



**AGENDA APPENDIX**  
**Council Meeting**  
**Wednesday 27 March 2013**

AGENDA ITEM FOR SEPARATE DISTRIBUTION TO COUNCILLORS AND  
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E.15 ABANDONMENT OF PLANNING SCHEME AMENDMENT C54 (LEONGATHA  
AND FOSTER HOSPITAL HELIPAD PROTECTION) & PREPARATION OF  
AMENDMENT C87 TO INTRODUCE NEW HELIPAD PROTECTION  
CONTROLS

Appendix 1 - Amendment C54 Panel Report December 2010  
Appendix 2 - Council Report 23 February 2011 Adopting Panel Report



**ABANDONMENT OF PLANNING SCHEME  
AMENDMENT C54 (LEONGATHA AND FOSTER  
HOSPITAL HELIPAD PROTECTION) &  
PREPARATION OF AMENDMENT C87 TO  
INTRODUCE NEW HELIPAD PROTECTION  
CONTROLS**

**APPENDIX 1:**

**Council Report 27 March 2013**

Amendment C54 Panel Report December 2010

**SOUTH GIPPSLAND  
PLANNING SCHEME  
AMENDMENT C54**

**PANEL REPORT**

**DECEMBER 2010**

**SOUTH GIPPSLAND  
PLANNING SCHEME  
AMENDMENT C54**

**PANEL REPORT**



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**Henry H Turnbull, Chairman**

**DECEMBER 2010**

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# **1. Background**

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## **1.1 Introduction**

This is the report of the Panel appointed to consider submissions received after public exhibition of proposed Amendment C54 (the Amendment) to the South Gippsland Planning Scheme (the Planning Scheme).

Planning Scheme Amendment C54 seeks to introduce into the South Gippsland Planning Scheme four new Design and Development Overlay controls (DDO's) to protect the areas surrounding the Leongatha and Foster Hospital helipads from buildings and works that may impact safe helicopter access to the helipads.

The amendment proponent is the Department of Health (DoH). This amendment forms part of a larger project to protect numerous Emergency Medical Services (EMS) helipad sites across Victoria.

Exhibition of the amendment resulted in the receipt of four submissions that require consideration of an Independent Planning Panel.

## **1.2 Appointment**

A two person Panel was appointed by the Chief Panel Member under delegation from the Minister for Planning on the 23<sup>rd</sup> August 2010.

Subsequent to this appointment, the Panel was reconstituted as a single person Panel due to the previous member, Mr David Whitney, not being available.

## **1.3 Hearings and Inspections**

A Directions Hearing was held at the offices of the South Gippsland Shire Council in Leongatha on Wednesday, 15<sup>th</sup> September, 2010.

A single day Hearing was held at the offices Planning Panels Victoria on Monday, 18<sup>th</sup> October 2010.

The Panel made an unaccompanied inspection of the two sites on Wednesday, 15<sup>th</sup> September.

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## 2. The Amendment

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The amendment request was initially submitted to Council by the Department of Health in July 2006. The request was submitted at the same time as similar amendment requests across various planning schemes around the State.

The provisions initially submitted with the amendment application presented concerns to Council on the basis that the areas affected by the proposed Design and Development Overlay (DDO) controls were excessive and would have resulted (in some areas) in the requirement for a planning permit for all buildings and works regardless of building height.

The amendment request sat in abeyance for an extended period of time until late 2009 when an understanding was reached between Council and the Proponent on new provisions that reduce the administrative burden of the provisions.

Ministerial authorisation to prepare the amendment was provided on 19 April 2010. The authorisation includes the delegation to Council to approve the amendment under section 35B of the *Planning and Environment Act 1987*.

Exhibition of the Amendment commenced on publication of the Gazettal Notice on 27 May 2010. Exhibition of the Amendment also involved:

- public notice in the three local newspapers – Great Southern Star, Sentinel Times, Foster Mirror;
- postal notice to all affected landowners & occupiers. In addition to the ‘Notice of Preparation’ postal information included the DDO provisions, maps of the affected areas and a fact sheet that explained how the provisions are intended to operate.;
- postal notice to prescribed ministers and other agencies and authorities considered to have a potential interest in the amendment;
- display of amendment documentation at Council’s Leongatha office and at the Leongatha and Foster libraries;
- display of documents on Council and the Department of Planning and Community Development’s web site; and
- display of ‘Notice of Preparation’ on public notice boards in Leongatha and Foster.

This Amendment forms part of a larger State wide program to apply similar controls to various helipads across the State.

The Amendment proposes to apply an inner and outer DDO control to the areas surrounding both the Leongatha and Foster Hospital helipads.

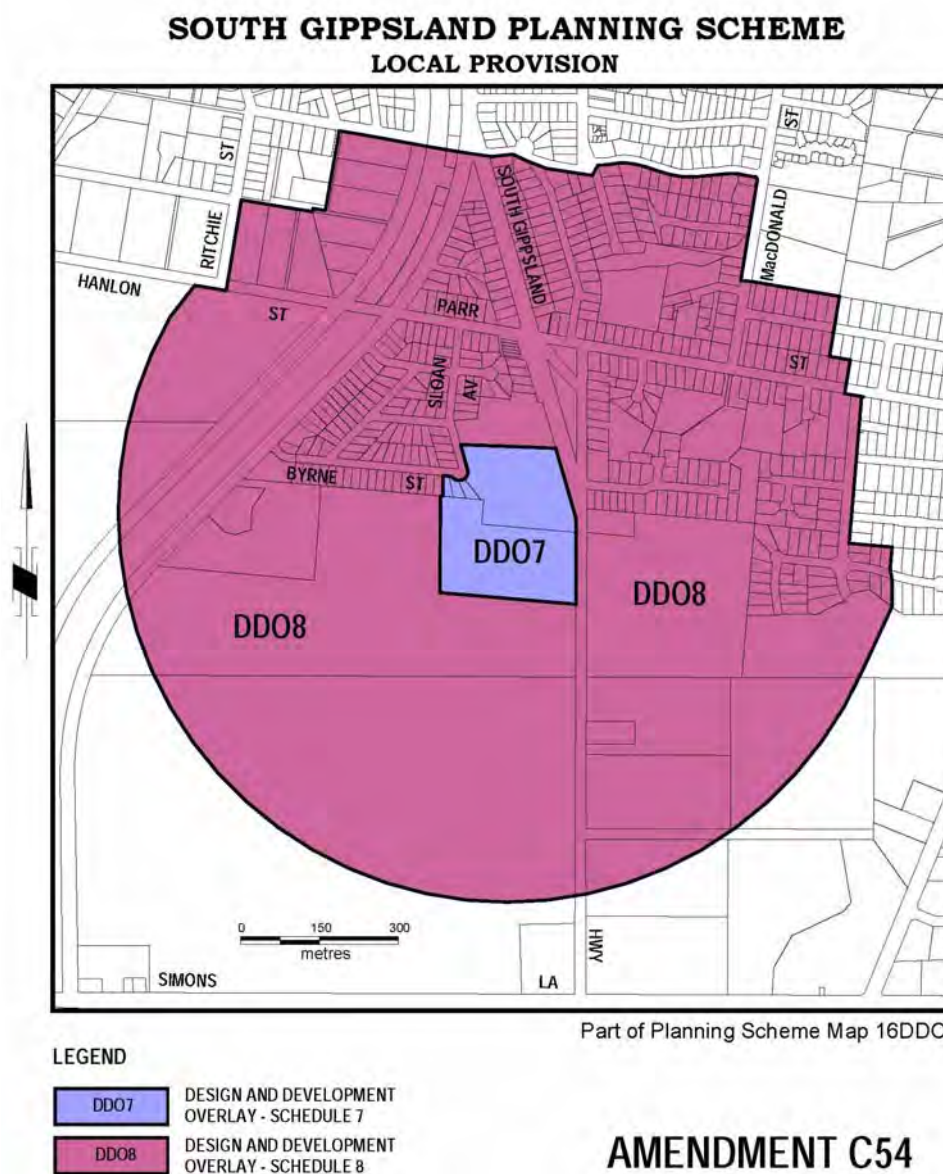
Amendment C54 to the South Gippsland Planning Scheme, as exhibited, seeks to do the following:

### Planning Scheme Maps

The Planning Scheme Maps are amended as follows:

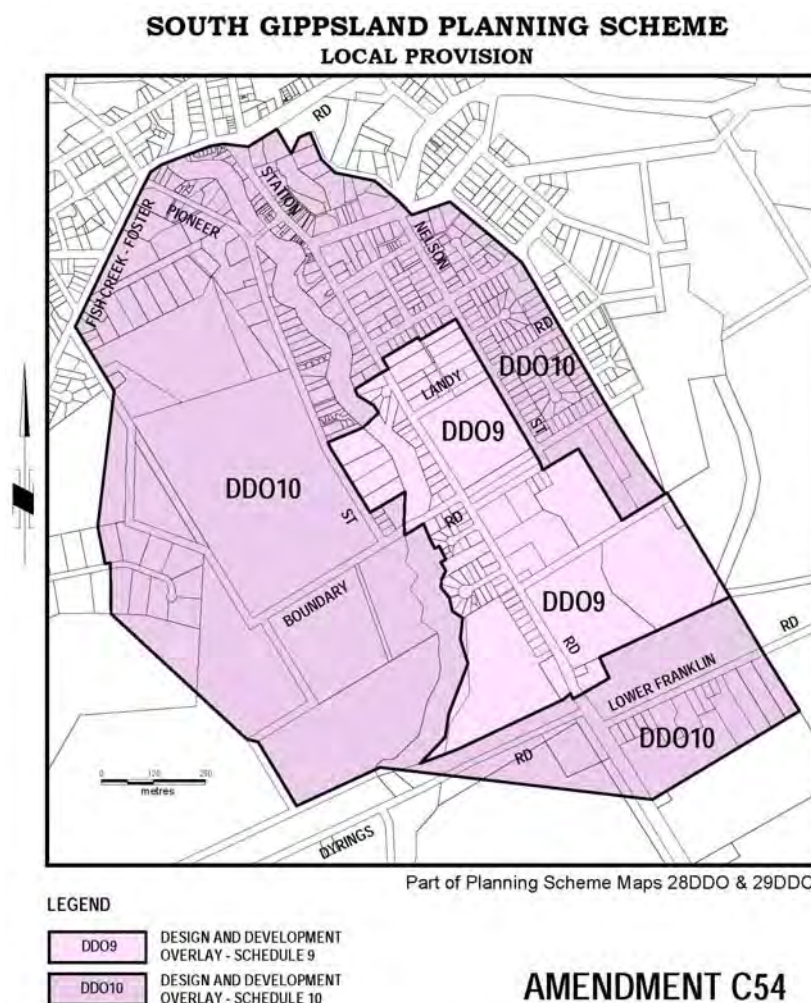
#### *Overlay Maps*

1. Planning Scheme Map Number 16DDO is amended as shown on the map below:





2. Insert two new Planning Scheme Map Numbers 28DDO & 29DDO in the manner shown on the map below:



## Planning Scheme Ordinance

The Planning Scheme Ordinance is amended as follows:

1. in Overlays - following Clause 43.02, Schedule 6, insert four new Schedules (DDO's 7, 8 9 & 10);
2. in General Provisions – in Clause 61.03 replace the schedule with a new schedule incorporating the numbers of the additional Design and Development Overlay maps; and
3. in General Provisions – in Clauses 66.04 replace the schedule with a new schedule incorporating the additional referrals for the protection of the EMS Helicopter flight paths.

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## **3. STRATEGIC & STATUTORY CONTEXT**

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### **3.1 Strategic Planning Framework**

This section identifies the existing strategic context within which issues associated with Amendment C54 must be considered.

The relevant documents that provide the context for considering Amendment C54 are as follows:

- the State Planning Policy Framework (SPPF); and
- South Gippsland Planning Scheme – Local Planning Policy Framework (LPPF).

#### **The State Planning Policy Framework**

The relevant SPPF clauses are:

##### **Clause 11.03-1 Settlement**

This clause requires planning to recognise the need for and, as far as practicable, contribute towards:

- Health and safety
- Land use and transport integration.

The provision of hospital and health care facilities are enhanced and protected by this amendment.

##### **Clause 11.03-4 Infrastructure**

Planning for development of urban physical and community infrastructure should enable it to be provided in a way that is efficient, equitable, accessible and timely. Strategic planning should facilitate efficient use of existing urban infrastructure and human services.

##### **Clause 11.05 Regional development**

Introduced into the SPPF after the exhibition of the amendment, the amendment is consistent with the strategy to “promote transport and communications and economic linkages between the various settlements through the identification of servicing priorities in regional land use plans”. Both Leongatha and Foster are identified in the map at Clause 11.05-1 map

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as 'Regional Towns'. Neither town is within the area of the Melbourne Hinterland.

#### **Clause 11.05-4 Regional Planning Strategies and Policies**

Although this provision does not directly reference any of the particular matters under consideration in this amendment, the amendment is generally consistent with the identified 'Principle' to "Strengthen networks of settlements by maintaining and improving transport links, spatial patterns of service delivery, and promoting commercial relationships and community activities".

#### **Clause 12 Metropolitan Development, Part 1 - A More Compact City**

This provision facilitates sustainable development that takes advantage of existing settlement patterns and investment in transport and communications. The amendment provides for the sustainable provision of hospital healthcare services and facilities.

#### **Clause 18.06-1 Health Services**

The planning objective of this clause is to assist the integration of health facilities with local and regional communities.

The amendment supports the three tiered system of healthcare facilities operating throughout the State and provides integration between the rural, regional and metropolitan facilities.

#### **Clause 52.15 Heliport**

Introduced into the planning scheme following exhibition of the subject amendment, the provision specifically excludes emergency helicopter services from requiring a planning permit. This provision has no impact on the amendment.

#### **The Local Planning Policy Framework**

The amendment and associated Emergency Medical Service helicopter activity are compatible with the objectives and strategies of the South Gippsland Shire Council Municipal Strategy Statement and supporting local policies. There are no local planning policies that directly affect the implementation of the amendment.

## 3.2 Statutory Planning Framework

There are a number of zones within the areas that would be subject to the new DDO's.

The amendment proposes to introduce DDO's with the purpose to identify areas which are affected by specific requirements relating to the design and built form of new development. In particular, the proposed schedules to the DDO's will include permit requirements for any new buildings, works or fences above a certain height in the areas affected by the DDO. This approach will allow Council to consider the appropriateness of the proposed development and to refer affected applications to the Department of Human Services for advice in relation to EMS helicopter operations.

The Panel notes that the introduction of the DDO's is consistent with the approach that the DHS has sought to have implemented in relevant planning schemes elsewhere in Victoria to protect the long term operational viability of the Emergency Medical Service.

## 3.3 Strategic Assessment Guidelines

The purpose of the Strategic Assessment Guidelines is to provide a consistent framework for the evaluation of a proposed planning scheme amendment and the outcomes it produces.

The Panel has considered the response to the Strategic Assessment Guidelines included in the exhibited Explanatory Report for the amendment, together with submissions on the guidelines from the planning authority. It endorses the planning authority's response and considers that the amendment complies with the guidelines.

### Ministerial Directions

There are no Ministerial Directions directly relevant to EMS aircraft operations or the protection of public asset infrastructure.

The amendment also complies with a range of Directions and Policies presented in Ministerial Direction Number 9: *Metropolitan Strategy*. While the Metropolitan Strategy relates to the Melbourne 2030 plan, this amendment ensures the on-going viability of the State-wide Air Ambulance network that links rural, regional and metropolitan centres throughout the state.

In particular, the amendment implements the following Directions:

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***Direction 1 - A More Compact City:*** Build up activity centre's as a focus for high quality development, activity and living for the whole community (Policy 1.1).

***Direction 2 - Better Management of Metropolitan Growth:*** Manage the sequence of development in growth areas so that services are available from early in the life of new communities (Policy 2.3).

***Direction 3 - Networks with the regional settings:*** Promote the Growth of Regional Cities and Key Towns on Regional Transport Corridors as part of a networked cities model (Policy 3.1).

***Direction 6 - A fairer city:*** Plan for a More Equitable Distribution of Social Infrastructure (Policy 6.2).

***Direction 8 - Better Transport Links:*** Planned Urban Development to Make Jobs and Community Services More Accessible (Policy 8.3).

***Direction 9 - Better planning decisions, careful management:*** Achieve Better Planning Decisions (Policy 9.1).

The amendment supports the three tiered system of healthcare facilities operating throughout the State with connections to the rural, regional and metropolitan facilities. The amendment protects the ongoing viability of the state-wide air ambulance network and ensures the availability and accessibility of such services to all communities. The amendment creates a framework for better planning decisions in relation to the provision of healthcare services and development in the vicinity of EMS helipad locations.

## 4. Submissions

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### 4.1 Submissions

A list of all written submissions to Amendment C54 is included in Table 1 below. The Panel has considered all written submissions and all material presented to it in connection with this matter.

In addition to these submissions, Council received responses from the Department of Sustainability and Environment and South Gippsland Water, both offering no objection to the proposed amendment.

**Table 1**

<b>Submitter</b>	<b>Organisation (if any)</b>
Mr Bill Sweeney	Beveridge Williams
Telstra	Urbis
Mr J Wilson	
Mr S Tindle	

### 4.2 Mr J Wilson & Mr S Tindle

The submissions from Mr J Wilson and Mr S Tindle - both residents of Foster - address matters not directly pertinent to the amendment provisions.

Mr Wilson's concerns relate to the safety of aircraft flying over established residential areas, while Mr Tindle's submission recommends the removal of trees in the curtilage of the Foster helipad. Neither submission expressed any direct concern with the planning scheme provisions proposed in the amendment.

The Panel ensured both submitters received a Request to be Heard form, but neither sought to attend the Hearing.

Having considered these submissions, the Panel was satisfied that no change to the proposed amendment was sought by these submitters.

### 4.3 Sweeney Superannuation Fund (Fund)

While acknowledging the importance of protecting the future safety and operational requirements of the EMS helicopters, Beveridge Williams on behalf of the Sweeney Superannuation Fund submitted that:

*“the information contained within the currently proposed Design and Development Overlays (DDO7 and DDO8) does not facilitate a clear understanding of the implications for future development on the adjoining landholding immediately to the south, particularly that area in closest proximity to the helipad.”*

To achieve this, the Fund sought a variation to the policy wording/format, particularly within the proposed DDO7.

### 4.4 Telstra Corporation Limited (Telstra)

Telstra was concerned that the introduction of the overlays in respect of the large area covered and the potential to frustrate development of Telecommunication Facilities in the future.

In addition, Urbis, on behalf of Telstra wrote:

*“Telstra queries whether or not the DHS is the most appropriate referral authority in this case and whether CASA would be a more appropriate body to assess the application to ensure consistency with national aerial requirements.”*

## 5. Hearing

The Panel hearing was then held on Monday 18<sup>th</sup> October, 2010 at the offices of Planning Panels Victoria in Nicholson Street, East Melbourne.

The Panel heard the parties listed below:

Party to hearing	Represented By
South Gippsland Shire Council	Mr Ken Griffiths, Strategic Planning Officer
Department of Human Services	Evidence presented by: <ul style="list-style-type: none"> <li>Mr Peter Simpson, PSNK Aeronautical Services</li> </ul>
Sweeney Superannuation Fund	Ms Sarah Wright, Senior Planner, Beveridge Williams & Co Pty Ltd
Telstra Corporation Limited	Miguel Belmar of Counsel, instructed by Blake Dawson. Evidence presented by: <ul style="list-style-type: none"> <li>Ms Jane Kelly, Associate Director, Urbis</li> <li>Mr Stephen Ormerod, Pilot and Aeronautical expert, The Ambidji Group Pty Ltd</li> </ul>

### 5.1 Planning Authority - South Gippsland Shire Council

Mr Griffiths represented the Planning Authority at the Hearing. He detailed the formal processes for the amendment and the extensive notification to all residents in the proposed DDO areas.

Mr Griffiths provided the rationale for the Amendment but noted:

*“the extent of the proposal the extent of the proposed overlay controls, and the restrictions placed within the DDO Schedules, are related to the technical performance, safety and operational requirements of the EMS helicopters. The technical nature of these requirements is illustrated by both expert evidence reports submitted to the Panel which discuss a range of complex performance requirements and other matters such as the most appropriate operational standards by which these matter should be considered.*

*The technical nature of these matters places Council in an interesting position regarding its role in balancing the expectations of the various*



*parties. Council does not have, and has not sought, its own technical investigation regarding what extent of land should be affected by the amendment provisions or how restrictive these provisions should be. In the processing of this amendment Council has relied on the advice of the expert representatives of the Department of Health (DoH) and continues to rely on the advice of the DoH regarding our position before the Panel, which remains in support of the amendment provisions as exhibited.*

*Council's support for this amendment in terms of the nature of the proposed controls and the extent of land to be affected is also justified on the basis that similar amendments have been introduced in other planning schemes in recent years (as noted above) and on two occasions these matters have been brought before a Panel for consideration. In both cases the amendments were supported by a Panel – see Bass Coast Amendment C57 and Greater Dandenong Amendment C75.”*

Mr Griffiths noted that the Fund and Telstra support the introduction to the planning scheme of mechanisms to protect access to the helipads – the issue of concern is limited to how this may best be achieved with minimal impact on their future development expectations. He advised that Council had considered these matters and stated:

*“It is the view of Council that the burden created by these controls on the surrounding land is not excessive and is consistent with the Objectives of Planning in Victorian, especially in relation to:*

- (a) To provide for the fair, orderly, economic and sustainable use and development of land.*
- (c) To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;*
- (e) To protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;*
- (g) To balance the present and future interests of all Victorians.”*

## **5.2 Department of Health**

Unfortunately, the nominated Department of Health Officer was unexpectedly unable to attend the Panel Hearing which resulted in the Department's witness, Mr Peter Simpson, being the sole representative for the proponent.

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The Panel accepted Mr Simpson as an expert and allowed him to be cross-examined as it was his work upon which the Council had been informed in relation to development of the DDO's. (The Panel considered this was the best way for it to be informed during the hearing although when later in the hearing Mr Simpson sought to question other witnesses the Panel refused to allow him to do so.)

Mr Simpson provided valuable background to the Amendment proposals having been involved in a number of previous similar amendments. He noted the Amendment was:

*“part of an implementation programme for the Statewide Helipad Strategy developed by the Department of Health (formerly the Department of Human Services). The Strategy in essence is to secure the ongoing operational availability of helipads that are used by EMS helicopters as part of the aero-medical retrieval network throughout Victoria.”*

Significantly, the Panel noted that it was the extent of protection and the resultant potential fettering of development that the Fund and Telstra objected to. In this regard Mr Simpson was of the view that:

*“The variability of flight tracks in response to flight origin, destination and prevailing weather require optimum flexibility of access to and from the helipads.”*

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## 6. ISSUES

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### 6.1 Generality of the proposed DDO's

The Telstra submission, although being concerned with the impact the Amendment may have on its operations, particularly the role out of the "Next G" or 3G Network, is significant because it raises a threshold issue that would seem not to have been raised at other hearings looking at similar amendments.

Mr Belmar submitted that:-

*"The protection of Emergency Medical Services (EMS) helipads in Foster and Leongatha is a desirable planning outcome. The issue from the point of view of Telstra is how this can be achieved while balancing competing claims for airspace."*

While the Panel was drawn to the specific planning scheme provisions related to Telecommunications and the clear importance of accessible modern telecommunications facilities for the community through the evidence of Ms Kelly, Telstra's position is also characteristic of all potential development within the proposed DDO areas.

The Panel was greatly assisted by the expertise of Messrs Simpson and Ormerod.

During the course of the hearing, it became evident that for actual helicopter operations, the flight path chosen would depend on a number of considerations or "risk assessment".

Mr Simpson agreed that the flight path would be influenced by route, wind, obstacles (hazards, lakes, dams, etc.), noise sensitive areas and other factors. While it was possible to come up with nominated flight paths, it was not practical. He noted that the prevailing access routes were not specified with the amendment and it was not worth going to the time and effort to do that when you could protect it all.

On the other hand, Mr Ormerod, an experienced helicopter pilot, explained that all flying was a risk minimisation exercise. Issues of noise and safety were important when determining a flight path resulting in avoidance of low flight over houses, stock in paddocks, etc.

He noted that all the EMS pilots were highly qualified and experienced. They would not, for example, want to fly over the hospital!

The experts explained the nature of the helicopter flight, the desirable take-off profiles and the implications of engine problems. Significantly, the EMS uses two engine helicopters, generally with reserve operating capacity to provide a margin of safety.

While helicopters can rise and land vertically, it is more efficient to approach at a flatter angle. Protection of approach/departure flight paths from the incursion of built objects is the purpose of the amendment.

The Panel regards the proposed form of contract as overly simplistic and not having regard to the gradient of the flight path. In addition, the 360 degree DDO approach means that many landowners are affected while in practice, only those on the key flight paths need to be.

Mr Ormerod was strongly of the view that there were already suitable flight paths to the helipads and it was these that should be protected. It was his opinion that:

*“Amendment C54 should be amended to nominate a minimum of two and ideally three flight paths at each helipad and the obstacle free gradients required in each of these flight paths. Restriction of building heights should only be required in these flight paths.”*

Mr Belmar further submitted that Mr Ormerod’s analyses supported the following conclusions:

- *The first step in helipad design is to identify a flight path and an obstacle free gradient within that flight path that must be protected;*
- *The method proposed in this Planning Scheme amendment to protect emergency helicopter operations is simplistic and in certain respects, unreasonable;*
- *The irregular shape of the internal DDO’s means that the 12 metre height trigger in the outer DDO is not a consistent distance from the helipads. In some directions from the helipad, the 12 metre trigger creates a gradient of 3%. In other directions the gradient is 12%.*
- *The proposed DDO’s create a conservative obstacle clearance path in all directions, when only two or three paths would be adequate.*
- *Omni-directional protection is not necessary and therefore unreasonable.*
- *The existing hospital helipad at Leongatha is obstacle free through 180 degrees to the south of the hospital. It should be possible to nominate*

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*two or three departure paths in this area and regulate height within these paths.*

- *At the Foster Showground there already exist three approach/departure paths as a consequence of the existing conditions. Heights should only be regulated in these approach/departure paths.*

The Panel agrees with Mr Ormerod and Mr Belmar in respect of these matters.

**The Panel recommends that Amendment C54 to the South Gippsland Planning Scheme be abandoned in its current form.**

**The Panel further recommends that appropriate DDO's be prepared for inclusion within the South Gippsland Planning Scheme to protect future operation of the helipads by:**

- **Nominating three flight paths to each helipad, and**
- **Restricting building heights in accordance with nominated flight gradients within these flight paths.**

## **6.2 Referral and Decision Guidelines**

There was concern expressed about the nature of the referral arrangements and to whom they should be made.

Mr Simpson points out that while CASA has a role in considering issues where regulations are not sufficiently detailed in relation to specific applications, this usually takes about six weeks for projects associated with regular public transport operations in the vicinity of major airports. The Department of Health on the other hand has a target turnaround time of two weeks for issues relating to helipad sites and responses generally occur within one week.

Mr Simpson felt that Telstra's desire for referrals to be to CASA was impractical.

The Panel agrees and notes that the Department would appear "to have the runs on the board" in relation to its current handling of referrals from other schemes.

Telstra submitted that the decision guidelines should be redrafted to confirm that applications referred to the Department of Health would be assessed against the International Civil Aviation Organisation (ICAO)

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standards and recommended practices (SARPS) as set out in ICAO Annex 14: Volume II Heliports, Second Edition – July 1995.

The Panel agrees that within the identified flight paths, specified flight gradients should be adopted consistent with the ICAO SARPS Annex 14: Volume II.

**The Panel recommends that any redrafted DDO retain the Department of Health as the referral authority and include a reference to applications being assessed against ICAO SARPS Annex 14: Volume II, if appropriate.**

Ms Kelly in her evidence also recommended that this document should be included as a Reference Document in the South Gippsland Planning Scheme. **The Panel adopts this recommendation.**

### **6.3 Rotorwash and the Inner DDO's**

Rotorwash is the wind gusts created by the downwash of flow of air beneath the helicopter rotor blade. Both experts acknowledged the public safety issues associated with rotorwash, particularly the blowing of particles and twigs, etc picked up by the draft.

Rotorwash is increased for heavier craft, but generally the “danger zone” is around 30 - 35m.

Mr Simpson adopted a 35m safety area for the Leongatha EMS helipad.

It follows that there need be no restriction on development nearby to the helipad, other than building restrictions on account of interference with flight paths, provided a suitable clearance from the effects of rotorwash can be maintained.

Given the siting of the Leongatha helipad within the confines of the hospital land, it would appear that the Fund's land to the south would not be affected by rotorwash to the extent that it would influence development.

In the submission of Ms Wright on behalf of the Fund, it was pointed out that the proposed DDO 7 which affected its site was not expressive in terms of acknowledging Council's identified policy intent to utilise the area to the south of the Leongatha Hospital for both residential (current zoning) and future Bulky Goods Retail.

Ms Wright pointed out that her client was supportive of the intent of the subject amendment and was willing to enter into discussions to resolve the best way forward to satisfy both parties' objectives.

The Panel agrees that the DDO's should be more specific.

**The Panel recommends that Council facilitates discussion between the relevant parties when redrafting them to specify flight paths so that future development options can, as far as practicable, be provided for.**

## 6.4 Consequential Issues

### 6.4.1 Leongatha

The Leongatha Hospital helipad is located on the southern side of the hospital complex. While the hospital is located in the Public Use Zone 3 (Health & Community), the helipad is on a lot owned by the hospital, but included in the Residential 1 Zone (R1Z).

Mr Griffiths noted that:

*“Application of the R1Z on this land is considered an anomaly and should be changed to the PUZ3.”*

While this matter was not further addressed during the hearing, the Panel notes that a “Heliport” is included in the general use of “Transport Terminal” which is a prohibited use within the R1Z. The use of helicopters to transport patients is arguably an ancillary use associated with the hospital use, however the matter should be resolved as soon as possible.

**The Panel recommends that the Leongatha hospital owned allotment south of the hospital building, and used as a helipad, should be rezoned to PU3 as soon as possible.**

### 6.4.2 Foster

A similar situation occurs at Foster. While the current helipad is located within the Foster Recreation Reserve, Mr Griffiths notes:

*“The reason for stipulating 9m (as opposed to the 12m general trigger provided in the DDO7) is in consideration of the long-term potential to relocate the helipad to the hospital’s undeveloped land south of the Hospital building. The Hospital land extends to O’Connell Road which provides more than 1ha of greenfield land over which the Hospital may expand – if required. The lands adjoining this greenfield site are already included in the Residential 1 Zone and could be subdivided and developed at any time. Tall structures up to 12m above NGL adjoining this land may compromise the potential to relocate the helipad to the Hospital land. For this reason the permit height trigger has been reduced to 9m above NGL. This will still allow most new two storey*

*dwelling to be constructed without triggering a planning permit however some permits may still be triggered.*

*It is acknowledged that this restriction is based on the assumption that in the medium to long-term the helipad will relocate to the Hospital grounds, however (in consultation with DoH) it was considered prudent to add this additional level of control into the DDO9 based on this potentiality. This control may generate permits that would not otherwise have been required if the control was set at 12 metres, however if the requirement becomes burdensome, Council has the option to customise the referral requirements set out in the proposed Schedule to Clause 66.04."*

This situation raises two issues for this Panel.

First, the land which may become the future Foster Hospital helipad is included in the R1Z which is inappropriate. If the land is to be part of the hospital site, it should be zoned PU3, particularly if it is to be used for a helipad.

Second, for all the reasons set out above, the potential future helipad site should be protected by adoption of a DDO that reflects appropriate helicopter operating requirements and key approach flight paths.

At this location, as at Leongatha, it is appropriate and fair that future residents should have some understanding of the favoured helicopter approach/departure flight paths so that they can make an informed decision when establishing their "dream home".

**The Panel recommends:**

- **That any land abutting O'Connell Road and intended for future Foster Hospital use be rezoned to PU3 as soon as possible.**
- **Suitable DDO provisions be included in the South Gippsland Planning Scheme to protect the favoured approach/departure flight paths for the possible future Foster Hospital helipad site adjacent to O'Connell Road at the same time as the existing helipad at the Foster Recreation Reserve flight paths are protected.**

### **6.4.3 Height Datum**

The proposed DDO's specify that in part, a permit is not required provided a building does not exceed a certain height above the Australian Height Datum (AHD).



During the hearing, Mr Griffiths explained that the height information available in the municipality was poor and his contour maps were inaccurate.

The Panel considers that while an AHD basis can be established for a site when building works are to take place by a licensed surveyor, it can be an expensive exercise. Often, the AHD reference point is located a large distance from the subject site and it can be a lengthy and costly exercise to establish AHD on site.

Accordingly, the Panel believes that where a Planning Authority seeks to impose permit requirements which rely on AHD information, that information should be made available. To this end, the Panel believes that a series of referenced survey points should be established within the any area so affected by a DDO so that the determination as to whether or not a proposed construction requires a permit is not overly onerous on the landowner.

**The Panel recommends that where a DDO requires landowners to have regard to AHD, the Planning Authority and/or the proponent should, as a prior condition, ensure that suitable reference points are established generally within the affected area as may reasonably be required to determine such AHD information.**

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## **7. Panel Recommendations**

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

1. **Amendment C54 to the South Gippsland Planning Scheme be abandoned in its current form;**

The Panel further recommends that:

2. **Appropriate DDO's be prepared for inclusion within the South Gippsland Planning Scheme to protect future operation of the helipads by:**
  - **nominating three flight paths to each helipad, and**
  - **restricting building heights in accordance with nominated flight gradients within these flight paths.**
3. **Council facilitates discussion between the relevant parties when redrafting the DDO's to specify flight paths so that future development options on the Sweeney Superannuation Fund land can, as far as practicable, be provided for.**
4. **Any redrafted DDO retain the Department of Health as the referral authority and include a reference to applications being assessed against ICAO SARPS Annex 14: Volume II, as appropriate.**
5. **The ICAO SARPS Annex 14: Volume II should be included as a Reference Document in the South Gippsland Planning Scheme.**
6. **The hospital owned allotment south of the Leongatha hospital building, and used as a helipad, should be rezoned to PU3 as soon as possible.**
7. **Any land abutting O'Connell Road and intended for the future Foster Hospital use be rezoned to PU3 as soon as possible.**
8. **Suitable DDO provisions be included in the South Gippsland Planning Scheme to protect the favoured approach/departure flight paths for the possible future Foster Hospital helipad site adjacent to O'Connell Road at the same time as the existing helipad at the Foster Recreation Reserve flight paths are protected.**

9. **Where a DDO requires landowners to have regard to AHD, the Planning Authority and/or the proponent should, as a prior condition, ensure that suitable reference points are established generally within the affected area as may reasonably be required to determine such AHD information.**



**ABANDONMENT OF PLANNING SCHEME  
AMENDMENT C54 (LEONGATHA AND FOSTER  
HOSPITAL HELIPAD PROTECTION) &  
PREPARATION OF AMENDMENT C87 TO  
INTRODUCE NEW HELIPAD PROTECTION  
CONTROLS**

**APPENDIX 2:**

**Council Report 27 March 2013**

Council Report 23 February 2011 Adopting Panel Report



**South Gippsland**  
*Shire Council*

*Come for the beauty, Stay for the lifestyle*

# COUNCIL MINUTES

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**ORDINARY MEETING NO. 344  
WEDNESDAY 23 FEBRUARY 2011  
COUNCIL CHAMBERS, LEONGATHA  
COMMENCED AT 7PM**

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**PRESENT:**

**Mayor:** Cr Warren Raabe  
**Deputy Mayor:** Cr Mimmie Jackson  
**Councillors:** James Fawcett, Mohya Davies, David Lewis, Jeanette Harding, Jennie Deane, Robert Newton and Kieran Kennedy.

**OFFICERS:**

<b>Tim Tamlin</b>	<b>Chief Executive Officer</b>
<b>Anthony Seabrook</b>	<b>Director Engineering Services</b>
<b>Jan Martin</b>	<b>Director Community Services</b>
<b>Phil Stone</b>	<b>Director Development Services</b>
<b>June Ernst</b>	<b>Director Corporate Services</b>
<b>Lew Wilson</b>	<b>Emergency Manager</b>
<b>Paul Stampton</b>	<b>Acting Planning Manager</b>
<b>Ken Griffiths</b>	<b>Strategic Planning Officer</b>
<b>David Roche</b>	<b>Governance Coordinator</b>
<b>Natasha Berry</b>	<b>Governance Officer</b>

## **MISSION**

***To effectively plan and provide for the social, built, economic and natural environments that ensure the future wellbeing of South Gippsland Communities.***

#### **E.4 PLANNING SCHEME AMENDMENT C54 - LEONGATHA AND FOSTER HOSPITAL HELIPAD PROTECTION CONTROLS**

Development Services Directorate

##### **EXECUTIVE SUMMARY**

Planning Scheme Amendment C54 seeks to protect the Leongatha and Foster Hospital Helipad landing sites from developments that may hinder safe air ambulance helicopter operations. Exhibition of the amendment resulted in the receipt of four submissions. The issues raised in the submissions could not be resolved and the submissions were referred to an Independent Planning Panel for consideration.

Council has received the report of the Planning Panel – see **Appendix 1**. The report recommends a series of changes be made to the amendment provisions most notably in relation to the requirement to identify specific flight paths to the helipads. The Planning Department has no specific concerns with the recommendations of the Panel and the Department of Human Services (the amendment proponent) have indicated their willingness to work with Council and the submitters to address the Panel's recommendations in the formulation of new amendment provisions.

**Appendix 1** can be accessed on Council's website <http://www.southgippsland.vic.gov.au/> or by contacting Governance on 03 5662 9222.

##### **LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES**

Section 27(1) of the *Planning and Environment Act 1987* requires that Council must "consider the panel's report before deciding whether or not to adopt the amendment".

##### **INTERNAL POLICIES / STRATEGIES / DOCUMENTS**

Nil

##### **COUNCIL PLAN**

Strategic Goal:	3.0	A Strong Economy
Outcome:	3.1	Economic Development
Strategy No:	3.3.4	Land-use Planning

## **CONSULTATION**

Extensive consultation was undertaken as part of the public exhibition of the planning scheme amendment. Postal notification was provided to all landowners immediately affected by the proposed planning scheme controls. Notice of the amendment was published in the local newspapers and on Council's webpage.

## **REPORT**

### **Background**

Planning Scheme Amendment C54 forms part of the Department of Human Services' (DHS) state-wide project to protect key air ambulance helipad sites from the encroachment of developments that may affect safe helicopter operations. Amendments similar to C54 have been adopted in numerous planning schemes across the state, including (in the Gippsland area) the Wellington, Latrobe and Bass Coast planning schemes.

Amendment C54 seeks to protect the Leongatha and Foster helipad sites by applying Design and Development Overlay (DDO) controls around the landing sites to a maximum radius of 1km. Both sites are affected by an inner and outer area DDO control. Each DDO schedule has its own customised buildings and works controls that respond to the particular site characteristics of the land in that DDO - for example, more restrictive building height controls are provided in areas close to the landing sites. The extent of the DDO controls are displayed on pages 4 & 5 of the Panel Report – see **Appendix 1**.

The purpose of the DDO is to trigger the requirement for a planning permit so that the application may be referred to the DHS, allowing them to consider if the proposed buildings and works may impact safe helicopter operations. The DDO's do not prohibit any forms of development and do not affect how land may be used.

### **Discussion**

Similar to helipad protection amendments recently introduced into other planning schemes, Amendment C54 seeks to apply DDO controls in a roughly concentric pattern around the helipad sites. Application of the controls in this manner provides maximum flexibility for helicopters to approach and depart the landing sites in any direction – depending on the pilot's response to the prevailing weather conditions.

Telstra's submission to the amendment focused on the argument that a concentric application of the DDO controls is excessive and that specific flight paths to the helipads should be identified and protected by the DDO controls. Telstra supports the need to protect safe helicopter access however express the view that excessive application of the DDO's will trigger the need for a planning permit for telecommunications towers in areas that do not (in their opinion) affect helicopter access.

The submission from the landowner immediately south of the Leongatha Helipad site expressed concern regarding the lack of certainty provided in the DDO7 control in relation to how a development application on this land may be assessed by the DHS. This land is identified in the Leongatha Framework Plan as 'Bulky goods area' and is currently subject to a planning scheme amendment request to rezone the land to the Business 4 Zone.

In addition to the above submissions, a further two submissions were received from Foster residents however these submissions did not specifically address provisions of the amendment. Regardless of this, the Foster submissions were referred to the Panel for consideration.

#### Nomination of Flight paths

Having considered the written submissions and the detailed expert witness statements presented at the Panel Hearing, the Panel has formed the view that a concentric application of the DDO's is inappropriate and that three flight paths should be nominated for both helipads (Recommendations 2 & 3). Within the flight paths the provisions should also identify flight path gradients that rise commensurate with their distance from the helipads. This outcome will be particularly beneficial for the land adjoining the southern boundary of the Leongatha Helipad because it will provide the additional development certainty sought by the submitter.

The Panel's recommendation for specific flight paths is not consistent with how similar provisions have been implemented into other planning schemes across the State, including amendments that have been considered by other planning panels. In this regard, the recommendation for flight paths sets aside the established planning practice for the protection of helipads and requires a more detailed consideration be undertaken before controls are applied. Planning Panels are not bound by precedent and this Panel is within its rights to make a recommendation that requires a new approach be taken.

The Panel recommends that Council work with DHS and the submitters to formulate new controls. Preliminary discussions with DHS indicate that they are open to this suggestion and will seek to address the recommendations of the Panel in consultation with the submitters. DHS and their aeronautical consultants will be responsible for identifying the flight paths and appropriate gradients and preparing new DDO provisions to reflect these outcomes. The new amendment provisions will require further public exhibition.

#### Other Matters:

- The Panel has recommended (Recommendations 4 & 5) the DDO provisions include reference to the 'International Civil Aviation Organisation (ICAO) Standards and Recommended Practices (SARPS) as the relevant document on which to assess permit application referrals. This recommendation has no implications for Council.
- The Panel recommend (Recommendations 6 & 7) that zoning anomalies at both Leongatha and Foster hospital sites be addressed by inclusion



of all hospital lands in the Public Use Zone 3 'Health and Community'. The Planning Department was aware of the zone anomalies and these will be addressed as part of Council's next general items planning scheme amendment.

- Recommendation 8 requires application of a DDO to protect a future helicopter flight path in the event that the Foster Helipad site moves from the Foster Recreation Reserve to the Hospital site. Discussions with DHS will be required to determine how this may best be achieved.
- Should the new DDO provisions require permit applicants to have regard to building heights measured to the Australian Height Datum (AHD) the Panel recommend (Recommendation 9) that Council or DHS should provide spot AHD levels across the area of the DDO's. Council does not currently have AHD levels across the subject area. If the new DDO controls stipulate AHD levels, DHS should be required to furnish Council with this information – provided by a suitably qualified surveyor.
- The Panel recommend that the amendment "be abandoned in its current form" (Recommendation 1). This recommendation is ambiguous in that amendments recommended by Panels for abandonment are typically abandoned outright, and a new amendment process began, should a planning scheme change still be sought. The Planning Department sought the advice of the Department of Planning and Community Development and they advise that the current amendment (Amendment C54) can be used to re draft and re exhibit the DDO provisions as well as refer the updated amendment back to the Panel, if required. Keeping the current amendment active removes the need for DHS to formally re submit a new amendment application (pay associated fees) and for Council to seek Ministerial authorisation to prepare a new amendment. All of the recommendations of the Panel can be achieved by continuing the current amendment.

## **Conclusion**

The recommendations of the Independent Planning Panel regarding Planning Scheme Amendment C54 require the Department of Human Services to undertake more detailed flight path investigations before new Design and Development Overlay provisions are re submitted to Council. The Panel's recommendations will extend the amendment assessment time and require more procedural work to be undertaken by Council officers, however enactment of the Panel's recommendations will lessen the burden of the DDO controls on the surrounding lands and clarify the impact of the controls for the lands in close proximity to the helipad sites, including the land immediately south of the Leongatha helipad site which is proposed for bulky goods development.

## **FINANCIAL CONSIDERATIONS**

Additional officer time is required to work with DHS and the submitters to re draft the DDO controls and re exhibit the amendment. As the amendment proponent, DHS is required to provide all the technical information necessary to address the specific panel recommendations.

## **RISK FACTORS**

There are no risk factors to Council in adopting the Panel Report and acting on its recommendations.

## **RECOMMENDATION**

That Council:

1. Adopt the Independent Planning Panel report 'South Gippsland Planning Scheme Amendment C54 December 2010';
2. Work with the Department of Human Services and the Amendment submitters to address the recommendations of the Panel Report related to the submitters concerns;
3. Correct land zoning anomalies at the Leongatha and Foster Hospital sites in accordance with the Panel's recommendations, as part of Council's next general (multiple item) planning scheme amendment; and,
4. Require the Department of Human Services to provide suitable Australian Height Datum reference points within the area of the proposed Design and Development Overlays in accordance with Recommendation 9 of the Panel Report.

**MOVED: Cr Harding**

**SECONDED: Cr Kennedy**

**THAT COUNCIL:**

- 1. ADOPT THE INDEPENDENT PLANNING PANEL REPORT 'SOUTH GIPPSLAND PLANNING SCHEME AMENDMENT C54 DECEMBER 2010';**
- 2. WORK WITH THE DEPARTMENT OF HUMAN SERVICES AND THE AMENDMENT SUBMITTERS TO ADDRESS THE RECOMMENDATIONS OF THE PANEL REPORT RELATED TO THE SUBMITTERS CONCERNS;**
- 3. CORRECT LAND ZONING ANOMALIES AT THE LEONGATHA AND FOSTER HOSPITAL SITES IN ACCORDANCE WITH THE PANEL'S RECOMMENDATIONS, AS PART OF COUNCIL'S NEXT GENERAL (MULTIPLE ITEM) PLANNING SCHEME AMENDMENT; AND,**
- 4. REQUIRE THE DEPARTMENT OF HUMAN SERVICES TO PROVIDE SUITABLE AUSTRALIAN HEIGHT DATUM REFERENCE POINTS WITHIN THE AREA OF THE PROPOSED DESIGN AND DEVELOPMENT OVERLAYS IN ACCORDANCE WITH RECOMMENDATION 9 OF THE PANEL REPORT, LOCATED IN APPENDIX 1.**

**CARRIED UNANIMOUSLY**

**Cr Davies returned to the Meeting at 8.22pm.**