04 of the planning scheme, namely balancing competing objectives in the SPPF in favour of net community benefit and sustainable development, will, and has, generally resulted in amendments placing controls on private land being strongly weighted to the broader community benefit rather than any individual's real or perceived disbenefit or loss of personal benefit.*

*In relation to property devaluation, the Panel has not been presented with any evidence that substantiates such claims. Furthermore, it considers that even if there is some level of property devaluation associated with the Amendment, this does not weigh against the overall benefit to the community of the Amendment.<sup>3</sup>*

On the matter of rate notices raised by submitters, the Panel notes that this does not form part of its ambit of discretion nor does it make any further comment on the matter.

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<sup>3</sup> Mitchell C92 Panel Report, pg 33

## 2 Planning context

Council provided a response to the Strategic Assessment Guidelines as part of the Explanatory Report.

The Panel has reviewed the policy context of the Amendment, and relies upon Council's submitted appraisal of the relevant zone and overlay controls and other relevant planning strategies:

### 2.1 Policy framework

#### (i) State Planning Policy Framework

Council submitted that the Amendment is supported by the following clauses in the SPPF:

##### **Clause 11 - Settlement**

##### **Clause 12: Environmental and Landscape Values**

##### **Clause 12.01-1: Protection of biodiversity**, which seeks:

*to assist the protection and conservation of Victoria's biodiversity, including important habitat for Victoria's flora and fauna and other strategically valuable biodiversity sites.*

##### **Clause 12.02-1: Protection of coastal areas**, which seeks to:

*recognise and enhance the value of the coastal areas to the community and ensure sustainable use of natural coastal resources.*

##### **Clause 12.02-2: Appropriate development of coastal areas**, which seeks to:

*ensure development conserves, protects and seeks to enhance coastal biodiversity and ecological values.*

##### **Clause 12.04-1: Environmentally sensitive areas**, which seeks to *protect and conserve environmentally sensitive areas.*

The Amendment has considered the potential impacts of land use change on the biodiversity and environmental sensitivity of the area. The Amendment recognises the significant levels of vegetation and areas of environmental sensitivity, the existence of acid sulphate soils and the location of the area being adjacent to RAMSAR Convention listed and significant coastal wetlands (Nooramunga Marine and Coastal Park). These considerations have contributed to the identification of the land proposed for rezoning.

##### **Clause 13: Environmental Risk**

##### **Clause 13.01-1: Coastal inundation and erosion**, which seeks to:

*plan for and manage the potential coastal impacts of climate change.*

##### **Clause 13.02-1: Floodplain management**, which seeks to:

*assist the protection of life, property and community infrastructure from flood hazard. The natural flood carrying capacity of rivers, streams and floodways'*



*The flood storage function of floodplains and waterways. Floodplain areas of environmental significance or of importance to river health.*

Council consulted with the WGCMA at both the RRLR stage and during exhibition of the Amendment, to identify land affected by inundation under the DELWP advice regarding the potential impacts of a 0.8 metre rise in sea levels by 2100. Land affected by coastal hazards is proposed to be retained in FZ to avoid development in these areas.

**Clause 13.05-1: Bushfire planning strategies and principles**, which seeks to:

*assist to strengthen community resilience to bushfire.*

Although the land proposed for rezoning is not affected by the Bushfire Management Overlay (BMO), bushfire hazard in the area has been identified and been given consideration. The CFA was consulted at both the study stage and during the Amendment to ensure fire risk was adequately considered and the risk to residents, property and community infrastructure will not increase as a result of future land use and development.

#### **Clause 14 - Natural Resource Management**

**Clause 14.01-1: Protection of agricultural land**, which seeks to:

*protect productive farmland which is of strategic significance in the local or regional context.*

The Amendment recognises the areas of productive agricultural land to the north of the Study Area and also, that while the Port Albert Hinterland is not used for traditional agricultural pursuits, that it is utilised for agriculture at a smaller or more intensive scale. The Hinterland area is important in both the agricultural productivity of the region and preventing incompatible land uses affecting productive agricultural land to the north. The farming zone has been retained in the Hinterland where appropriate.

**Clause 14.03: Resource Exploration and Extraction**, which seeks to:

*encourage exploration and extraction of natural resources in accordance with acceptable environmental standards and to provide a planning approval process that is consistent with the relevant legislation.*

The Amendment recognises the close proximity of coal resources to the north of Port Albert and the importance of protecting the opportunity for exploration and extraction of natural resources. Land affected by the State Resource Overlay is not proposed for rezoning and will remain in the FZ.

#### **Clause 15 – Built Environment and Heritage**

**Clause 15.01-1: Urban design**, which seeks to:

*create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.*

The Amendment proposes to make a number of changes to the DDO9 that applies to the Port Albert Township. These changes will remove unnecessary requirements and introduce exemptions to minor buildings and works to effectively manage land development in Port Albert. The changes will not affect the intention of the Design and Development Overlay

and the overlay will still ensure development does not detract from the natural and built character of Port Albert.

**Clause 16: Housing**

**Clause 16.02-1: Rural residential development**, which seeks to:

*identify land suitable for rural living and rural residential development*

The Port Albert Rural Residential Lifestyle Lots Review was undertaken to review rural living opportunities for the coastal township of Port Albert and provides the strategic justification for the proposed re-zonings that form a component of Amendment C95. The study was prepared in accordance with the guiding principles for rural residential development and applying the rural zones as set out in Planning Practice Notes 37 and 42, respectively.

**Clause 17: Economic Development**

**Clause 17.01-1: Business**, which seeks to:

*encourage development which meet the communities' needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.*

**Clause 17.03-1: Facilitating tourism**, which seeks to:

*encourage tourism development to maximise the employment and long-term economic, social and cultural benefits of developing the State as a competitive domestic and international tourist destination.*

The proposed re-zonings have the ability to foster additional economic development through increased residential development and an increased population.

**(ii) Local Planning Policy Framework and the Wellington Shire Municipal Strategic Statement**

Council submitted that the Amendment supports the following local planning objectives:

**Clause 21.04: Settlement and Housing**

*Based on current data and recent trends, the Amendment will potentially provide an additional 17 years of land for the future growth of Port Albert. The extent of land identified for rezoning will not create a requirement to provide additional infrastructure nor will it encroach on the highly valuable agricultural land and coal resources to the north of the Township. The sensitive natural environment in the Port Albert hinterland, including the Nooramunga Marine and Coastal Park, has been considered and has greatly influenced the location and extent of land proposed for rezoning.*

**Clause 21.12: Coastal Areas Strategic Framework** - sets out the current direction for land use and development within Port Albert.

*The proposed revision to Clause 21.12-10 seeks to strengthen support for existing strategies identified for Port Albert in the Wellington Planning Scheme*



*by expanding on the currently limited objective and in doing so providing additional support for tourism and commercial growth in Port Albert.*

**Clause 21.13: Environment and Landscape Values**

*The Amendment has taken into consideration the potential impacts of land use change on the biodiversity and environmental sensitivity of the area. The Amendment recognises the significant levels of vegetation and areas of environmental sensitivity, the existence of acid sulphate soils and the location of the area being adjacent to RAMSAR Convention listed and significant coastal wetlands (Nooramunga Marine and Coastal Park). These considerations have informed the location and extent of land identified for rezoning.*

**Clause 21.14: Environmental Risk**

Council submitted that it had undertaken extensive consultation with WGCMA at both the RRLR stage and during exhibition of the Amendment, to identify land affected by inundation under current conditions and the potential impacts of a 0.8 metre rise in sea level by 2100. Land affected by coastal hazards is being retained within FZ to avoid development in these areas. Extensive consultation has also been undertaken with CFA to ensure fire risk in the area has been appropriately considered.

**Clause 21.15: Natural Resource Management, Clause 22.06: Coal Resources Policy and Clause 22.07: Coal Buffers Policy**

*Consideration has been given by Council to the close proximity of coal resources to the north of Port Albert and the importance of ensuring that the opportunity for exploration and extraction of natural resources is protected. Land affected by the State Resource Overlay is not proposed for rezoning and will remain in the FZ.*

**Clause 22.02: Rural Policy**

*The Amendment recognises the areas of productive agricultural land to the north of the Study Area and that while the Port Albert Hinterland is not used for traditional agricultural pursuits, it is utilised for agriculture at a smaller or more intensive scale.*

**Clause 21.16: Built Environment and Heritage and Clause 22.03: Heritage Policy**

*The Amendment proposes to make a number of changes to the Design and Development Overlay 9 that applies to the Port Albert Township. These changes will remove extraneous requirements and introduce exemptions to minor buildings and works to effectively manage land development in Port Albert. The changes will not affect the intent of the Design and Development Overlay, which will still ensure that development does not detract from the natural and built character of Port Albert.*



## 2.2 Planning scheme provisions

The Amendment applies the appropriate Victorian Planning Provisions tools to achieve the strategic objectives of the Scheme. This proposed Amendment seeks to utilise existing zones and apply them to appropriate areas within the Port Albert Hinterland while amending existing provisions applying to the township to appropriately manage land development in Port Albert.

### (i) Zones

The FZ, RL22, LDRZ, RAZ and GRZ form part of the Amendment.

It is proposed to amend the Design and Development Overlay Schedule 9 to streamline the control and provide greater clarity to permit applicants and Council. Council submitted:

*The DDO states that buildings should not exceed the height of the Port Albert Hotel. This control is now redundant. It is proposed to amend Schedule 9 to change this control so that buildings should not exceed a height of 9m above ground level (previously surveyed height of the Port Albert Hotel).*

*Further exemptions for minor buildings and works such as sheds, outbuildings and minor extensions will be introduced.*

*Exemptions in the overlay that already exist elsewhere in the Scheme will be removed.*

The proposed zones are shown in Figure 1.



Figure 1 Proposed Zones  
Source Council Part A Submission

## **2.3 Ministerial Directions and Practice Notes**

### **(i) Ministerial Directions**

Council submitted that the Amendment meets the relevant requirements of the following Ministerial Directions:

- Ministerial Direction 11 (Strategic Assessment Guidelines) and the Form and Content of Planning Schemes under Section 7(5) of the Act.
- Ministerial Direction 13 (Floodplain Management) the Amendment has considered the views of the relevant floodplain manager and is consistent with all policies, objectives and strategies for coastal Victoria as outlined in the State Planning Policy Framework.
- Ministerial Direction 15 the Amendment is accompanied by all of the required information.

### **(ii) Planning Practice Notes**

Council submitted that the Amendment meets the relevant requirements of the following Planning Practice Notes (PPN):

- PPN37: Rural Residential Development (November 2013)
- PPN42: Applying the Rural Zones (November 2013).

The Amendment complies with the requirements of the Ministerial Direction on the Form and Content of Planning Scheme pursuant to s 7(5) of the Act.

## **2.4 Discussion**

The Panel concludes that the Amendment is supported by, and implements, the relevant sections of the State and Local Planning Policy Framework.

### 3 Strategic justification

#### 3.1 The issue

Does the proposed Amendment have strategic justification?

#### 3.2 Evidence and submissions

As outlined in Council's Part A submission, two studies were commissioned by Council in relation to the Amendment:

- Rural Residential Lifestyle Lot Review (December 2014)
- Port Albert Planning Controls Review (PCR) June 2014.

##### **RRLLR**

The RRLLR identified the most appropriate locations to provide rural living opportunities in Port Albert and surrounding areas. The study provided Council with the strategic justification required to change the zoning of land and as such only land identified in the study can be rezoned.

Council submitted the opportunities for rezoning have been influenced by a number of different factors including:

- *The supply of standard town lots within the area for sale or development.*
- *The level of anticipated population growth for the study area.*
- *The projected demand for rural living lots based on demographics and growth projections.*
- *The extent of existing significant vegetation coverage within the area, including identified Ecological Vegetation Classes.*
- *The extent of fire risk due to the significant density of vegetation on both public and private land.*
- *The extent of potential flooding and inundation risk within the area, drainage constraints as well as the potential for increased tidal inundation.*
- *The ability to appropriately and sustainably service additional rural residential land.*
- *The location of the area to the immediate south of land within the State Resource Overlay in recognition of its valuable coal.*
- *The close proximity of the area to land utilised for significant levels of agricultural production, including dairy farms and timber harvesting.*
- *The location at the edge of RAMSAR Convention listed and significant coastal wetland areas.*

The recommendations of the RRLLR are proposed to be implemented by re-zoning specific areas of land around Port Albert, the subject of this Amendment. These are outlined in Table 2.



## PCR

The short-term recommendations of the PCR are reflected in both the local policy section of the Planning Scheme that relates to Port Albert and also in Design and Development Overlay – Schedule 9 (DDO9) that applies to the Port Albert Township.

Council submitted that Amendment C55 to the Wellington Planning Scheme, which implemented the findings of the *Wellington Shire Rural Zones Review Volumes 1 and 2 (2009)*, received 16 submissions from the Port Albert, Lansborough and Alberton areas raising issues regarding the application of the FZ to their land. The submissions suggested farming to be an inaccurate description of the land and that it should be rezoned for rural residential purposes. While the decision was made that the issues raised were not for the Panel to resolve, the Panel endorsed the need for the RRLR study by recommending that:

*Council proceed with review of rural residential lot opportunities in Port Albert and surrounding areas in the 2013/14 strategic planning work program and resolves to rezone land in this area for its most appropriate use, whether that be for rural/residential living, farming or conservation values.<sup>4</sup>*

Council outlined that a central component of the RRLR was to investigate and address community concern regarding the perceived mismatch of zoning to rural properties and other anomalies brought about by recent zone translation changes to the Wellington Planning Scheme, and the associated uncertainty surrounding ongoing land use and development rights.

The study was prepared in accordance with the guiding principles for rural residential development and applying the rural zones as set out in Planning Practice Notes 37 and 42, respectively.

Council submitted the RRLR study provided a sequenced analysis of the following key strategic considerations:

- *The role and significance of the Study Area in both a regional and local context.*
- *The significant physical opportunities and constraints of the Study Area.*
- *Housing need, including the existing supply and likely future demand for rural residential development within the locality.*
- *The issues and concerns raised by local residents and landowners.*
- *The pertinent planning context of the Study Area at both a State and local level, including policy and controls.*

This was based upon a review of the Wellington Planning Scheme, relevant recent amendments and a series of relevant strategic studies.

The RRLR found that there is some scope to provide further rural living opportunities within and around Port Albert, whilst considering the constraints of the area. Council submitted that this finding was based on:

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<sup>4</sup> Amendment C55, Panel report 2013, page 16

- The significant supply of standard town lots within the area for sale or development.
- A low level of anticipated population growth for the study area.
- Low projected demand for rural living lots based on demographics and growth projections.
- The extent of existing significant vegetation coverage within the area, including identified Ecological Vegetation Classes (EVCs).
- The extent of fire risk due to the significant density of vegetation on both public and private land.
- The extent of potential flooding and inundation risk within the area, drainage constraints as well as the potential for increased tidal inundation.
- The ability to appropriately and sustainably service additional rural residential land.
- The location of the area to the immediate south of land within the State Resource Overlay in recognition of its valuable coal.
- The close proximity of the area to land utilised for significant levels of agricultural production including dairy farms and timber harvesting.
- The location at the edge of RAMSAR Convention listed and significant coastal wetland areas.
- The outcomes of targeted community and stakeholder consultation.
- The prevalence of small lot and undeveloped subdivisions.

In addition, *The Port Albert Planning Controls Review (PCR)* was undertaken by Meinhardt and a final report was provided to Council in June 2014.

Council submitted that:

*a key component of the PCR was to investigate and address community concerns that development opportunities and growth in the town are being restricted by Port Albert's planning framework and to make recommendations regarding potential changes/modifications to the existing planning controls. More specifically, opportunities to 'cut red tape' were explored, with the aim of providing a greater level of consistency in the decision-making process across the controls, than currently exists.*

Meinhardt critically reviewed the existing planning framework for Port Albert, undertaken in order to identify key requirements relating to the use and development of land and to understand the purpose and application of the various provisions that apply to Port Albert, including relevant State and Local Planning Provisions as well as reference material:

- Recent permit trends - in order to understand recent and historical development patterns and trends in Port Albert.
- Planning issues raised by Council, or that had been identified through community consultation.



The key PCR issues as summarised by Council were:

**Complexity of the Existing Planning Framework**

*Port Albert has a number of special characteristics that warrant a level of protection through planning systems including heritage, character, design, environmental protection, and landscape protection. The planning framework for Port Albert is complex in recognition of these values. While the review found no need to consider specific changes to the application of these controls, it was identified that difficulties are most likely to arise through the requirements of the Heritage Overlay, Design and Development Overlay, and reference documents that contribute to these controls. A review of these provisions was a key focus of the PCR and a number of recommendations were made in this regard.*

**Opportunities to Reduce Red Tape**

*The report identified short and medium-long term opportunities to improve the existing planning framework and reduce red tape. Difficulties are most likely to arise through the application of the requirements of the Heritage Overlay, Design and Development Overlay, and Reference documents which contribute to these controls. It is in these provisions where the main opportunities to reduce red tape exist.*

**Design and Development Overlay 9 (DDO9)**

The PRC recommended aligning the DDO9 expectations with the current Port Albert Precinct permit exemptions. As discussed in Chapter 2, this involves removing a reference in the Schedule that identifies the Port Albert Hotel as the height benchmark as the Hotel no longer exists. The adopted approach is to specify a preferred building height of 9 metres above ground level.

**Clause 21.12-10 Coastal Areas Strategic Framework**

The Amendment expands on the current objective for Port Albert and Palmerston to increase support for tourism and commercial growth.

Council concluded that Amendment C95 is required to implement a number of recommendations from the RLLR and PCR.

**3.3 Discussion**

The Panel finds that sufficient strategic justification exists for Amendment C95. Council has undertaken the necessary strategic work which forms the basis of its recommendations.

**3.4 Conclusions**

The Panel concludes that the proposed Amendment has strategic justification. The Panel supports the inclusion of the RLLR as a Reference Document and the inclusion of changes to Clause 21.12-10 (Coastal Areas Strategic Framework) and Clause 43.02-9 (DDO9) as exhibited.



## 4 General issues with the Farming Zone

### 4.1 The issue

Should land continue to be zoned for farming purposes?

### 4.2 Evidence and submissions

Twelve (12) submissions (5, 6, 7, 9, 10, 11, 12, 13, 14, 16, 17 and 18) raised issues regarding the relationship between existing land uses and the current zonings. More particularly, that the FZ was incorrectly applied to land in 2007 and does not reflect the existing land use or recognise that the land is not suitable for farming.

Council noted that the application of the FZ in 2007 was a direct translation from the former RZ, and was undertaken by the Minister for Planning. It submitted that the primary purpose of the RZ was to provide for agricultural uses, and that a permit was required for dwellings on less than 40ha. The application of the RZ did not remove development rights for dwellings from property owners.

Several submissions stated that the translation of the former RZ to the FZ in 2007 created disadvantage, and removed property owners existing use rights. The former RZ allowed for a wide range of uses, the purpose of the zone was:

*To provide for the sustainable use of land for Extensive animal husbandry (including dairying and grazing) and Crop raising (including Horticulture and Timber production)*

This was intended to provide for agricultural uses.

Council submitted that in assessing an application for a dwelling in the RZ, consideration had to be given as to whether the dwelling was 'reasonably required' for the operation of the rural activity conducted on the land. Despite these requirements, the ambit of discretion in the zone was regarded as being too wide, which was leading to the loss of agricultural land and creating land use conflicts as incompatible uses were allowed to be established in close proximity to one another.

The purpose of the new FZ was to provide a zone that unambiguously catered for agriculture. The reason for introducing the zone was to address the issues evident with the RZ since its application into the new format planning scheme.

Council submitted that in 2009 the Minister for Planning released 'New Zones for Rural Victoria Final Package' (DSE, 2009) which recognised the need to retain existing use rights. Early in the consultation period the Minister announced that existing use rights would remain for dwellings within the FZ. These retained rights were that:

- A property owner will continue to be able to seek a permit for a dwelling on lots less than 40 hectares or the scheduled lot size.
- A property owner will continue to be able to seek a permit for a second dwelling on a lot.

- *A property owner will continue to be able to seek a permit to excise an existing dwelling, subject to a condition preventing further subdivision of the resultant lots.*

Council outlined that a key difference between the zones was that the FZ introduced the requirement for permit applications to be supported by a written statement explaining how the proposal responds to the decision guidelines of the zone.

The RRLR was required to consider a range of factors beyond the existing land use in assessing the most appropriate zone for each precinct (including environmental constraints, access, agricultural productivity, services and infrastructure levels). Council submitted:

*Where Spiire has determined that rural living development would not be suitable due to constraints, Council considered that the retention of the existing FZ is the most appropriate way to prevent inappropriate land use and development.*

The Port Albert Progress Association (PAPA), representing approximately 75 local property owners and residents, has formed a consensus view following direct monthly member meetings and dialogue with Council's consultants. It has repeatedly submitted that the FZ have been too broadly applied and was a constraint to growth and development.

#### **4.3 Discussion**

The Panel is in a similar predicament to that of the previous C55 Panel, in that it has not been appointed to consider whether the implementation of the Amendment C43 (Rural Zones Translation) was appropriate. This was a state-wide planning process at the direction of the Minister for Planning. The 'New Zones for Rural Victoria Final Package' in 2009 appears to have provided some options for the affected Port Albert landowners.

The intention of the relevant C55 recommendation was to undertake rigorous analysis to produce strategic planning outcomes and address the on-going concerns of the submitters to that Panel. Council has attempted to do this in part through the RRLR. As discussed in Chapter 3 the Panel is of the view that the RRLR and Council could have gone further with its redressing of the FZ.

By way of example Ms Chelebian (submitter 17) submitted the precinct assessment process was too broadly applied, and individual properties were clearly too small for viable farming (Precinct 7). Ms Chelebian also highlighted that the subject to inundation could be addressed under rural residential zoning, where the land was obviously not productive due to flooding. She submitted that an inundation or flood overlay should not be justification for retaining the FZ, and the portion of Precinct 7 fronting Gibson Street to the north should be removed.

In a further example the Panel regards the Precinct 4 FZ as being inappropriately applied previously, as the majority of this site is essentially a rural residential area.

In relying upon the RRLR and PCR work Council has sought to have its consultants engage with the community and landowners, several of whom are evidently opposed to the FZ being applied to their properties.

Given the prolonged and consistent opposition by the PAPA, Amendment C95 has evidently not achieved a significant consensus within the Port Albert community either. The Panel is of the view that the application of the FZ has been too broad, and that further analysis is justified. This analysis goes beyond this particular Amendment and should be undertaken as a strategy priority by the Council.

#### **4.4 Conclusion**

Given the focus of the Amendment, RRLR and PCR was to identify opportunities for rural living growth and reducing red tape, part of this has been addressed by this Amendment. As repeatedly stated, the Amendment in the Panel's view has not gone far enough. For the Panel to recommend rezoning of precincts not considered in detail by the Council would, in its mind result in a transformation of the Amendment. That is, removal of the FZ from a majority of the precincts would be seen as something quite different to what this Amendment has proposed.

The Council should immediately undertake a strategic planning analysis to consider introducing the RCZ, RAZ and RLZ to address the broader issue of the removing FZ where it is inappropriate. The Environmental Significance Overlay, LSIO, and BMO should be applied concurrently with any future amendments.



The issues relate to Council's recommendations as exhibited and whether or not they are supported. This chapter reviews the issues grouped by precinct.

Council in its Part A submission outlined that the focus for the RRLR review was to identify opportunities for rural living growth. Council specified that re-zoning parts of Precincts 2 and 5, and rectifying zoning anomalies, were its primary recommendations.

The RLLLR illustrated a number of constraints across the amendment area. These are shown in Figure 3 and explained in the next section.



Figure 3 Constraints Plan  
Source RRLR

### 5.2.1 Vegetation

Two (2) of the submissions (3 and 7) raised issues in relation to vegetation. One submitter had concerns that further subdivision in Precinct 2 would have significant impacts on the existing vegetation due to clearing for dwellings, fence lines, driveways and other buildings.

The Coates' submission (6) regarding the vegetation assessment in Precinct 1 (that identified that the biodiversity and environmental values of the precinct required protection), was that the RRLR was erroneous and inaccurate.

Council submitted that the views of DELWP were sought as part of the consultation process. DELWP raised no issues regarding vegetation removal and responded in support of the Amendment. Any removal, destruction or lopping of native vegetation requires a planning permit (unless specifically exempted) and must comply with the requirements of Clause 52.17. In instances where native vegetation is permitted to be removed, it is required that an offset is provided in a manner that makes a contribution to Victoria's biodiversity that is equivalent to the contribution made by the native vegetation being removed.

The biodiversity significance identified in Precinct 1 is based on the findings of a professional study undertaken in 2010 by consultants AECOM – 'Environmental Investigation Report: Wonnangatta Valley and Port Albert (2010)'. The significance of the vegetation, in combination with its location in the context of the neighbouring Nooramunga Marine Reserve and associated wetlands, means that it is valuable and requires protection.



### 5.2.2 Fire

Submissions (3, 4, 13 and 15) raised issues in relation to fire risk including:

- General agreement with the fire risk assessment
- Concern with proposed level of human activity in Precinct 2 given level of fire risk
- Questioned why areas affected by bushfire are being proposed for rezoning if this was given as a reason not to rezone other land
- Questioned why areas affected by bushfire are proposed for rezoning when there is filled, vacant FZ land in the township that is unaffected by fire.

Council submitted that in determining the potential for precincts to be re-zoned, a range of factors was considered – one of which was fire risk. The BMO currently affects none of the precincts under the planning system, but Bushfire Prone Area mapping under the building provisions affects all land.

Council submitted that advice was sought during the preparation of the RRLR from the CFA which had no objection to the proposed re-zonings. Advice was also sought from the CFA during the exhibition of Amendment C95, at which time it was indicated that land affected by the proposed re-zoning is not currently affected by the BMO, but the vegetation in these areas meets the criteria in DELWP 'Advisory Note 46: Bushfire Management Overlay Mapping Methodology and Criteria'.

The CFA engaged in further discussion with Council about the application of the BMO. Council submitted that the potential application of the BMO to land in Port Albert (and in other relevant areas of the municipality) is a matter for consideration outside of the current C95 Amendment process. The consideration of a BMO is to be conducted in a more holistic manner at a future time, in full consultation with both the CFA and DELWP.

The CFA in presenting to the Panel advised that it and Council agreed that:

*the fire safety requirements can be considered and addressed separately from Amendment C95 as part of any future development proposal in Port Albert, which can and will be adequately dealt with as part of existing planning and building permit processes.*

Don Caithness (submitter 4) suggested to the Panel that fire risk in the region surrounding Port Albert was significant. He highlighted the racecourse area as a high-risk source bushfire threat to the Old Port and Precinct 1, and that vegetation removal was an important mechanism for lessening risk to life and property. The Panel accepts local experience and knowledge as an important source of anecdotal information, and agrees the bushfire management overlays should be a priority for rural residential development areas.

### 5.2.3 Flooding

Submissions (4, 7, 11 and 17) raised issues in relation to the justification of not re-zoning certain areas due to inundation and flooding.

Council submitted that during the preparation of the RRLR and as part of Amendment C95, technical flooding advice was sought from the WGCMA. The WGCMA advised that increased climate change risk criteria apply to the proposed re-zoning of coastal land (compared to infill development).



The WGCMA's primary consideration for re-zoning whether it is likely to increase the number of residents, and to determine if the land is predominately flood prone in a 1% AEP (Annual Exceedance Probability) storm event by year 2100. AEP is the likelihood of occurrence of a flood of given size or larger occurring in any one year. AEP is expressed as a percentage (%), and may be expressed as the reciprocal of ARI.

The 'Guidelines for Coastal Catchment Management Authorities: Assessing development in relation to sea level rise (June 2012)', state that greenfield development, that is, conversion of rural land to an urban use, will be assessed against a 1% AEP benchmark that includes an allowance of 0.8m rise in mean sea level.



Figure 4 Year 2100 1% AEP inundation prediction  
Source (WGCMA presentation - document 2)

Where the WGCMA has indicated that it would not support re-zoning due to potential inundation and flooding, the land is either already subject to inundation under current climatic conditions or would be affected under future climatic conditions (by year 2100) to an extent that the land would not satisfy the first test of being '*predominantly flood free*'.

Don Calthness (submitter 4) submitted at the Hearing that flooding was improbable due to the Port Albert township being remote from the Albert River. The Panel however agrees with the WGCMA that a future significant risk of inundation is likely from the predicted 0.8m rise in sea level and storm surge impacts along the coastline.

Wayne Gilmore from the WGCMA advised the Panel that the change from the 1 in 100 year ARI to a 1% AEP in 2100 brought little change to the flood mapping extent boundaries, when the same 2008 LIDAR data had been used. He stated that the existing considerations were assessed against the 1% AEP at a 1.75m AHD (obtained from the CSIRO in 2006). Adding the

0.8m predicted sea level rise by 2100, and 0.13m storm surge impact, produced at higher flood level datum at **2.68m AHD** (obtained from the CSIRO in 2009). This extended the boundaries of flood mapping predictions.

The SPPF clause 13.01.1 consideration requires planning for at least 0.8m sea level rise by 2100 to ensure that land subject to coastal hazards is identified and appropriately managed to ensure that future development is not at risk. Whilst the WGCMA submission is that several precincts have been identified that would not satisfy the first test of being '*predominantly flood free*', the Panel regards the implementation of an LSIO as being an appropriate planning tool to address flood risk. This could particularly apply to Precinct 7, where residential development building applications could note the current flood level datum advice and build floor levels at 600mm higher, ie: 3.28 AHD. This approach would address the aspirations of the Port Albert Progress Association, and not prohibit residential development in light of the identified risk of flooding.

### 5.3 Precinct 1

Precinct 1 has not been included in this Amendment for any change.

The PAPA submitted that the FZ was too restrictive, and the RCZ was inappropriate by producing a barrier to critical tourism investment. The Association wanted the northern part of Precinct 1 to be included into the RLZ proposed for Precinct 2.

Mr and Mrs Coates (submitter 6), stated that their property is mainly sandy acid soils and low in phosphate. With a family ownership history dating back to the early 1990's, their property in Precinct 1 evidently has little viable prospect as non-intensive farming or agricultural land. The submitter regarded the application FZ as "*inconsistent and unreasonable*", when land immediately north of Old Port Foreshore Road (Precinct 2) is proposed as RLZ2.

In response to the WGCMA 2100 1% AEP flood datum evidence to the Panel Hearing, the entire Precinct 1 should be covered by a LSIO. This will effectively not prohibit rural living on the lots already subdivided. Minimum lot sizes should be 40 ha, to maintain low-density living impact, and support the apparent conservation protection value.

Farming will continue to be allowed, provided that it is consistent with the environmental values of the area, and not directly or indirectly threaten the conservation of the natural environment. This could address the concerns of Mr and Mrs Coates and the PAPA, and provide for further productive activities such as flower growing and glasshouse horticulture. Facilities for the public education and wetlands interpretation could also be considered under a RCZ.

Whilst this only responds in part to the submission of Mr and Mrs Coates in terms of their long held aspirations for Rural Residential Living lots on their landholding, the Panel concludes that the conservation values enshrined in the RAMSAR convention and the CSIRO's predicted impacts of climate change carry significant weight in our determination. The Coates acknowledged that theirs is not variable traditional farming land. It could however be put to good purpose for the benefit of environmental conservation for future generations, provide selective intensive horticultural and tourism opportunities, and still provide low density rural residential living on 40 ha lots.



### 5.3.1 Conclusion

The Panel concludes that RLZ should not be allowed due to the conservation protection value of the site. The Panel does not support the PAPA view that the northern part Precinct 1 (abutting Old Port Foreshore Road) should be combined with the zoning for Precinct 2.

The Panel notes the RLLR recommended that Precinct 1 be investigated for re-zoning to RCZ in recognition of its biodiversity and environmental values. Council did not progress this recommendation as part of this Amendment. If the rationale for not amending Precinct 1 to RLZ is based upon its proximity to the Nooramunga Marine Reserve and Environmental Significance Overlay (ESO2), LSIO, and the BMO, then Council should demonstrate strategic planning consistency and pursue re-zoning to the RCZ.

### 5.4 Precinct 2

Precinct 2 is north of Old Port Foreshore Road, and consists of 8 lots averaging 4.75 ha. Five of these lots are already developed with dwellings, and no overlays are applied. The Amendment proposes that existing rural residential development and little agricultural activity warrant the precinct being re-zoned from FZ to RLZ.

Precinct 2 differs from Precinct 1 in that it has less conservation protection significance, and is not currently flood prone. It does not extend westward to the Marine Reserve, and the ESSO covers none of the precinct. It could however be subject to inundation during a future 1% AEP storm event by 2100 as advised by the WGCMA, and it would therefore be appropriate for Council to apply a LSIO to the entire precinct in a future amendment.

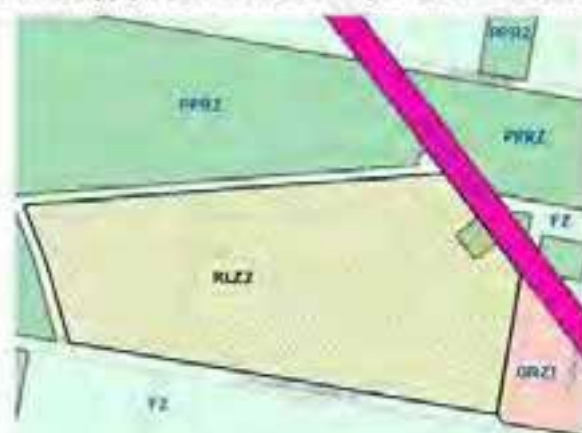


Figure 5 Proposed Zone for Precinct 2  
Source: Council Part A Submission pg.18

This outcome would in-part meet the aspirations of the PAPA by providing more rural residential living opportunities within close proximity to the township. The LSIO would not in itself prohibit development, but address the predicted risk of flooding at the Building Permit stage.

Based upon the CFA submissions, the application of a BMO would not be required for Precinct 2.



#### **5.4.1 Conclusions**

The Panel supports the rezoning as exhibited from FZ to RL22.

#### **5.5 Precinct 3**

The Precinct 3 is immediately east and south of the Port Albert Residential area, and is a swampy area with wetland type vegetation. It is currently affected by a LSIO and ESO, and subject to Coastal Acid Sulphate soils.

It has only one dwelling on the 75 individual allotments that average 1,600m<sup>2</sup> and road access is difficult. The RRLR recommended that the precinct be re-zoned to RCZ to prevent inappropriate development and serious impacts upon infrastructure and human health from disturbing Acid Sulphate soils.

PAPA appeared to have overlooked this fact in its submission, and rather relied upon potential for future seawall or levy banks works to provide flood mitigation of Precinct 3, and fulfil the development proposed within the Port Albert Masterplan (2002).

The Panel is of the view that reliance upon year 2002 analysis for development planning, in such a low-lying area containing dangerous Acid Sulphate soils, ignores the State Government directions and climate change policies.

Council has strongly indicated during Right of Reply its reliance upon the RRLR recommendations, and that the RRLR had already been adopted by Council.

#### **5.5.1 Conclusions**

For Precinct 3, the Panel concurs that what is proposed in Amendment C95 is the most appropriate strategic planning path, and finds that, based upon the WGCMA's evidence, that a Land Subject to Inundation (LSIO) should be applied to Precinct 3 in any future amendment.

#### **5.6 Precinct 4**

Precinct 4 has 17 small allotments averaging 2,500m<sup>2</sup>, with 4 lots having been developed (Figure 6). The majority of the site is currently zoned FZ and affected by Heritage and Design and Development Overlays. It is essentially a rural residential area however, and Council had previously agreed to re-zone the land to GRZ.

The PAPA submission supported this precinct being LDRZ.

#### **5.6.1 Conclusion**

Whilst the site is within the Port Albert township, where the general lot size pattern is 1,500m<sup>2</sup>, the Panel is of the view that LDRZ of 2,000m<sup>2</sup> is an appropriate outcome. The land should also be covered a LSIO, in-line with the WGCMA flood datum evidence as previously discussed for any future amendment.



Figure 6 Proposed Zone for Precinct 4  
Source: Council Part A Submission pg.18

### 5.7 Precinct 5

Precinct 5 contains several zone “anomalies” at the interface between RLZ and FZ. The land along the northern side of Kilgowers Road is mainly developed to rural residential dwellings, with access provided from Yarram-Port Albert Road.

Council submitted the lots along the Yarram-Port Albert Road are zoned GRZ1, but the landowner at number 68 has specifically requested that allotment be re-zoned FZ to recognise that it is part of a larger farmland holding.



Figure 7 Zoning anomalies  
Source: Council Part A Submission pg.19

The allotment at the rear of 86 Yarram-Port Albert Road is conversely proposed to be re-zoned from FZ to GRZ so that the whole site is within one zone.

With regard to number 68, it appears clear that the existing use points toward a GRZ for the portion that abuts the western boundary of Yarram-Port Albert Road. Servicing by water, drainage, and sewer are additional development considerations for the land to the west of the existing GRZ. It should not be FZ, on the basis of a lesser net community benefit

compared to GRZ development. It is highly unlikely that any intensive farming would occur in this section given the interface issues.

At a time in the future, the owner of this land could enact Clause 64.03, *Subdivision of land in more than one zone* to enable future subdivision at an appropriate time along this frontage to Yarram-Port Albert Road.

The same principle of using Clause 64.03 applies in the situation at 86 Yarram-Port Albert Road. The Panel sees no reason to change the zoning from FZ to GRZ. The Panel acknowledges it is generally good planning practice not to have land in more than one zone. However zone boundaries don't have to follow a cadastre at the expense of common sense and it did not support these changes.

The RRLR recommended that the lots west of the Yarram-Port Albert Road be re-zoned from GRZ to FZ to prevent further residential development in this area. Council has chosen not to implement this recommendation as part of C95.

The PAPA submission was that the boundaries of the precinct had been poorly designated because there is wide diversity in land use. It highlighted that the western part of Precinct 5 contain land that is heavily vegetated and bordering the Nooramunga Marine Reserve. The Panel's view is that this would indicate that the western border of the precinct should be zoned RCZ.

The PAPA submission appeared to suggest that a buffer transition should be created at some point west of this residential area, to transition the zone to RCZ at the Marine Reserve. This could ideally be contiguous along the boundary of the Marine Reserve from Old Port Road to Old Port Foreshore Road, i.e. along the western boundaries of Precinct 6, 5, 2, and 1. Council should further investigate this concept, as it is beyond what has been previously proposed and considered in C43 and C55, and this subject Amendment C95.

### 5.7.1 Conclusion

The Panel concludes that this particular precinct has been poorly analysed and the outcomes proposed are not an appropriate use of the land. The Panel finds insufficient justification to re-zone lots at 68 and 86 Yarram-Port Albert Road for the reasons explained. The Panel did not regard what is proposed as resolving anomalies, but creating them. If the planning is to be undertaken on a precinct basis, then continuity should be created, not ad hoc zone interfaces.

### 5.8 Precinct 6

Precinct 6 is land south of Old Port Road, west of the Yarram-Port Albert Road, and abuts the Nooramunga Marine Reserve to the west that is covered by an ESO1. It's 16 lots average 5.4 ha in size, and contains both rural residential development and extensive dense vegetation. There are 7 dwellings in the precinct, and a caravan park at the western end of Old Port Road. There are endangered EVC riparian scrub areas existing in the eastern portion of the precinct.

Whilst the RRLR recognised that the further development within the Seahaven Caravan Park is permissible under the current FZ, Council could respond to community concerns and



apply a RAZ to that portion of the precinct. Council seeks to implement this proposal within Amendment C95.



Figure 8 Proposed RAZ at Seahaven Caravan Park  
Source: Council Part A Submission pg.19

### 5.8.1 Conclusion

The Panel finds that the rezoning of the Seahaven Caravan Park to RAZ is appropriate in order to further satisfy SPPF Clause 17.03-1: *Facilitate Tourism development*.

## 5.9 Precinct 7

The precinct is defined as an irregular shaped area along Port Albert-Tarraville Road at the edge of the Palmerston subdivision, comprising 51 allotments. Thirty-five of these lots in the south-western corner are less than 1,000m<sup>2</sup>, with the remaining 16 lots varying between 0.4 and 4ha. The smaller southern lots are affected by a LSIO, and the WGCMA evidence indicates that these are at risk of increased inundation in a 1% AEP storm event by 2100.

The RRLR recommended that the precinct be retained as FZ, on the basis that some low levels of farming activity. It further concluded that the flood overlay should prevent rural residential development. The PAPA opposed this recommendation and sought a RLZ.

Whilst SPPF Clause 13.01-1 requires planning to consider at least a 0.8m sea level rise by 2100, and avoidance of development in identified coastal hazard areas, the Panel is of the view that land along Gibson Street has appropriately been identified as at risk of flooding in a 1% AEP storm event. The application of a LSIO should not prohibit residential development if appropriate floor height measures can be undertaken within the Building Permit process.

Ms Jacqueline Chelebian submission (number 17) was that a LSIO should not be a factor for retaining the FZ. Whilst Ms Chelebian submitted that the existing dwellings north of Gibson Street have been able to address inundation with appropriate building considerations, she sought the equal planning consideration as that applied to the properties on the south side of Gibson Street. She highlighted that the general terrain is level, and that flood line delineation along Gibson Street appeared "perplexing".

Mr Wesley (submitter 11) argued that properties needed to be assessed individually and his land was too small to productively farm land.

The Panel is empathic with the PAPA, Mr Wesley and Ms Chelebian's submissions that this portion of Precinct 7 (referred to by them as 7A) is more suitable for rural residential than farming, however taking into account broader demand and supply, it agrees with the recommendation of Council not to rezone any further land at this stage. The parcels do not warrant an inclusion on their own. The arguments aligning precinct 7A as suggested by Ms Chelebian warrant further review and consultation prior to any rezoning occurring.

It urges the Council to review the lots abutting the northern side of Gibson Street for RLZ2 as part of a broader amendment that incorporates the BMO and LSIO.

### 5.10 Discussion

It is evident to the Panel that Council and the relevant referral authorities have previously considered a raft of issues in Amendments C33, and C55. These considerations have formed the basis for Council's attempt to balance the appropriate planning with the aspirations and needs of the Port Albert community. The predicted impacts of climate change have however progressed during the period of this endeavour, and Council has chosen not to accommodate the appropriate overlays as part of this Amendment C95. It proposes a "more holistic approach" at some later date.

Whether in fact this can be achieved within an appropriate and acceptable timeframe, or whether C95 is just a further incremental step in conflict, is of concern to the Panel.

Both LSIO and BMO are planning tools that should not by themselves restrict development, but they address the risk of flooding and bushfire.

Having regard to updated climate change and higher flood datum predictions, Council should immediately implement the application of the LSIO (as adopted in C33), and BMO's to the subject precincts, as per the Panel's Recommendations.

Mr Gary Proud (submission number 16) highlighted a broad range of issues relating to State Planning policy and the approach taken by Wellington Council in the C33, C55, and C95 Amendments. He particularly questioned whether Council had complied with Ministerial Directions in reviewing its Municipal Strategic Statement. He referred the Panel to the Wellington Rural Zones Review<sup>5</sup> report (pages 46, 105, 108) where anomalies are identified in the transition from RZ to FZ in relation to as-of-right uses.

The section 4.7.8.2 of the Rural Zones Review comments on the Inappropriately Zoned Tourist Activities:

*Some tourist activities are presently inappropriately zoned resulting from the Minister for Planning's 2007 direct translation to the Victoria's 'new' rural zones. This is because some uses are prohibited in the FZ that were discretionary or as-of-right uses in the previous Rural Zone (RZ). A key challenge for this project is how best manage these non-conforming uses with*

<sup>5</sup> Wellington Shire Rural Zones Review, by Maurssell and EnPlan Partners, 27 January 2009

*existing use rights, such as school camp areas, bed and breakfasts, caravan parks etc.*

The Panel notes the Maunsell EnPlan analysis and conclusions, has previously dealt to this FZ issue in chapter 5, and agrees that the zones have been too broadly applied. The Rural Residential and Rural Conservation Zonings should be implemented as soon as practicable by Council, reflected in throughout this report. This will build upon and reinforce previous consultations and studies commissioned by the Council.

Finally, the Panel believes investigation into whether a Rural Conservation Zone buffer should be created along the interface with the Nooramunga Marine Reserve, in recognition of its RAMSAR significance should also be prioritised in its work program.

### **5.11 Recommendations**

The Panel recommends:

- 1 Adopt Amendment C95 to the Wellington Planning Scheme as exhibited, subject to deleting Precinct 5 - rezoning of land at 68 and 86 Yarram-Port Albert Road.**



## 6 Other issues

### 6.1 Issue

Has the Amendment considered the appropriate use of zones, heritage, conservation, climate change implications, and economic development?

### 6.2 Submissions

Mr Michael Hobson (PAPA Vice President) submitted to the Panel (document 5) an expansive history of Port Albert and highlighted its significance in the establishment of Victoria and Gippsland region since 1835. He submitted that the township played an important role in the tourism of the Wellington Shire, and that the viability of the sector and other commerce relied upon steady growth in local population.

He submitted that the 75 member's views are representative of the community in seeking the Council's support for population growth, and the planning for additional general and low-density residential and rural lifestyle allotments.

He considered the WGCMA's advice was inconsistent because other neighbouring coastal townships such as Golden/Paradise Beach and Loch Sport are treated with more flexibility in relation to predicted inundation risk. He referred to the Maunsell *"Strategic Planning for Gippsland Rural Areas"* in 2007, and suggested that the likelihood of extreme rain and extreme storm surge events happening at the same time as a high tide is not considered to be high.

Mr Hobson acknowledged that the LSIO in reality reflects the worst case scenario for a 1 in 100 year flood event, and that floor levels of new building could be raised 30cm above flood AHD level. He stated:

*The PAPA regarded that Council's reliance upon the WGCMA and RRLR analysis in relation to the risk of flooding as greatly overstated.*

Mr Hobson conveyed the PAPA's strong concern that the FZ translation from RZ by Council had been both *"lazy and inappropriate"*, particularly when nearly all the properties within the various precincts were not viable farming land. He noted that the study area is not of local, regional, or State significance in terms of agriculture production and employment.

He submitted that the area contains more than 40 rural residential lifestyle lots that are not reasonably required for agricultural activity. It was Mr Hobson's view that many of these properties protect and enhance the natural resources, biodiversity, and landscape and heritage values of the study area.

Mr Hobson submitted that the PAPA had repeatedly made submissions to Council that rural land needs to be zoned to reflect its existing use.

He also questioned the process undertaken by AECOM during the *"Environmental Investigation Report"*, and the narrow focus upon FZ and RCZ. He submitted that RLZ and RAZ should have also been considered. He acknowledged the AECOM finding with respect to EVC 48 (Heathy Woodlands north of Old Port Foreshore Road), but questioned the rigour of desktop investigation of EVC 10 (Estuarine Wetland south of Old Port Foreshore Road).

There was no field site visit of the properties to the south, and AECOM relied upon EVC database and aerial photography to reach the assessment conclusions that were subsequently relied upon by Spiire.

The PAPA regarded the market demand analysis relied upon by Spiire as “*totally fallacious*”, and sought to lift the current restrictions that are impeding the progress of Port Albert. Mr Hobson argued the precinct analysis applied has grouped differing land parcels with too much diversity together, and failed to group similar land parcels together.

Mr Saul Stainer (PAPA President) submitted (document 6) that there had been 35 new dwellings built between 2001-2007 (average 5.8 pa, or 17% increase), and that Port Albert had been growing at a “*remarkable rate*”, greater than the 1.3% per annum now projected by Council. He suggested that Council would continue to stifle growth with Amendment C95.

Council submitted it saw no empirical data to contradict its conclusions regarding demand for rural residential development, and supported the transition of Rural to FZ, and in its right of reply stated:

*Council is confident and firmly of the view that the strategic land use planning justification exists to fully support the changes that C95 proposes to make to the Wellington Planning Scheme.*

### 6.3 Discussion

Evidently the PAPA and the Council have reached little agreement during the Amendment process and previous Amendments C33 and C55. Multiple studies and report recommendations precede the submissions made to this Panel, and the weight given to these must reflect the chronology and the update State Government policies, particularly regarding climate change predictions.

The PAPA assertions regarding market demand for rural residential living lots are largely anecdotal, notwithstanding the reported in-writing substantiation by local licenced real estate agents. Mr Stainer’s submitted data implied 11 building permits issued between 2001 - 2007 translated into 35 new dwellings.

Whether not creating additional supply is stifling economic development and population growth is difficult to prove, and the Panel must rely upon the analysis provided by Council. It is evident that Council seeks to support tourism and economic development, and that this could produce “organic” population growth.

Whether what is proposed achieves 17 years supply of RLZ lots is broadly circumstantial. Many outside “global” factors could contribute to the future population growth and development prospects for Port Albert. This demand and supply issue should be continuously monitored and reviewed. No firm evidence was presented to the Panel regarding the current total number of dwellings in Port Albert, and analysis of the range of permanent and weekend residences. Both Council and the submitters could have done more to present their respective arguments.

The attention of the Panel was directed to an international accord in relation to climate change remedial action, and this may have a positive impact upon the sea level rise and



extreme heat and rainstorm events. The Panel encourages PAPA to recognize that the submissions by the WGCMA and CFA are based upon the best and most qualified data available to the State Government and Wellington Shire Council. These predictions have changed significantly since many of the previous planning studies and reports were compiled. There is accredited substantiation of climate change, and land use planning must respond appropriately, while providing zones for the most appropriate use of the land and net community benefit.

The RAMSAR Convention is significant, and Australia has international responsibilities in relation to the Nooramunga Marine Reserve and associated wetlands. The conservation of identified EVC areas is also a significant consideration, as is the sustainability of viable farming land.

The history and heritage of Port Albert is clearly substantial, and the Panel recognises the aspirations of the PAPA. The Panel has no concerns with the Amendment in relation to heritage considerations.

#### **6.4 Conclusion**

The submissions from PAPA raised the important considerations of heritage, conservation, climate change implications, and economic development. This in part acknowledges the complexity of the planning policy framework being applied to Port Albert. The Panel concludes that Council has identified these relatively special characteristics in its approach to Amendment C95.



## Appendix A List of Submitters

No.	Submitter
1	Heritage Intelligence Pty Ltd
2	West Gippsland Catchment Management Authority
3	A and V Macmelkan
4	D Caithness
5	G Maher
6	P F and F G Coates
7	M Glebov
8	D Goodall
9	D and J Hogan
10	Port Albert Progress Association
11	A Wesley
12	S Stainer
13	R Cookson
14	R J and G J Kee
15	E R and B M Garland
16	G Proud
17	J Chelebian
18	J Coghill and J Kerridge
19	Department of Environment, Land, Water and Planning
20	Country Fire Authority

## Appendix B Document list

No	Document	Presented by
1	Wellington Shire Part B submission	Ben Proctor
2	WGCMA submission	Wayne Gilmore
3	Michael Glebov submission	
4	John Coghill submission	
5	Port Albert Progress Association	Michael Hobson
6	Port Albert Progress Association	Saul Stainer
7	CFA submission	Jude Kennedy and Ann Coxon
8	Gary Proud submission	
9	"House of Lords (UK)" extract "Sea level change"	Graeme Ireland
10	Peter and Jill Coates submission	
11	Coastal Planning Media Release	Gary Proud
12	Don Caithness submission	
13	Wellington Council "Right of Reply"	Ben Proctor and Barry Hearsey post Hearing







## C4 - REPORT

# GENERAL MANAGER BUILT AND NATURAL ENVIRONMENT

**ITEM C4.1****WOONDELLA & GLEBE SHARED PATH**

DIVISION: BUILT AND NATURAL ENVIRONMENT  
ACTION OFFICER: GENERAL MANAGER BUILT AND NATURAL ENVIRONMENT  
DATE: 21 JUNE 2016

IMPACTS									
Financial	Communication	Legislative	Council Policy	Council Plan	Resources & Staff	Community	Environmental	Consultation	Risk Management
✓	✓	✓		✓	✓	✓		✓	✓

**PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY****RECOMMENDATION**

***That Council endorse Option A as shown in Attachment One as the preferred alignment for a new walking and cycling path between the Glebe and Woondella estates and the intersection of Raglan Street and Reeve Street, noting it is the preferred alignment of 75% of survey respondents.***

**OBJECTIVE**

For Council to endorse Option A as the preferred alignment for a new walking and cycling path between the Glebe and Woondella estates and the intersection of Raglan Street and Reeve Street.

**BACKGROUND**

A shared walking and cycling path linking the Glebe and Woondella estates with the Sale CBD was identified as a high priority project within the Wellington Shire Council Walking and Cycling Strategic Plan 2012-16.

Flowing from this strategic identification, an assessment of potential alignments for installation of a shared walking and cycling path between these points was undertaken. The assessment included analysing alternative alignments and consideration of Cost, Linkage, Security, User Experience, Travel Time and Delivery Risk factors.

As a result of this assessment, two potential alignments were identified. As shown in **Attachment One**, these include the following:

1. Option A – A path alignment located on Cemetery Road, freehold land and Saleyards Reserve;
2. Option B – A path alignment located on Cemetery Road, Dawson Street and Saleyards Road.

Both options require road improvement works on Cemetery Road to enable the required space for construction of a shared walking and cycling path. These works include installation of kerb and channel for a distance of approximately 260m, abutting 10 properties, in addition to widening of the road formation.

Both options require the acquisition of land. Option A requires the acquisition of a combined 480 square metres from two properties, to connect between Saleyards Reserve and Cemetery Road. Option B requires the acquisition of approximately 200 square metres of land from one property at the corner of Cemetery Road and Dawson Street.

A comprehensive community engagement strategy was implemented seeking feedback on preference between these two options, as described further in this report. In summary, the engagement resulted in a clear community preference, with 75% of respondents indicating support for Option A.

## **OPTIONS**

1. Endorse commencement of a shared walking and cycling path located on alignment option A, in line with allocated budgets of 2015-16, 2016-17 and 2017-18; or
2. Endorse commencement of a shared walking and cycling path located on alignment option B, in line with allocated budgets of 2015-16, 2016-17 and 2017-18; or
3. Do not commence activities associated with this project.

## **PROPOSAL**

That Council endorse Option A as shown in Attachment One as the preferred alignment for a new walking and cycling path between the Glebe and Woondella estates and the intersection of Raglan Street and Reeve Street, noting it is the preferred alignment of 75% of survey respondents.

## **CONFLICT OF INTEREST**

No staff and/or contractors involved in the compilation of this report have declared a Conflict of Interest.

## **FINANCIAL IMPACT**

The project is programmed for completion over 3 financial years. There is \$250,000 allocated within the 2015-16 financial year budget, \$800,000 allocated within the draft 2016-17 budget and \$400,000 allocated within the capital works program for the 2017-18 financial year, totalling \$1.45M.

Preliminary cost estimates for Option A amount to \$1.38M. Preliminary cost estimates for Option B amount to \$1.21M.

## **COMMUNICATION IMPACT**

Information regarding Council's decision will be provided to the broader community and directly to participants of the community engagement process.



## COUNCIL PLAN IMPACT

The recommendation supports the following objectives of the Council Plan 2013-2017:

Theme 4 – Infrastructure:

Strategic Objective

*“Assets and infrastructure that meet current and future community needs.”*

Strategy 4.1

*“Undertake service delivery planning to provide community assets in response to identified needs.”*

Theme 7 – Community Wellbeing:

Strategic Objective

*“Enhance health and wellbeing for the whole community.”*

Strategic Indicator

*“Increased opportunity for people to access footpaths, bikeways, tracks and trails”*

## RESOURCES AND STAFF IMPACT

The recommendation can be implemented within existing allocated resources.

## COMMUNITY IMPACT

The engagement process has confirmed a positive community response to the project proposal.

Many survey respondents indicated intentions to utilise the new path for both recreation and active transport, aligning strongly to the objectives of the Walking and Cycling Strategic Plan 2012-16.

## CONSULTATION IMPACT

A comprehensive engagement strategy was implemented to seek feedback from the community relating to preferences between the following two potential route options:

1. Option A – A path alignment located on Cemetery Road, freehold land and Saleyards Reserve;
2. Option B – A path alignment located on Cemetery Road, Dawson Street and Saleyards Road.

The engagement strategy included development of a brochure with relevant project information and opportunity to submit feedback. A copy of the publication is included as **Attachment Two**.

The brochure was delivered to all properties within the Glebe, Woondella and Boulevard estates. Additionally, an online survey was established as an alternative feedback method and to capture views of community members outside of the Glebe, Woondella and Boulevard estates.

Information relating to the engagement opportunity was provided through a media release, published in the Gippsland Times and on Wellington Shire Councils' website.

A total of 98 formal responses were received as a result of the community engagement. 75% of respondents who indicated a preferred alignment selected Option A, while 25% indicated a preference for Option B.

75% of survey respondents indicated they were from Glebe, Woondella and Boulevard estates while 25% were from other parts of the community.

There was a theme reflected in comments, highlighting views that Option A was a safer alignment to Option B, due to being more removed from the road network. In contrast to this feedback, there was also a comparative amount of feedback noting concerns that the route through Saleyards Reserve in Option A had issues in relation to personal security, isolation and limited passive surveillance.

Other comments included a view that lighting would be required through Saleyards Reserve. A provision for lighting has been made within project estimates. Additionally, there was consistent feedback related to concern with the crossing of Cemetery Road at Ralph Avenue. Traffic calming measures and lighting are to be considered through project design, to maximise safety.

## **RISK MANAGEMENT**

As with all projects, there are elements of project delivery risk associate with the proposal.

The proposed alignment of Option A has a portion of the route located on privately owned land, which requires suitable arrangements to facilitate construction of the path. Additionally, Wellington Shire Council is yet to receive formal authorisation from Victrack in relation to the rail level crossing at Raglan Street.

There has been sufficient time allocated within the project plan to mitigate delivery risks associated with the project.

## ATTACHMENT ONE – OPTIONS MAP







Wellington Shire Council will soon construct a shared pathway, linking the large residential area between Sale-Maffra Road and Cemetery Road with the Sale CBD. This includes the Woondella, Glebe and Billabong Estates.

We expect to begin constructing an accessible 2.5m wide concrete path that will accommodate pedestrians, cyclists and mobility devices in late 2016.

Building this path is a high priority project, identified in Council's Walking and Cycling Strategic Plan 2012-16 as one that will significantly benefit residents in terms of access to the new estates. It will also provide excellent health and wellbeing outcomes.

**There are two possible options for this path.** We would like your help to decide which one our community prefers us to build, considering views on safety, convenience and user experience.



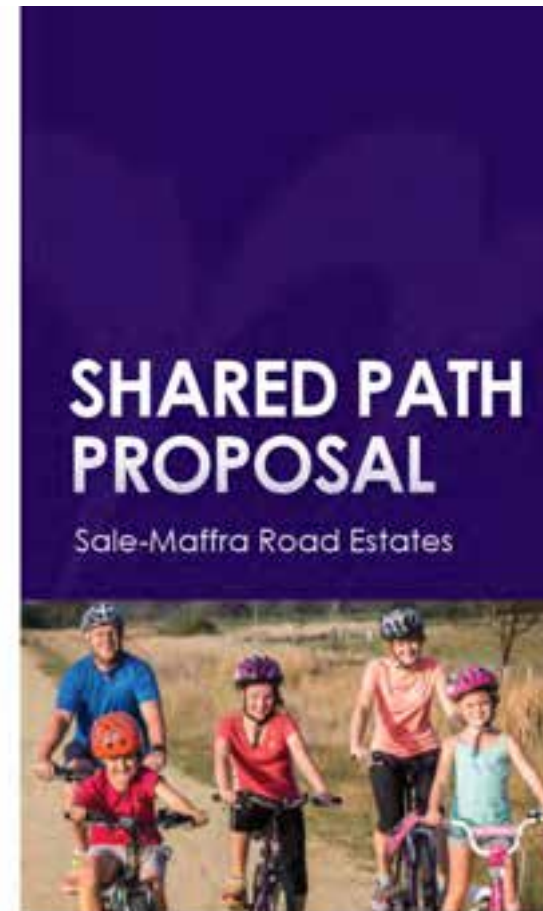
**Sale Service Centre**

18 Desailly Street (PO Box 506), Sale Victoria 3850  
Telephone 1300 366 244

**Yarram Service Centre**

156 Grant Street, Yarram Victoria 3971  
Telephone (03) 5182 5100

Web [www.wellington.vic.gov.au](http://www.wellington.vic.gov.au)  
Email [enquiries@wellington.vic.gov.au](mailto:enquiries@wellington.vic.gov.au)





## Shared Path Proposal Questionnaire

Which is your preferred pathway option?

☐ Option A ☐ Option B

Are you a resident or a non-resident of the Woodella, Globe and Billabong Estates?

☐ Resident ☐ Non-Resident (Postcode: \_\_\_\_\_)

Estate Residents Only:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Comments/Suggestions/Feedback:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Please return completed form to the Wellington Shire Council Sale Service Centre at 18 Denally Street, Sale-On post for Shared Path Proposal, PO Box 506, Sale VIC 3850.

Alternatively you may complete this form online at [www.wellingtonshire.com](http://www.wellingtonshire.com)

The preferred option will be announced late 2015, with works to commence shortly after. If you have any questions regarding this project, please call our Built Environment Planning Team on 1300 264 244.

We value your opinion about including some, allways and please contact us to make the project a reality. We will be happy to hear from you. Please be assured that your details will not be shared with the Wellington Shire Council for any other purpose.

**ITEM C4.2****NORTH SHIRE LITTER BINS CONTRACT 2015 - 042**

DIVISION: BUILT & NATURAL ENVIRONMENT  
ACTION OFFICER: MANAGER NATURAL ENVIRONMENT & PARKS  
DATE: 21 JUNE 2016

IMPACTS								
Financial	Legislative	Council Policy	Planning Policy	Resources & Staff	Community	Environmental	Consultation	Risk Management
✓		✓			✓	✓		

**OBJECTIVE**

The purpose of this report is for Council to consider entering into a contract for the North Shire Litter Bins Contract 2015-042.

**PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY****RECOMMENDATION*****That:***

- 1. Council adopt the recommendations contained in the attached confidential Tender Evaluation Report at Item F1.2 Contract 2015-042 North Shire Litter Bins; and***
- 2. The information contained in the confidential document Item F1.2 North Shire Litter Bins of this Council meeting agenda and designated under Section 77 Clause (2)(c) of the Local Government Act 1989 as confidential by the General Manager Built & Natural Environment on 2 June 2016 because it relates to the following grounds under Section 89(2) of the Local Government Act 1989: d) Contractual matters be designated confidential information under Section 77 Clause (2)(b) of the Local Government Act 1989, except that once this recommendation has been adopted the name of the successful tenderer can be made public.***

**BACKGROUND**

Council provides litter bins in various towns across the shire. The North Shire Litter Bins Contract seeks to engage a suitably qualified private contractor to carry out emptying and cleaning of Litter Bins and Enclosures in the townships of Boisdale, Briagolong, Cowwarr, Gormandale, Heyfield, Hollands Landing, Maffra, Marlay Point, Newry, Rosedale, Sale, Stratford & Tinamba.

The contract is for a fixed three year term with a Council option for a further two year extension.

Provision of litter bins are guided by Council's Litter Bins Policy.

**OPTIONS**

Council have the following options available:



1. Adopt the recommendations contained in the attached confidential Tender Evaluation Report for contract 2015-042 North Shire Litter Bins; or
2. Not enter into a contract.

## **PROPOSAL**

That Council adopt the recommendations contained in the attached confidential Tender Evaluation Report for contract 2015-042 North Shire Litter Bins.

## **CONFLICT OF INTEREST**

No staff and/or contractors involved in the compilation of this report have declared a Conflict of Interest.

## **FINANCIAL IMPACT**

The value of this contract falls within recurrent council budget for these works (\$217,330 16/17 Financial Year).

## **LEGISLATIVE IMPACT**

Wellington Shire Council is committed to ensuring the Contract tendering process complies with the *Victorian Local Government Act 1989* and the Victorian Local Government Code of Tendering.

## **RESOURCES AND STAFF IMPACT**

This contract will be managed with the resources of the Natural Environment & Parks unit.

## **COMMUNITY IMPACT**

To provide the community with clean, regularly serviced litter bins.

## **ENVIRONMENTAL IMPACT**

The proposed contract allows for proper disposal of litter bin waste as per EPA requirements.

## **RISK MANAGEMENT IMPACT**

It is considered that the proposed contract works will not expose Wellington Shire Council to any significant risks. All OH&S risks will be discussed with the contractor and allocated to the party in the best position to manage each risk.

**ITEM C4.3****WEST SALE AIRPORT EASTERN RECREATION AVIATION  
PRECINCT FREEHOLD LAND DEVELOPMENT STAGES TWO  
ONWARDS**

DIVISION: BUILT AND NATURAL ENVIRONMENT  
 ACTION OFFICER: GENERAL MANAGER BUILT AND NATURAL ENVIRONMENT  
 DATE: 21 JUNE 2016

IMPACTS									
Financial	Communication	Legislative	Council Policy	Council Plan	Resources & Staff	Community	Environmental	Consultation	Risk Management
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

**OBJECTIVE**

The objective of this report is to seek Council authorisation to progress further stages of freehold land sales within the Eastern Recreational Aviation Precinct (ERAP) at West Sale Airport (WSA).

The report also seeks to resolve a method for adjusting the Annual User Licence Fee (Licence Fee) in line with Council's Framework for fees and charges at West Sale Airport within the Eastern (Recreational Aviation) Precinct.

**RECOMMENDATION**

*That*

- 1. Council authorise the Chief Executive Officer to offer for sale the remaining land within the West Sale Airport – Eastern (Recreational Aviation) Precinct in line with the updated Land Sales Framework 2016 (Confidential Attachment).***
- 2. Council advertises its intention to sell land at West Sale Airport at or above market value, subject to the provisions of the Local Government Act 1989 section 189 and 223, including calling for submissions in relation to the proposed sale.***
- 3. Subject to not receiving any submissions, Council authorise the Chief Executive Officer to progress the sale at or above the current market value including executing necessary documents.***
- 4. In line with Council's framework for fees and charges at West Sale Airport that future adjustments to the Annual User Licence Fee above CPI be capped to increases in property values within the Eastern (Recreational Aviation) Precinct.***
- 5. The information contained in the Confidential Attachments and designated under Section 77 Clause (2)(c) of the Local Government Act 1989 as confidential by the General Manager Built and Natural Environment on 14 June 2016 because it relates to the following grounds under Section 89(2) of the Local Government Act 1989: h) any other matter which the Council or special committee considers would prejudice the Council or any person; be designated confidential information under Section 77 Clause (2)(b) of the Local Government Act 1989.***

## BACKGROUND

A number of previous Council reports, workshops and advisory group meetings have been completed which have discussed freehold land sales at West Sale Airport.

On 19 May 2015 Council resolved that:

- 1. Council authorise the Chief Executive Officer to:**
  - a. Execute necessary documentation associated with applying for a plan of subdivision for all lots within the Eastern Recreational Aviation Precinct.**
  - b. Sell land to existing lessees within Stage One described as Lots 7A, 7B, 7C, 7D, Lot 8 and Lot 22 of the West Sale Airport – Eastern Recreational Aviation Precinct at or below market value in line with the Land Sales Framework (Confidential Attachment Six).**
  - c. Sell land within Stage 1b of the West Sale Airport – Eastern Recreational Aviation Precinct at or below market value in line with the Land Sales Framework (Confidential Attachment Six).**
- 2. Council advertises its intention to sell land at West Sale Airport, described as Stage One and 1b in Attachment One, at or below market value, subject to the provisions of the Local Government Act 1989 section 189 and 223, including calling for submissions in relation to the proposed sale.**

Subsequently public notices were placed calling for submissions and an application for a planning permit made. No submissions were received and a planning permit was issued for the entire subdivision on 7 January 2016.

Contracts of Sale for lots within Stage One have been issued and settlement will be completed once titles are issued later in 2016.

To ensure that the ERAP development can be completed in a timely and cost effective manner, and to respond to interested purchasers with some certainty, this report now seeks to:

1. Progress the statutory requirements and Council approvals for the sale of the further stages.
2. Provide Council with an updated Land Sales Framework.
3. Present a Framework for Aerodrome Fees and Charges and specifically provide a mechanism as to how increases to the Licence Fee are made.

## OPTIONS

Council has the following options:

1. Progress actions as recommended in this report; or
2. Identify alternative actions; or
3. Not progress with recommendations at this time.



## PROPOSAL

That:

1. Council authorise the Chief Executive Officer to offer for sale the remaining land within the West Sale Airport – Eastern (Recreational Aviation) Precinct in line with the updated Land Sales Framework 2016 (Confidential Attachment).
2. Council advertises its intention to sell land at West Sale Airport at or above market value, subject to the provisions of the Local Government Act 1989 section 189 and 223, including calling for submissions in relation to the proposed sale.
3. Subject to not receiving any submissions, Council authorise the Chief Executive Officer to progress the sale at or above the current market value including executing necessary documents.
4. In line with Council's framework for fees and charges at West Sale Airport that future adjustments to the Annual User Licence Fee above CPI be capped to increases in property values within the Eastern (Recreational Aviation) Precinct.
5. The information contained in the Confidential Attachments and designated under Section 77 Clause (2)(c) of the Local Government Act 1989 as confidential by the General Manager Built and Natural Environment on 14 June 2016 because it relates to the following grounds under Section 89(2) of the Local Government Act 1989: h) any other matter which the Council or special committee considers would prejudice the Council or any person; be designated confidential information under Section 77 Clause (2)(b) of the Local Government Act 1989.

## CONFLICT OF INTEREST

No staff and/or contractors involved in the compilation of this report have declared a Conflict of Interest.

## FINANCIAL IMPACT

Council's draft 2016/17 budget makes provision for capital works to progress the development. As presented in earlier reports and noted in the Land Sale Framework, the proposed revenue from the sale of land within the ERAP will be greater than the costs of developing lots for sale.

Land values have previously been obtained from the Valuer General Victoria and the sale of further Stages 2 onwards is to be *at or above market value*.

## COMMUNICATION IMPACT

A variety of documents including an Information Package and marketing material is proposed to be developed and will be used as a key communication tool with current and prospective purchasers, users and wider stakeholders at WSA.

## LEGISLATIVE IMPACT

In terms of meeting aviation regulations, codes, standards and guidelines suitably experienced and qualified consultants have developed / reviewed reports and plans.

All land transactions progressed as a result of the recommendations of this report must comply with the requirements of the *Local Government Act 1989*. Section 189 of the Local Government Act 1989 (Vic) obligates Council to provide public notice of the proposal, and to give consideration to any submissions received.

Land valuations must also be obtained which are not more than six months old. Council has a valuation current as of January 2015 and these will be updated in 2016.

A further Council report may be provided following the receipt of any public submissions. This report would be to consider submissions and to seek a further resolution in relation to this matter.

## COUNCIL POLICY IMPACT

Wellington Shire Council's Policy for the Sale, Exchange and Acquisition of Land accords with best practice guidelines from the Department of Planning and Community Development. It states that transactions should be in the best interests of the community and provide the best result (financial and non-financial) for Council and the community.

## COUNCIL PLAN IMPACT

The Council Plan 2013-17 Theme 4 Infrastructure states the following strategic objective and related strategies:

### Strategic Objective

*"Assets and infrastructure that meet current and future community needs."*

### Strategy 4.1

*"Undertake service delivery planning to provide community assets in response to identified needs."*

### Strategy 4.2

*"Ensure assets are managed, maintained and renewed to meet service needs."*

This report supports the above Council Plan strategic objective and strategies.

## PLANNING POLICY IMPACT

No planning policy impacts have been identified.

## RESOURCES AND STAFF IMPACT

The overall management of the implementation of actions within the recommendations of this report will be provided for within the Built and Natural Environment Division. Specialised advice may continue to be procured from time to time such as legal, aviation and engineering.

## **COMMUNITY IMPACT**

It is generally considered that the "freeing up" of land for purchase within the ERAP will be well received by interested parties including current lessees within the proposed freeholding lots.

## **ENVIRONMENTAL IMPACT**

The recommendations contained within this report are not considered to have any negative environmental impacts.

## **CONSULTATION IMPACT**

Feedback from discussions with current occupiers indicates that provision of freehold land is likely to be well received and activate recreational aviation at WSA.

As outlined above, under the *Local Government Act 1989 (Vic)* Council would be required to consider submissions in the event submissions were received.

## **RISK MANAGEMENT IMPACT**

Consideration has been given to mitigate any risks to Council in the development of the WSA ERAP.





## C5 - REPORT

# GENERAL MANAGER COMMUNITY AND CULTURE

**ITEM C5.1****BRIAGOLONG QUARRY RESERVE COMMITTEE OF MANAGEMENT MINUTES**

DIVISION: COMMUNITY AND CULTURE  
ACTION OFFICER: MANAGER HEALTHY LIFESTYLES  
DATE: 21 JUNE 2016

IMPACTS									
Financial	Communication	Legislative	Council Policy	Council Plan	Resources & Staff	Community	Environmental	Consultation	Risk Management
		✓	✓	✓				✓	

**OBJECTIVE**

For Council to receive the minutes from the Briagolong Quarry Reserve Committee of Management's Annual General Meeting held on 21 March 2016 including audited financial statements and minutes from the Ordinary Meetings held on 7 December 2015 and 21 March 2016.

**PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY****RECOMMENDATION**

***That Council receive the minutes from the Briagolong Quarry Reserve Committee of Management's Annual General Meeting held on 21 March 2016 including audited financial statements and minutes from the Ordinary Meetings held on 7 December 2015 and 21 March 2016.***

**BACKGROUND**

The Briagolong Quarry Reserve Committee of Management is a Special Committee of Council under Section 86 of the *Local Government Act 1989* and operates within the provisions of a Council approved Instrument of Delegation.

The objectives of the Special Committee are:

- To manage, operate and maintain the Briagolong Quarry Reserve for the community in an efficient, effective and practical manner.
- To undertake activities designed to protect, promote, utilise and develop the Briagolong Quarry Reserve for the use and enjoyment of the local community.

As provided under the Committee's Instrument of Delegation the minutes of all meetings are to be presented to Council and highlight the day to day activities being undertaken by the Committee.

Conflict of Interest: It was noted that conflicts of interest were called for at the commencement of the Ordinary Meeting, with no conflicts being declared.

## **OPTIONS**

Council has the following options:

1. Receive the minutes from the Briagolong Quarry Reserve Committee of Management's Annual General Meeting held on 21 March 2016 including audited financial statements and minutes from the Ordinary Meetings held on 7 December 2015 and 21 March 2016; or
2. Seek further information to be considered at a future Council Meeting.

## **PROPOSAL**

That Council receive the minutes from the Briagolong Quarry Reserve Committee of Management's Annual General Meeting held on 21 March 2016 including audited financial statements and minutes from the Ordinary Meetings held on 7 December 2015 and 21 March 2016.

## **CONFLICT OF INTEREST**

No staff and/or contractors involved in the compilation of this report have declared a Conflict of Interest.

## **LEGISLATIVE IMPACT**

This report is in accordance with Section 91(4) of the *Local Government Act 1989*.

## **COUNCIL POLICY IMPACT**

This report is in accordance with Council Policy 5.3.2 which establishes a framework for the guidance of Council in relation to the roles and responsibilities of Committees.

## **COUNCIL PLAN IMPACT**

The Council Plan 2013-17 Theme 4 Infrastructure states the following strategic objective and related strategy:

### Strategic Objectives

*Asset and infrastructure that meet current and future community needs.*

### Strategy 4.2

*Ensure assets are managed, maintained and renewed to meet service needs.*

## **CONSULTATION IMPACT**

Meetings held by the Briagolong Quarry Reserve Committee of Management are open to the public.



**BRIAGOLONG QUARRY RESERVE  
Special Committee of Council**

**ANNUAL GENERAL MEETING  
MINUTES**

WELLINGTON  
SHIRE COUNCIL

23 MAR 2016

RECEIVED

MEETING DATE: 21/3/2016 MEETING TIME: 7:35

MEETING VENUE: BRIAG PUB

Meeting Opened Time:

**1. Present / Apologies**

Name	Title	Present / Apology
Peter Cleary	Councillor	/
Warrick Brown	Chairperson	/
Graeme Appleton		/
Jacob Taylor		-
Jodie Taylor		-
Kaye Whitworth		/
Marty Geaney		-

Quorum Achieved ☒ Yes / No

**2. Declaration of Conflicts of Interest**

**3. Confirmation of Minutes of Previous Annual General Meeting**

Moved: APPLETS

Seconded: PETER

CARRIED

**4. Business Arising from Previous AGM**

## 5. Reports

### 5.1 Chairperson's Report (Attached)

### 5.2 Treasurer's Report (Attached)

### 5.3 User Group Reports

## 6. Election of Office Bearers

All positions declared vacant.

### 6.1 Chairperson

Name: WARRICK BROWN

Moved: APPLES

Seconded: PETER

CARRIED

### 6.2 Secretary

Name:

Moved: VACANT

Seconded:

CARRIED

### 6.3 Treasurer

Name:

Moved: VACANT

Seconded:

CARRIED

### 6.4 Special Committee Fact Sheet read Yes / No

## 7. Schedule of Fees

**8. Committee's Rules for the Reserve (Attached)**

**9. Forward Planning Strategies**

TABLES  
FIRE RINGS

**10. Next Calendar Year Meeting Dates**

2ND MONDAY MARCH, JUNE, SEPTEMBER, DECEMBER

**11. Next Annual General Meeting**

2ND MONDAY MARCH 2017

**Meeting Closed Time:**

7:43 PM



**Briagolong Quarry Reserve**  
**STATEMENT OF EXPENDITURE**  
 From 1st July 2014 to 30th June 2015

Balance as at July 1 2014	8,445.20	✓
<u>Income</u>		
Camping Donations	4,960.00	
Operating Subsidy	950.00	
Special Grant	0.00	
<u>Total Income</u>	<u>5,910.00</u>	
<u>Expenditure</u>		
Materials	1,195.00	✓
Works	0.00	
Caretaker Sub	3,750.00	✓
Bank Fees	122.50	✓
<u>Total Expenditure</u>	<u>5,067.50</u>	✓
<u>Balance as at 30 June 2015</u>	<u>9,287.70</u>	✓

Reviewed / Audited By

- *[Signature]*

21/6/2016

21/6/2016

**Briagolong Quarry Reserve**  
**STATEMENT OF EXPENDITURE - *REVENUE***  
From 1st July 201~~4~~<sup>5</sup> to 30th June 201~~5~~<sup>6</sup>

Date			Received From	Camping Fees	Operatin Subsidy	Special Grant	Total
Day	Month	Year					
7	July	2014	Various	2,000.00	✓		2,000.00
30	Mar	2015	Various	630.00	✓		630.00
7	April	2015	Various	1,730.00	✓		1,730.00
14	May	2015	Wellington Shire sub		950.00	✓	950.00
25	Jun	2015	Various	600.00	✓		600.00
							0.00
				4,960.00	950.00	0.00	5,910.00
				✓	✓		✓

**Briagolong Quarry Reserve**  
**STATEMENT OF EXPENDITURE**  
From 1st July 2014 to 30th June 2015

Date			Paid To	Ref	Materials	Works	CareTaker Sub	Bank Fees	Total
Day	Month	Year							
1	Jul	2014	Commonwealth Bank					10.00 ✓	10.00
1	Aug	2014	Commonwealth Bank					10.00 ✓	10.00
4	Aug	2014	Commonwealth Bank					2.50 ✓	2.50
4	Aug	2014	W. Brown	209			750.00 ✓		750.00
19	Aug	2014	Pine Mulch Haulage	210	1,100.00 ✓				1,100.00
1	Sep	2014	Commonwealth Bank					10.00 ✓	10.00
16	Sep	2014	W. Brown	211			750.00 ✓		750.00
1	Oct	2014	Commonwealth Bank					10.00 ✓	10.00
1	Nov	2014	Commonwealth Bank					10.00 ✓	10.00
1	Dec	2014	Commonwealth Bank					10.00 ✓	10.00
1	Jan	2015	Commonwealth Bank					10.00 ✓	10.00
13	Jan	2015	W. Brown	212			750.00 ✓		750.00
1	Feb	2015	Commonwealth Bank					10.00 ✓	10.00
1	Mar	2015	Commonwealth Bank					10.00 ✓	10.00
1	Apr	2015	Commonwealth Bank					10.00 ✓	10.00
20	Apr	2015	W Brown	213			750.00 ✓		750.00
1	May	2015	Commonwealth Bank					10.00 ✓	10.00
1	Jun	2015	Commonwealth Bank					10.00 ✓	10.00
21	Jun	2015	The SWF Group	214	95.00 ✓				95.00
29	Jun	2015	W Brown	215			750.00 ✓		750.00
									0.00
									0.00
					1,195.00	0.00	3,750.00	122.50	5,067.50
									✓



## CHAIRMAN'S REPORT

OVER THE LAST 12 MONTHS WE HAVE BEEN BUSY GENERAL MAINTAINANCE OF THE RESERVE, WE HAVE MOWED AND HAD SEVERAL GENERAL CLEAN UP WORKING BEES.

WE HAVE ALSO FINISHED THE PUMP SITE AND ASSOCIATED WORKS WITH THAT IE COMMISSIONING THE NEW PUMP SYSTEM.

A PAINTING DAY WAS ORGANISED LAST OCTOBER TO REPAINT THE SHELTER.

2016/2017 WORKS PLAN!  
OVER THE NEXT 12 MONTHS WE  
INTEND TO PURCHASE AND INSTALL NEW  
PICNIC TABLES IN THE RESERVE.

WE WILL ALSO BE DOING GENERAL  
MAINTENANCE IE MOWING, GRAFFITI REMOVAL  
AS REQUIRED.



# BRIAGOLONG QUARRY RESERVE Special Committee of Council

## MINUTES

MEETING DATE: 7/12/2015 MEETING TIME: 7.30

MEETING VENUE: BRIAGOLONG HOTEL

Meeting Opened Time:

### 1. Present / Apologies

Name	Title	Present / Apology
Peter Cleary	Councillor	<u>APOL</u>
Warrick Brown	Chairperson	<u>/</u>
Graeme Appleton		<u>/</u>
Jacob Taylor		<u>/</u>
Jodie Taylor		<u>/</u>
Kaye Whitworth		<u>/</u>
Marty Geaney		

Quorum Achieved? Yes / No

### 2. Declaration of Conflicts of Interest /

### 3. Confirmation of Minutes of Previous Meeting (note any corrections)

Moved: APPLES

Seconded: KAY

CARRIED /

Chairperson to sign and date previous minutes to be filed by Secretary

### 4. Business Arising from Previous Minutes

WORKING BEE WAS A SUCCESS, THANKS TO HIM,  
WAYNE AND DEB BENSON FROM GIMBRACH AND BEN AND  
ELLA FROM FROM BRAGALONG, NOW MEMBERS VOLUNTEERING  
THEIR TIME.

FIRE RINGS ONGOING





**10. New Rules of the Committee to be endorsed by Council**

**11. General Business**

RESERVE NEEDS MOWING, WARRICK AND APPLIES TO  
ORGANISE.

THERE IS SOME RENDERING TO DO ON THE TOWERS  
TAP TO BE INSTALLED IN PUMP SHED, WARRICK TO  
CONTACT WIESCH.

MERRY CHRISTMAS TO ALL !!

**12. Next Meeting** 15/3/2016

**Meeting Closed Time:** 7:55

**These minutes are:**

**Confirmed as true and correct on** 21/3/2016  
**Date**

**Or**

**Corrections have been made and noted at the meeting on** .....  
**Date**

**Chairperson Signature** .....  
Warrick Bu

**BRIAGOLONG QUARRY RESERVE  
Special Committee of Council**

**MINUTES**

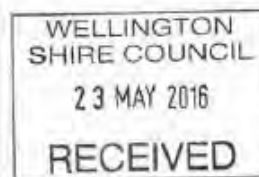
MEETING DATE: 21/3/2016 MEETING TIME: 7.45

MEETING VENUE: BRIAGOLONG HOTEL

Meeting Opened Time:

**1. Present / Apologies**

Name	Title	Present / Apology
Peter Cleary	Councillor	/
Warrick Brown	Chairperson	/
Graeme Appleton		/
Jacob Taylor		
Jodie Taylor		
Kaye Whitworth		/
Mary <del>Cooney</del>		



Quorum Achieved? ☒ Yes ☐ No

**2. Declaration of Conflicts of Interest**

**3. Confirmation of Minutes of Previous Meeting (note any corrections)**

Moved: PETER

Seconded: APPLES

CARRIED /

Chairperson to sign and date previous minutes to be filed by Secretary

**4. Business Arising from Previous Minutes**

None

/



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• • •

## 7.1 Chairperson's Report

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THERE IS APPROXIMATELY \$8000 IN THE BANK (HOLD UP WITH STATEMENTS)

[illegible]

.....

10. New Rules of the Committee to be endorsed by Council

11. General Business

TOILET HAS BEEN PUMPED OUT (SEPTIC)  
NEW RECEIPT BOOK FOR PUB  
TABLES QUOTE HAS BEEN RECEIVED \$650  
MOWING HAS BEEN DONE SEVERAL TIMES  
RESERVE IS BEGINNING VERY POPULAR  
BOOKS HAVE BEEN AUDITED  
THERE IS A CAMPER THAT HAS OVER STAYED HIS TIME  
~~END~~  
HAPPY EASTER !!

12. Next Meeting

Meeting Closed Time:

6:05

These minutes are:

Confirmed as true and correct on .....

Date

Or

Corrections have been made and noted at the meeting on .....

Date

Chairperson Signature.....

**ITEM C5.2****PROVISION OF AQUATIC FACILITIES AND SERVICES 2015-2020**

DIVISION: COMMUNITY AND CULTURE  
ACTION OFFICER: MANAGER HEALTHY LIFESTYLES  
DATE: TUESDAY, 21 JUNE 2016

IMPACTS									
Financial	Communication	Legislative	Council Policy	Council Plan	Resources & Staff	Community	Environmental	Consultation	Risk Management
	✓			✓		✓		✓	

**OBJECTIVE**

For Council to endorse the Provision of Aquatic Facilities and Services 2015-2020 Final Report ('Final Report').

**PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY****RECOMMENDATION**

***That Council endorse the Provision of Aquatic Facilities and Services 2015-2020 Final Report.***

**BACKGROUND**

The overall purpose of the Final Report was to ensure Wellington Shire Council continues to provide and operate aquatic facilities that meet the needs of community and industry, are a high standard and present best value for the Wellington Shire communities. Part of the scope of the project was to also investigate options for the possible future redevelopment of Aqua Energy and determine the feasibility of the preferred option.

Significant community consultation was undertaken during the development of the Final Report.

On 1 December 2015 Ms Karen Evans, consultant from InSynch Consultancy Group, presented to Council on the draft final report. Ms Evans revisited on 15 December 2015 and responded to specific questions from Council.

On 29 April 2016, officers presented to Council the proposed priority projects emanating from the Final Report.

**OPTIONS**

Council has the following options:

1. Endorse the Provision of Aquatic Facilities and Services 2015-2020 Final Report; or
2. Not endorse the Provision of Aquatic Facilities and Services 2015-2020 Final Report and seek additional information to be presented at a future Council meeting.



## PROPOSAL

It is proposed that Council endorse the Provision of Aquatic Facilities and Services 2015-2020 Final Report.

## CONFLICT OF INTEREST

No staff and/or contractors involved in the compilation of this report have declared a Conflict of Interest.

## FINANCIAL IMPACT

There is no financial impact endorsing the Final Report. Endorsement of the Final Report does not endorse the implementation of any specific project. All projects emanating from the Final Report will be brought to Council for further consideration at a later date.

## COMMUNICATION IMPACT

The Final Report contains proposed future development options for the Aqua Energy facility. These options may generate some public interest.

## COUNCIL PLAN IMPACT

The Council Plan 2013–17 Theme 7 Community Wellbeing states the following strategic objective and related strategy:

Strategic Objective: Enhanced health and wellbeing for the whole Community.

Strategy 7.1: Support access to a range of recreational opportunities for all sectors of the community.

Strategy 7.3: Ensure services relating to safety, health and wellbeing are highly effective and valued by the community.

This report supports the above Council Plan strategic objective and strategy.

## CONSULTATION IMPACT

Summary of community consultation in the development of the Final Report.

Category	Consultation Method	Number
Facility users	Surveys	340
General community	Surveys and street stalls	171
Schools	Phone calls	25
Council staff	Meetings and focus groups	19
Community and user groups	Phone calls	22
Local competitors	Phone calls	6
Other Councils	Phone calls	5
Sporting bodies	Phone calls	3

**ITEM C5.3****DRAFT WELLINGTON SHIRE COUNCIL COMMUNITY  
ENGAGEMENT STRATEGY 2016-20**

DIVISION: COMMUNITY AND CULTURE  
ACTION OFFICER: MANAGER COMMUNITY WELLBEING  
DATE: 21 JUNE 2016

IMPACTS									
Financial	Communication	Legislative	Council Policy	Council Plan	Resources & Staff	Community	Environmental	Consultation	Risk Management
			✓	✓	✓			✓	

**OBJECTIVE**

The purpose of this report is for Council to endorse the draft Wellington Shire Council Community Engagement Strategy and release it to the community for comment for a period of five weeks.

**PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY****RECOMMENDATION**

That Council endorse the draft Wellington Shire Council Community Engagement Strategy 2016-20 and release it to the community for comment for a period of five weeks.

**BACKGROUND**

In 2011 Council's first community engagement strategy was developed by the Media and Public Relations Unit of Wellington Shire Council and involved extensive public consultation.

The Community Engagement Strategy 2011-15 included a detailed action plan. The majority of this action plan was completed with an allocated resource provided to deliver the listed activity. The current draft Wellington Shire Council Community Engagement Strategy 2016-20 for consideration reflects the intent of the 2011 Strategy and is user friendly, simplified for community understanding and less reliant on a staffing resource that is no longer available.

Community Engagement is the responsibility of all Council Business Units. The Community Wellbeing Unit will facilitate building the capacity of staff to engage with their community through the process documented in the strategy. However managers and leaders will be responsible to ensure consistency in the community engagement process across the organisation.

Community input will be welcomed on this draft revised strategy.

**OPTIONS**

Council have the following options:

1. Endorse the draft Wellington Shire Council Community Engagement Strategy 2016-20 and release it to the community for comment for a period of five weeks; or
2. Request changes to the draft Wellington Shire Council Community Engagement Strategy 2016-20 before it is released to the community and present to a future Council Meeting.

## **PROPOSAL**

It is proposed that Council endorse the Draft Wellington Shire Council Community Engagement Strategy 2016-20 and release it to the community for comment for a period of five weeks.

## **CONFLICT OF INTEREST**

No staff and/or contractors involved in the compilation of this report have declared a Conflict of Interest.

## **COUNCIL POLICY IMPACT**

A draft Wellington Shire Council Community Engagement Policy has been developed to support the Wellington Shire Council Community Engagement Strategy 2016-20 and will be brought to Council for adoption once the draft Strategy has been adopted.

## **COUNCIL PLAN IMPACT**

The Council Plan 2013–17 Theme 1 Leadership and Engagement states the following strategic objective and related strategy:

Strategic Objective: Our community is informed about Council business and is involved in Council decision making. Council advocates on behalf of the community.

Strategy 1.1 Ensure sound processes are in place to facilitate input into Council deliberations and decision making.

Strategy 1.2 Maintain sound processes to inform the community about Council business.

This report supports the above Council Plan strategic objective and strategy.

## **RESOURCES AND STAFF IMPACT**

A working group made up of staff representing all Divisions will continue to meet and develop a new action plan with strategies to ensure consistent community engagement practice across the organisation. The Community Engagement Officer (previously titled, Community Planning Officer) now has responsibility for both community planning across the Shire and support for consistent community engagement practice within Council.

## **CONSULTATION IMPACT**

In 2011 over 1800 residents provided input for the development of the Community Engagement Strategy 2011-2015. The current draft Community Engagement Strategy 2016-2020 is a simplified version of the original. A group of internal staff met over a period of twelve months to revise the document.

If Council supports the recommendation, it is proposed that community consultation on the draft revised strategy will be completed by late July 2016.



# Community Engagement Strategy 2016 to 2020



*Tell me, I forget.*

*Show me, I remember.*

*Involve me, I understand.*

- Chinese proverb

Wellington Shire Council is committed to genuine and effective community engagement in council planning and decision making. Good engagement allows the Council and those with whom it engages to understand wider perspectives and aspirations of communities and to look at alternative solutions. Community Engagement processes also provide the basis for productive relationships, improved dialogue and deliberation, and ultimately, better democracy.

This Community Engagement Strategy applies to Council Officers and those working within Wellington Shire Council who need to consider community engagement.

Alongside this strategy sits a set of tools to assist Council staff in planning, preparing, implementing and reporting on community engagement processes.

Wellington Shire is home to over 40,000 people who live across more than 30 communities that range in size from a handful of people to 14,000 in the major centre of Sale. The needs of all of these people and communities differ.

In 2010, over 1800 Wellington Shire residents and ratepayers provided input into the development of Council's first Community Engagement Strategy 2011-2015. Appendix A - Community Consultation Findings Report contains additional detail on the extensive consultation process undertaken. It was the most comprehensive consultation that Council has carried out and, in reviewing the Strategy for 2015 – 2018, it was recognised that two of the key learnings were still particularly relevant and in need of further work by Council:

1. Closing the feedback loop in community engagement processes, and
2. The development of consistent community engagement practices across the organisation.

# What is community engagement?

The International Association for Public Participation (IAP2), the recognised international leader in community engagement, provides the following definition: **Community engagement is 'any process that involves the public in problem solving or decision making and uses public input to make decisions'.**

Depending on the situation engagement can be formal or informal, direct or indirect, within the community or within the organisation.

IAP2 has developed **core values** for community engagement, which Council has adopted and are committed to using in the development and implementation of community engagement processes.

## Community engagement does:

1. Assume that the public have a right to be involved in decisions about actions that could affect their lives.
2. Include the promise that the public's contribution will influence the decision.
3. Promote sustainable decisions by recognising and communicating the needs and interests of all participants, including decision makers.
4. Seek out and facilitate the involvement of those potentially affected by or interested in a decision.
5. Seek input from participants in designing how they participate.
6. Provide participants with the information that they need to participate in a meaningful way.
7. Communicate to participants how their input will affect the decision.

## Community engagement does not:

1. Take away decision making powers from councillors or the organisation. It adds value to the process by increasing the understanding of the issues.
2. Involve gaining community input where a decision has already been made or where the community cannot effectively influence a final decision.
3. Engage on matters that are outside the scope of influence of the community. Constraints, limitations and non-negotiables will be made clear from the start.
4. Involve a process that expects participants to agree. Instead, it is an open process that creates opportunities to explore and discuss options, alternatives, needs and requirements, problem solve and reach consensus.
5. Apply a rigid model or approach to every project. Community engagement must be flexible, open and responsive, and should be tailored to each project.

# Why is Community Engagement important for Council?

It is now widely recognised that community engagement is an effective way of doing business, leading to better outcomes for the organisation and community.

As our primary approach in working externally and internally, Council:

- Enables our community to work together and respond on issues that matter to them.
- Provides opportunity to build stronger relationships between Council and the community it serves.
- Builds on the communities understanding of council's role and responsibilities as well as our financial and legislative requirements.
- Improves outcomes through the early identification of issues.

Improves the quality of service delivery and policy development, to ensure they reflect the needs, interest and values of community.

## The objectives of the Community Engagement Strategy

The objectives of the Community Engagement Strategy are to:

- Ensure all staff have an understanding and is aware of the commitment by Council to involve the public in the decision making process about issues that affect them.
- Ensure all Wellington Shire Council staff operate under the same code of conduct and set of guiding principles thereby bringing consistency and understanding to any community engagement process.
- Embed a consistent approach to community engagement across the organisation by providing guides, tools and training to all staff.



# Who do we engage with?

To ensure that all voices are heard on a given topic, it is important that Council is mindful of the varying communities of interest that may be impacted by a decision.

The table below identifies the different subgroups Council engages with:

## Community Stakeholders

Those identified as being directly affected by the decision or those with an interest in a plan, project or decision made by Council.

## Community Groups and Organisations

Those that provide a local service, work directly with community groups and organisations representing the views of their sector including sporting groups, special interest groups, place based interest groups and Community Planning Groups.

## Council Staff

Anyone who is involved in community engagement activities including Councillors, council management and officers, contractors and consultants associated with Council.

## Government and Non-Government Agencies

Including health, education, aged care, family services, emergency services, various government departments, youth, disability services, child support services and Aboriginal services.

## Funding Partners

Organisations that provide sponsorship or funding to support the delivery of programs, services, capital projects and other initiatives.

## Community

The people who live within the shire including individuals that work, visit and invest in the municipality. The general public includes residents, ratepayers, land owners, service users, workplace communities, ethnic and religious communities, Aboriginal communities, age based groups, people with a disability and those who have an interest in Wellington Shire Council.

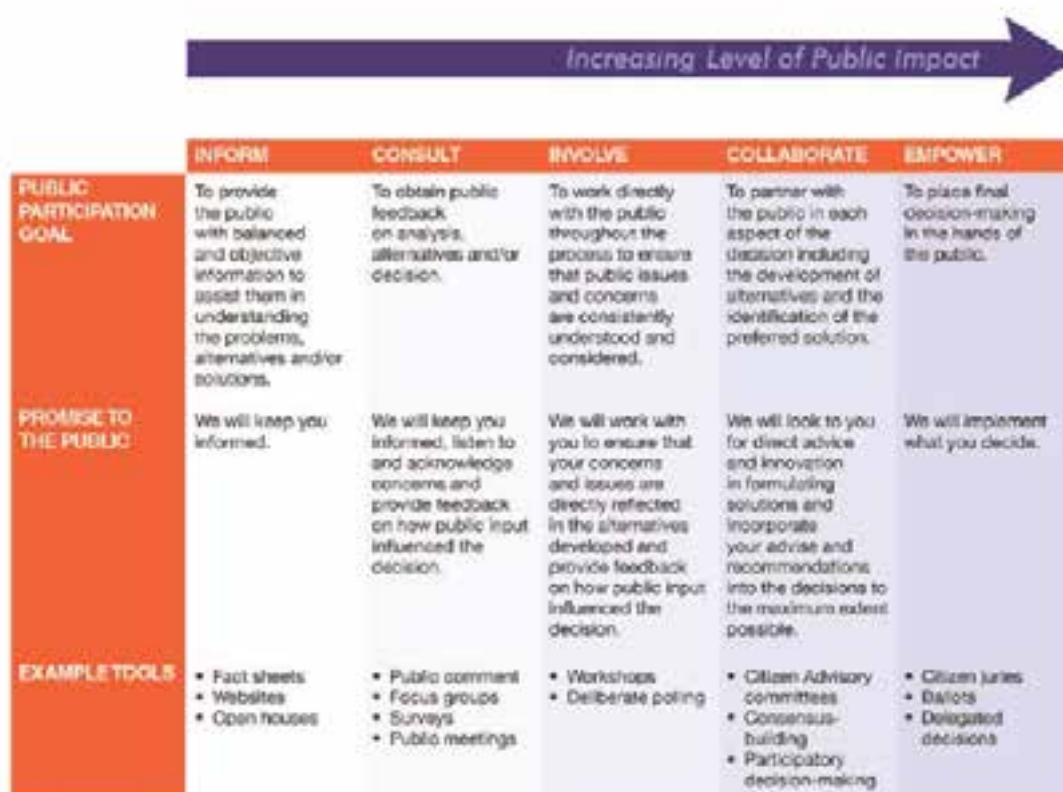
## Industry and Business Stakeholders

Those that are in a business or are involved in an industry which is directly affected or have an interest in Council decisions, projects and plans.

The IAP2 Public Participation Spectrum developed by the International Association for Public Participation gives an indication of the methods and circumstances by which an engagement process with the community will be undertaken.

## iap2 public participation spectrum

developed by the international association for public participation



### become a member

IAP2 is a member driven organization that can help you to grow professionally, provide you with training opportunities and increase networking with other public participation practitioners locally, nationally, and internationally. If you would like to learn more about IAP2's activities in your area or the benefits of becoming a member, please contact:



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international association  
for public participation  
**AUSTRALASIA**

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[www.twitter.com/iap2a](https://www.twitter.com/iap2a)  
 search IAP2 Australasia on LinkedIn

P O Box 5448  
 Wollongong NSW 2520  
 +61 2 4225 0655  
 +61 2 4225 0131

Role of the Community	Listen	Contribute	Participate	Partner	Decide
-----------------------	--------	------------	-------------	---------	--------

Decision making in local government is the responsibility of elected Councillors. Councillors by the very nature of the Local Government Act 1989 are ultimately responsible for the decisions of Council and to that end are unable to assign full decision making responsibilities to non-elected individuals. Wellington Shire Council believes that our community is able to experience the ultimate level of 'empower' (or empowerment) possible in this context, when it elects Council every four years.

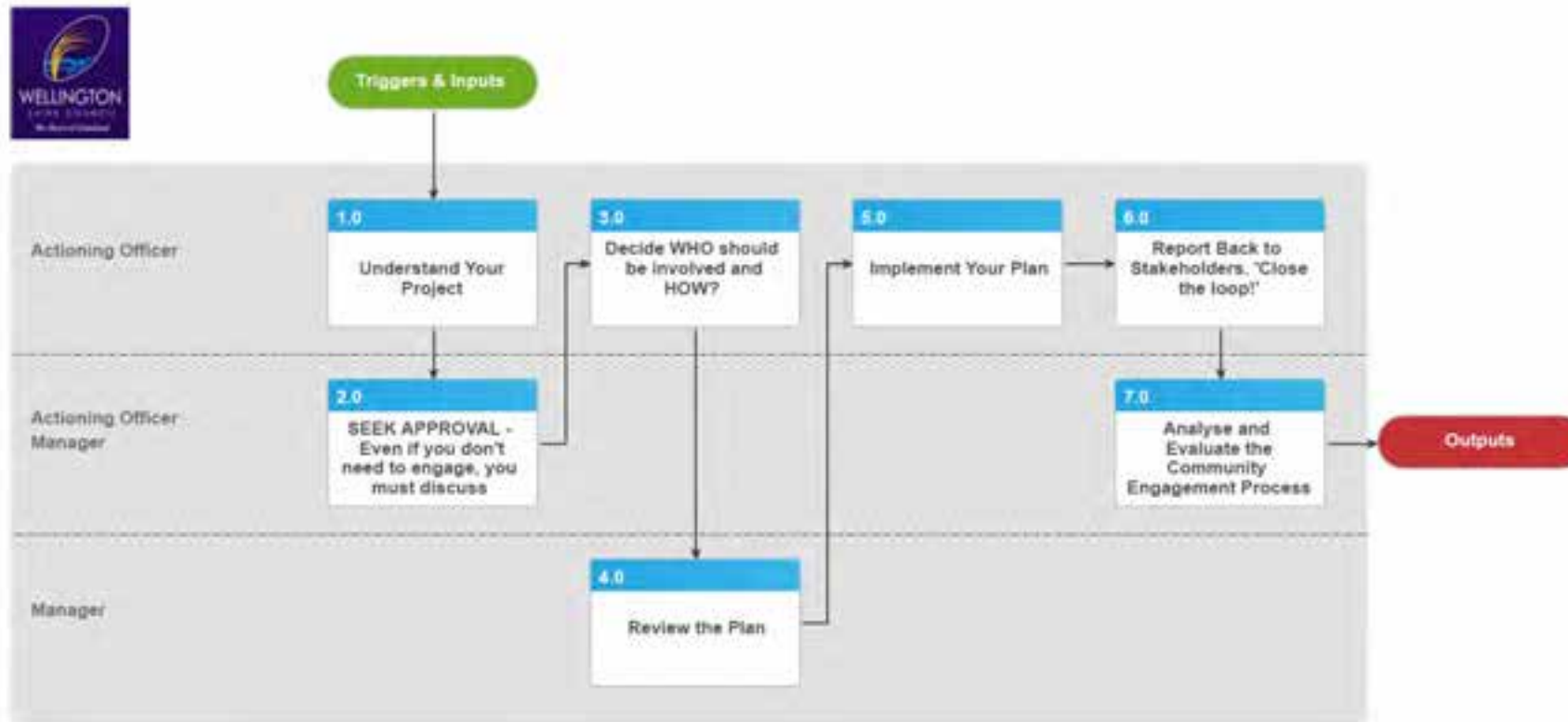
# Levels of engagement examples

Different issues and situations will call for different engagement methods.

The table below shows examples of the different Levels of Engagement (and associated engagement tools) in past Council projects.

Level of Engagement	Wellington Shire Council Project Examples	Examples of Tools and Techniques
Inform	<ul style="list-style-type: none"> <li>Thomson River Caravan Park</li> <li>Ninety Mile Beach Plan</li> <li>Emergency Events</li> <li>Annual Fire Prevention Inspections</li> <li>Hard waste collection schedule</li> </ul>	<ul style="list-style-type: none"> <li>Wellington Matters</li> <li>Wellington News</li> <li>Council's social media channels; Facebook and YouTube</li> <li>Letters and email</li> <li>Media and community newsletter releases, articles and interviews</li> <li>Council website</li> <li>Public meetings</li> </ul>
Consult	<ul style="list-style-type: none"> <li>Council budget</li> <li>King George V Jubilee Avenue restoration</li> <li>Community Engagement Strategy development</li> <li>Boisdale Sewerage Scheme</li> <li>Open Space Plan</li> </ul>	<ul style="list-style-type: none"> <li>Survey</li> <li>Social media questions</li> <li>Seek public submissions and information</li> <li>Focus groups</li> <li>Have your say online forum</li> <li>Shopping centre displays</li> </ul>
Involve	<ul style="list-style-type: none"> <li>Yarram Hub development</li> <li>Cultural Hub development</li> <li>Agricultural Position Paper</li> <li>Australia Day Awards</li> <li>Port Albert Lifestyle Lots Review</li> </ul>	<ul style="list-style-type: none"> <li>Project steering group</li> <li>One on one information and discussion sessions</li> <li>Round Table discussions</li> <li>Neighbourhood meetings</li> </ul>
Collaborate	<ul style="list-style-type: none"> <li>Briagolong Town Tree Plan</li> <li>Sale Livestock Exchange refurbishment</li> <li>Recreation Reserve Masterplans</li> <li>Community Plans</li> <li>Town entry sign statements</li> <li>Healthy Wellington</li> </ul>	<ul style="list-style-type: none"> <li>Public meetings</li> <li>Project steering groups</li> <li>Working groups/special interest/user groups such as Community Planning Groups</li> </ul>
Empower	<ul style="list-style-type: none"> <li>Council Elections</li> </ul>	<ul style="list-style-type: none"> <li>Democratic Vote</li> </ul>

## Wellington Shire Council Community Engagement Process





## **Keeping community engagement at the front of Council activity**

A toolkit and a four year action plan will support the delivery of genuine and effective community engagement across council. The Community Engagement Steering Group, made up of representatives from a range of council business units, community groups and individual community members will meet on a quarterly basis to monitor progress within the action plan and add to the toolkit.

Essential to the successful implementation of the strategy will be the training and development of Council staff in the processes of community involvement.

## **Used in the development of this strategy we recognise the work of:**

- Launceston City Council
- Engaging Canberrans: A guide to community engagement
- Warringah Council Community Engagement Strategy 2011



## **D. URGENT BUSINESS**



## **E. FURTHER GALLERY AND CHAT ROOM COMMENTS**



**F. CONFIDENTIAL ATTACHMENT/S**

**F. CONFIDENTIAL ATTACHMENT/S**

**ITEM F1.1      AUDIT COMMITTEE MINUTES  
(REFER TO ITEM C2.3 OF THIS AGENDA)**

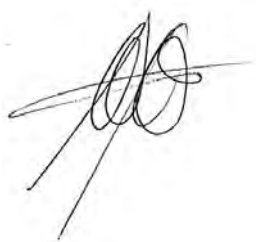
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**ORDINARY COUNCIL MEETING  
21 JUNE 2016**

On this 18<sup>th</sup> day of May 2016, in accordance with Section 77 Clause (2)(c) of the *Local Government Act 1989*; I, Arthur Skipitaris (Delegate) declare that the information contained in the attached document **AUDIT COMMITTEE MINUTES 25 MAY 2016** is confidential because it relates to the following grounds under Section 89(2) of the *Local Government Act 1989*:

- f) legal advice
- h) any other matter which the Council or special committee considers would prejudice the Council or any person.



.....  
General Manager Corporate Services (Delegate)



**ITEM F1.2      NORTH SHIRE LITTER BINS CONTRACT 2015-042  
(REFER TO ITEM C4.2 OF THIS AGENDA)**



**ORDINARY COUNCIL MEETING  
21 JUNE 2016**

On this 2 June 2016, in accordance with Section 77 Clause (2)(c) of the *Local Government Act 1989*, I, Chris Hastie declare that the information contained in the attached document **NORTH SHIRE LITTER BINS CONTRACT 2015-042** is confidential because it relates to the following grounds under Section 89(2) of the *Local Government Act 1989*:

**d)      Contractual matters.**



.....  
**Chris Hastie General Manager Built and Natural Environment**

**ITEM F1.3      WEST SALE AIRPORT EASTERN RECREATIONAL AVIATION PRECINCT  
FREEHOLD LAND DEVELOPMENT  
(REFER TO ITEM C4.3 OF THIS AGENDA)**



**ORDINARY COUNCIL MEETING  
21 JUNE 2016**

On this 14 day of June 2016, in accordance with Section 77 Clause (2)(c) of the *Local Government Act 1989*, I, Chris Hastie declare that the information contained in the attached document **WEST SALE AIRPORT EASTERN RECREATIONAL AVIATION PRECINCT FREEHOLD LAND DEVELOPMENT** is confidential because it relates to the following grounds under Section 89(2) of the *Local Government Act 1989*:

- h) any other matter which the Council or special committee considers would prejudice the Council or any person



.....  
**General Manager Built and Natural Environment**



## G. IN CLOSED SESSION

## G. IN CLOSED SESSION

### COUNCILLOR

*That the meeting be closed to the public pursuant to Section 89(2) of the Local Government Act 1989 to consider:*

- a) personnel matters*
- b) the personal hardship of any resident or ratepayer*
- c) industrial matters*
- d) contractual matters*
- e) proposed developments*
- f) legal advice*
- g) matters affecting the security of Council property*
- h) any other matter which the Council or special committee considers would prejudice the Council or any person*

---

### IN CLOSED SESSION

---

### COUNCILLOR

That:

---

That:

*That Council move into open session and ratify the decision made in closed session.*