

## **COLAC OTWAY PLANNING SCHEME**

### **AMENDMENT C91**

#### **EXPLANATORY REPORT**

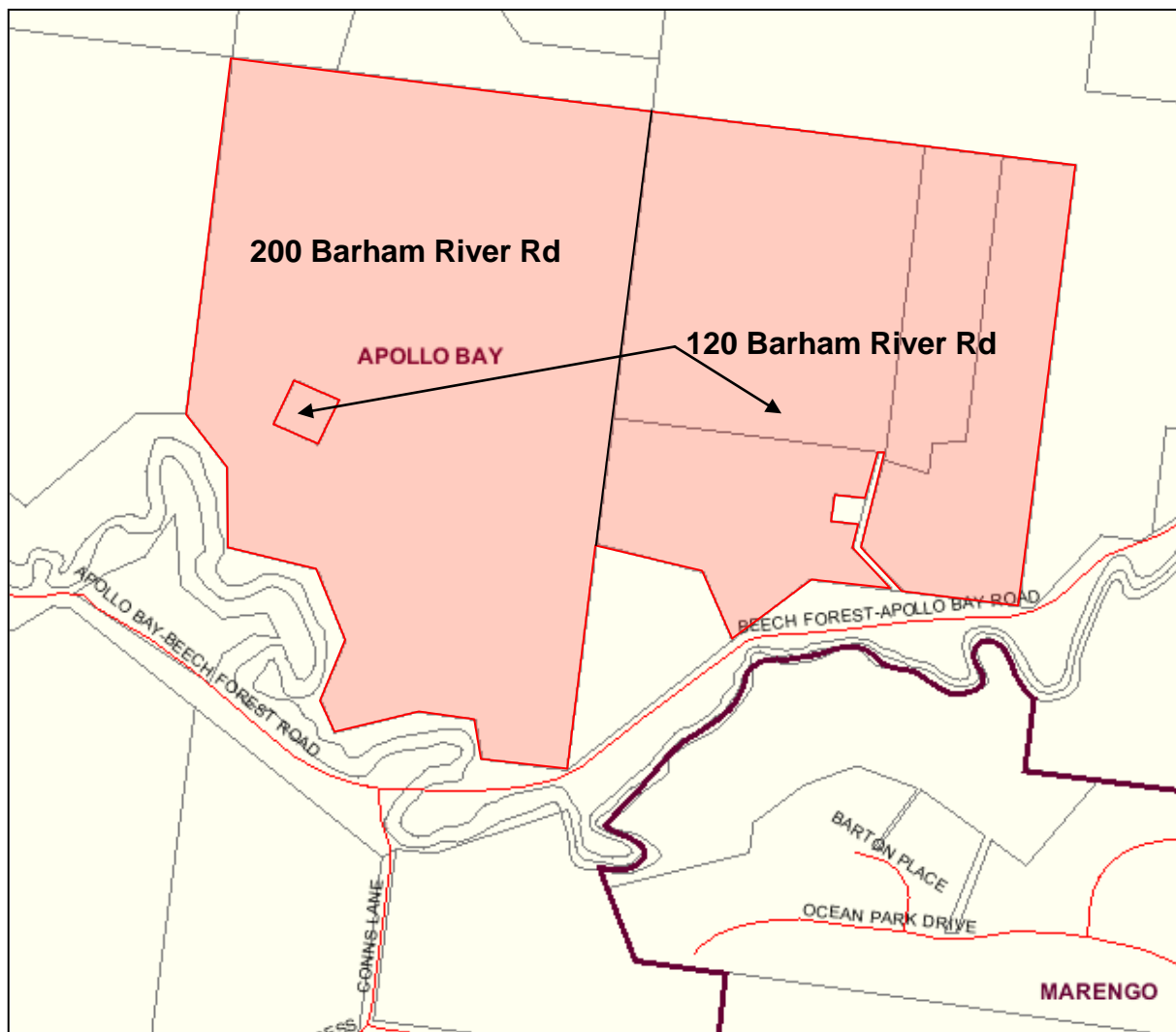
#### **Who is the planning authority?**

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

The Amendment has been made at the request of SMEC on behalf of the Barwon Region Water Corporation.

#### **Land affected by the Amendment**

The Amendment applies to 120 Barham River Road, Apollo Bay (Lot 1 TP243582, Lot 2 PS440381, Lot 1 PS408749, and Lot 1 & 2 LP13765), and 200 Barham River Road, Apollo Bay (Lot 1 TP95752) as shown on the map below.



## **What the amendment does**

The Amendment will rezone part of the land at 200 Barham River Road (Lot 1 TP95752) and the detached island parcel of 120 Barham River Road (Lot 1 TP243582), from the Public Use Zone 1 (PUZ1) to the underlying Rural Conservation Zone (RCZ), consistent with the surrounding area. The detached landholding of 120 Barham River Road is considered surplus to Barwon Water requirements, while the privately owned land at 200 Barham River Road is not currently used for the purposes specified under PUZ1. The amendment seeks to rezone the land for its underlying purpose.

The Amendment will also rezone part of 120 Barham River Road (Lot 2 PS440381, and Lot 1 PS408749), from the Rural Conservation Zone (RCZ) to the Public Use Zone 1 (PUZ1). This land comprises a Barwon Water-owned water storage basin and the amendment seeks to rezone the land for its ongoing public-use purpose.

Concurrent with the preparation of the planning scheme amendment, a planning permit application is also made pursuant to Section 96A of the *Planning and Environment Act 1987* (Planning Application PP58/2016-1). This application is to subdivide the four lots comprising 120 Barham River Road to create one separate title for the Barwon Water-owned storage basin and consolidate all other titles to create one lot (the balance lot) that can be divested.

The Amendment makes the following changes:

- Rezone land at 200 Barham River Road currently zoned Public Use Zone 1 - Service and Utility (PUZ1) to the Rural Conservation Zone (RCZ). This comprises Lot 1 TP95752 and the detached island parcel of 120 Barham River Road (Lot 1 TP243582);
- Rezone part of 120 Barham River Road (Lot 2 PS440381, and Lot 1 PS408749), Apollo Bay from the Rural Conservation Zone (RCZ) to the Public Use Zone 1 - Service and Utility (PUZ1); and
- Amend Planning Scheme Map 27 and 30.

Concurrent with the amendment, a planning permit application (Planning Application PP58/2016-1) has been made for a two lot subdivision to individually title the Barwon Water storage basin. Parts of the eastern parcels (Lot 2 PS440381, and Lot 1 PS408749) contain the basin site.

The amendment will change the planning scheme maps. No changes to policy clauses will occur.

The amendment is relatively minor and will generally serve to enable a private entity to purchase land surplus to Barwon Water's needs.

## **Strategic assessment of the Amendment**

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

Barwon Water has completed an extensive review of its property assets throughout the region to identify land that is surplus to its current and future operational needs. Zoning anomalies have been identified and it is sought to rectify these.

The land at 200 Barham River Road is currently partly in the Public Use Zone 1 - Service and Utility (PUZ1), however is privately owned. The 120 Barham River Road 'island lot' is owned by Barwon Water however is not used for public purposes. Application of the Rural Conservation Zone (RCZ) is proposed to reflect the underlying zoning of the local area and rectify a planning anomaly.

Part of the land at 120 Barham River Road comprises an existing Barwon Water asset (water storage basin) and Barwon Water wishes to rezone the land to reflect its ongoing use for this purpose. The land is currently within the Rural Conservation Zone (RCZ) and the application of the Public Use Zone 1 (PUZ1) is proposed to facilitate this current use.

The permit application accompanying the amendment will separate the land required for the water storage basin from that which has been identified as being surplus to Barwon Water's

needs. This will enable Barwon Water to divest the surplus land and enable ongoing use for rural residential purposes. The subdivision will define the lot that is to be rezoned to PUZ that will contain Barwon Water's assets.

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

The amendment implements the objectives of planning in Victoria as set out in Section 4(1) of the *Planning & Environment Act 1987* by:

- *Providing for the fair, orderly, economic and sustainable use and development of the land*

The amendment implements this objective by applying appropriate zones to enable the site to be used to its full potential. The amendment will enable the orderly provision of public utilities for the benefit of the community, while also enabling land not required for public use to be divested and used for purposes consistent with surrounding land.

- *Protecting natural and man-made resources, ecological processes and genetic diversity.*

The amendment will not impact significant flora and fauna habitats or ecological processes. While significant environmental attributes are present at the site and in the surrounding area, the amendment proposes to rezone agricultural and public use land that is largely altered from its natural state.

The amendment is predicted to result in improved land practices and it is important to note that development is not proposed. Once sold, the surplus land will predictably be subject to a greater level of management consistent with surrounding land uses and the natural environment.

- *Securing a pleasant, efficient, safe working, living and recreational environment.*

The amendment will facilitate Barwon Water to provide public utilities more efficiently. Divesting surplus land will allow Barwon Water to consolidate operations at the site and remain focused on service provision rather than managing land that is agricultural in nature.

- *Conserving and enhancing places of historic interest and cultural value*

Parts of the subject site have been identified as having historical interest and cultural value. The amendment will not impact these values with no new development proposed.

- *Protecting and enabling the orderly provision and coordination of public utilities and other facilities*

The amendment will facilitate improved provision of public utilities consistent to the planning scheme controls and policy objectives. As discussed previously, the amendment will allow Barwon Water to divest surplus land and focus on providing public utility provision rather than managing agricultural land.

- *Facilitating development in accordance with the above objectives*

Development is not proposed as part of the amendment.

- *Balancing the present and future needs of all Victorians*

The amendment will ensure that the planning controls are sufficiently appropriate for the underlying land uses that are currently occurring at the site. Appropriate zoning regimes assist with the future needs of Victorians.

Barwon Water has now spoken to the owners of the property surrounding the 'island lot' (Mr Nathan Telford) about the proposed rezoning of the land, which he has no objections toward. This PSA has been put forward to address a planning scheme anomaly, not

because Barwon Water are wanting to sell the isolated lot. Having said that, Mr. Telford has expressed his interest in reincorporating the concrete basin title into his property at a later date. Barwon Water has processes in place to facilitate the transfer of land-locked land to surround properties.

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

The amendment will have no adverse environmental, social or economic effects. The site is located within the Erosion Management Overlay (EMO1), Land Subject to Inundation Overlay (LSIO), and Significant Landscape Overlay (SLO3), and while altered for agricultural and service provision uses, has significant environmental values. The SLO3 in particular relates to the *Apollo Bay Coastal Valley and Hills Precinct*, providing an intersection of differing landscape elements which produce a '*landscape setting of national significance*'.

The proposed amendment and subdivision would not adversely affect or constrain these values, as it proposes to introduce zoning controls that are responsive to the existing conditions of the land, and allow its appropriate use. The amendment will apply the underlying zoning controls to 200 Barham River Road (privately owned) and the surplus Barwon Water land at 120 Barham River Road, whilst simultaneously removing these zoning controls from the existing water storage basin asset to facilitate its ongoing service and utility use.

An assessment of the site's Aboriginal cultural heritage significance identified no additional areas of significance located within the subject site. Previous assessments have identified four (4) registered cultural heritage places. Additionally, an approved CHMP applies to the heritage places within the site in relation to the construction and ongoing management of the Barwon Water asset on the land. Based on the findings of this CHMP assessment, it is considered that the proposed subdivision of the land would not detrimentally impact the identified heritage places within the property.

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

The land is located within a Bushfire Prone Area. The future use and development of the land will provide the necessary infrastructure to support the strengthening of community resilience to bushfire, in accordance with Clause 13.05 'Bushfire'. The application of the underlying zoning and overlay controls would not result in an increased risk to life, property and community infrastructure from bushfire, nor would it result in inappropriate or over development of bushfire prone land (noting again that no development is proposed).

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

The amendment complies with applicable Minister's Directions. The amendment is consistent with the Minister's Direction on the Form and Content of Planning Schemes under Section 7(5) of the Act, which directs that planning schemes may only include land in a Public Use Zone if the land is Crown land, or is owned by, vested in or controlled by a Minister, government department, public authority or municipal council. As the land will be released/on sold and obtained/used by Barwon Water, it is appropriate to remove and apply the PUZ to the land respectively as proposed.

#### *Ministerial Direction 1*

The purpose of Ministerial Direction 1 (Potentially Contaminated Land) is to ensure that potentially contaminated land is suitable for a use which is proposed to be allowed under an amendment to a planning scheme and which could be significantly adversely affected by any contamination.

Table 1 of the *Potentially Contaminated Land Practice Note* lists the type of land uses that may have potential for contaminating land. Utility depots are listed in the medium potential category. The assessment matrix in the Practice Note indicates that including the land within the Rural Conservation Zone would result in a 'C' score for addressing potential

contamination. Rezoning agricultural land to a Public Use Zone similarly results in a 'C' score (agriculture is in the low potential category).

The 'C' scores requires an assessment consideration of 'General duty under Section 12(2)(b) and Section 60(1)(a)(iii) of the *Planning and Environment Act 1987*'. Given, the assessment score, an Environmental Site Assessment is not necessary for the site in order to support the amendment.

#### *Ministerial Direction 11*

Ministerial Direction No.11 (Strategic Assessment of Amendments) is the relevant Minister's Direction with regard to the proposed amendment. This section of the report outlines the proposed amendment's compliance with the Strategic Assessment Guidelines. The amendment documents also comply with the Ministerial Direction on the Form and Content of Planning Schemes.

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

The amendment will achieve an appropriate balance between the various needs and expectation of society in terms of their economic, environmental and social well-being. Improved utility provision facilitated by the amendment will provide economic benefits to the community and will promote the sustainable growth of the municipality. This will not occur at the unreasonable expense of the environment and the social fabric of the community.

The amendment will not pose an unreasonable impact to the environment. The site has been historically used for agricultural and public utilities uses. The Amendment will not alter this situation, and will primarily serve to enable a private owner to purchase part of the site and continue agricultural uses.

The amendment implements Clause 11.07 Geelong (G21) Regional Growth, by enabling the land to be used consistent with established planning for the surrounding area. The amendment supports:

- Clause 11.07-4 Environmental Assets, by protecting, restoring and enhancing the region's unique environment.
- Clause 11.07-5 Agricultural Productivity, by securing food, water and energy resources.
- Clause 12.01-1 Protection of Biodiversity, by assisting the protection and conservation of Victoria's biodiversity, including important habitat for Victoria's flora and fauna and other strategically valuable biodiversity sites.
- Clause 13.03-1 Use of Contaminated and Potentially Contaminated Land, by ensuring that potentially contaminated land is suitable for its intended future use and development, and that contaminated land is used safely.
- Clause 14.02-3 Water Conservation, by ensuring that water resources are managed in a sustainable way.
- Clause 19.03-2 Water Supply, Sewerage and Drainage, by planning for the provision of water supply, sewerage and drainage services that efficiently and effectively meet State and community needs and protect the environment.

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

The amendment supports:

- Clauses 21.04-1 Catchment Management, by promoting a co-operative regional approach to natural resource management.
- Clause 21.04-2 Water, by protecting water catchments, and retaining and improving water quality and water yield.

- Clause 21.04-5 Erosion, by ensuring that use and development has regard to the potential for landslip.
- Clause 21.04-6 Flooding, by minimising environmental hazards.
- Clause 21.04-9 Cultural Heritage, by protecting places and areas of cultural heritage significance and encourage development and adaptation where appropriate that does not detract from their significance.

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

The amendment makes proper use of the Victoria Planning Provisions, applying relevant zones consistent with the underlying land uses, relevant environmental considerations and the zoning and controls applying to surrounding land.

The amendment is consistent with the *Ministerial Direction on the Form and Content of Planning Schemes* which directs that planning schemes may only include land in a Public Use Zone if the land is Crown land, or is owned by, vested in or controlled by a Minister, government department, public authority or municipal council. The inclusion of relevant Barwon Water land within the Public Use Zone 1 is also consistent with *Planning Practice Note No.2 – Public Land Zones*.

The amendment is also consistent with the newly introduced Fast Track Government Land (FTGL) Service, which seeks to facilitate the orderly management of government or publically owned land, including the rezoning and on selling of surplus land holdings in accordance with the zoning and overlay controls applicable to the local area and future use and development.

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

This amendment has been prepared in consultation with affected agencies. The amendment will incorporate, where appropriate, the views and requirements of other relevant agencies.

#### *Colac Otway Shire*

The Colac Otway Shire has been consulted throughout the preparation of this amendment request and is supportive of Barwon Water with this amendment. Consultation with Council has included a pre-application meeting held with relevant Council officers on 4 February 2016 and 29 April 2016, which suggested that officers were generally supportive of the amendment and associated subdivision.

#### *Department of Environment, Land, Water and Planning (DELWP)*

The Department will provide strategic and statutory input into the amendment process and its merits. DELWPs role will be to authorise exhibition of the amendment and to make recommendations to the Minister for Planning on whether the amendment should be approved. In addition, the land is also affected by the Significant Landscape Overlay (SLO3) which will require DELWP involvement and consideration.

In relation to agriculture, planning authorities are encouraged to contact the relevant State Authority on the suitability of the land for its intended agricultural use.

#### *Corangamite Catchment Management Authority (CCMA)*

The view of the Corangamite Catchment Management Authority (CCMA) will be considered during the amendment process due to the subject site being affected by the Land Subject to Inundation Overlay (LSIO).

#### *Department of Transport*

The views of the Director General of Transport will be considered during the amendment process due to the requirements of Practice Note 11 'Strategic Assessment Guidelines', specifically Question 9.

#### *Country Fire Authority*

The views of the Country Fire Authority will be considered during the amendment process due to the requirements of Practice Note 11 'Strategic Assessment Guidelines', specifically Question 3.

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

The amendment will not create a significant impact on the existing transport system as defined by Section 3 of the *Transport Integration Act 2010*. Appreciable increases in private vehicle traffic volumes are not expected as a result of the amendment.

There are no requirements of the Transport Integration Act that apply to this amendment.

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

It is expected that the new planning scheme provisions will have a limited impact on the resource and administrative costs of the Colac Otway Shire. Council planning officer resources will be required to assess and implement the amendment. However, the resource and administrative costs to council will not be in excess of the costs typically associated with planning scheme amendments.

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

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

<b>Colac Otway Shire Council</b> Development and Community Service Centre 101-105 Gellibrand Street COLAC VIC 3250	<b>Colac Otway Shire Council</b> Apollo Bay Customer Service Centre 69-71 Nelson Street APOLLO BAY VIC 3233
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Website: [www.colacotway.vic.gov.au](http://www.colacotway.vic.gov.au)

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

### **Submissions**

Any person who may be affected by the Amendment may make a submission to the planning authority. Submissions about the Amendment must be received by 16 November 2016.

A submission should be titled "Amendment C91 and PP58/2016-1 Submission" and emailed to [inq@colacotway.vic.gov.au](mailto:inq@colacotway.vic.gov.au) or mailed to:

Strategic Planning  
Colac Otway Shire Council  
PO Box 283  
COLAC VIC 3250

## **Panel hearing dates**

In accordance with clause 4(2) of Ministerial Direction No.15 the following panel hearing dates have been set for this amendment:

- directions hearing: To commence in the week of 3 April, 2017
- panel hearing: To commence in the week of 17 April, 2017