

**Planning  
Panels  
Victoria**

**South Gippsland Planning Scheme Amendment C124sgip and  
Planning Permit CP2020/214  
Open space rezoning**

**Panel Report**

*Planning and Environment Act 1987*

**2 September 2021**



**How will this report be used?**

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

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

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

The planning authority may also recommend to the Minister that a permit that applies to the adopted Amendment be granted. The Minister may grant or refuse the permit subject to certain restrictions. [sections 96G and 96I of the PE Act]

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

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

*Planning and Environment Act 1987*

Panel Report pursuant to section 25 of the PE Act

South Gippsland Planning Scheme Amendment C124sgip and Planning Permit CP2020/214sgip

**2 September 2021**



Lester Townsend, Chair



Bill Forrest, Member

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### Glossary and abbreviations

Council	South Gippsland Shire Council
PE Act	<i>Planning and Environment Act 1987</i>

## Overview

### Amendment summary

The Amendment	South Gippsland Planning Scheme Amendment C124sgip and Planning Permit CP2020/214sgip and Planning Permit CP2020/214
Brief description	The Amendment proposes to: <ul style="list-style-type: none"> <li>- rezone 15 Old Waratah Road, Fish Creek from Public Park and Recreation Zone to Township Zone</li> <li>- rezone 6A Warralong Court, Leongatha from Public Park and Recreation Zone to General Residential Zone (Schedule 1) and grant a permit to authorise the removal of the public open space reserve status from the title and create easements</li> </ul>
The Proponent	South Gippsland Shire Council
Planning Authority	South Gippsland Shire Council
Authorisation	29 October 2020 with no conditions
Exhibition	10 December 2020 to Friday 15 January 2021
Submissions	Number of Submissions: 44 (see Appendix A)

### Panel process

The Panel	Lester Townsend (Chair) and Bill Forrest
Directions Hearing	21 June 2021 by video conference
Panel Hearing	26 July 2021 by video conference
Site inspections	13 July 2021: Accompanied at Fish Creek, unaccompanied at Leongatha
Parties to the Hearing	South Gippsland Shire Council represented by Skye Radcliffe-Scott Bridget Crowe
Citation	South Gippsland PSA C124sgip [2021] PPV
Date of this report	2 September 2021

## Executive summary

South Gippsland Planning Scheme Amendment C124sgip and Planning Permit CP2020/214sgip (the Amendment) and Planning Permit CP2020/214 seek to:

- rezone 15 Old Waratah Road, Fish Creek from Public Park and Recreation Zone to Township Zone
- rezone 6A Warralong Court, Leongatha from Public Park and Recreation Zone to General Residential Zone (Schedule 1)
- grant a permit to authorise the removal of the public open space reserve status from the title and create easements.

The key issues raised in submissions was the desire to see the subject land remain in the Public Park and Recreation Zone and be improved for open space purposes.

Open space is clearly important in all communities and is recognised in planning policy. Council submitted that the sale of the land would enable the improvement of other, better located open space.

The critical issue from the Panel's perspective is whether there is a clear strategy for the delivery of open space in the relevant part of Leongatha and Fish Creek. The Panel has concluded there is, and the sale of this land will assist in delivering improved open space.

The Panel concludes that it is appropriate to rezone 15 Old Waratah Road, Fish Creek and 6A Warralong Court, Leongatha and that permit CP2020/214 should be granted.

### Recommendations

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

- South Gippsland Planning Scheme Amendment C124sgip and Planning Permit CP2020/214sgip be adopted as exhibited.
- Proposed permit CP2020/214 be granted as exhibited.

# 1 Introduction

## 1.1 The Amendment

### (i) Amendment description

The Amendment proposes to:

- Rezone 15 Old Waratah Road, Fish Creek from Public Park and Recreation Zone to Township Zone.
- Rezone 6A Warralong Court, Leongatha from Public Park and Recreation Zone to General Residential Zone (Schedule 1).

The Amendment is a combined planning permit application and planning scheme amendment under section 96A of the *Planning and Environment Act 1987* (PE Act). The planning permit applies to 6A Warralong Court, and would authorise the 'Removal of the public open space reserve status from the title RES1 LP145738 Parish of Leongatha Township under section 24A of the *Subdivision Act 1988* and creation of easements E3, E4 and E5 on PS800528V'. The proposed easements are an engineering requirement, reflecting the developed assets and infrastructure on the lot.

Apart from seeking the same outcome and stemming from the same process, the rezoning of the two lots are not related to each other.

## 1.2 Background

The Amendment has a long history demonstrating the time and resources Council has invested in this process.

### Council Policy: 'Council Land Ownership' 2011

Before 2011, Council property sales were conducted on a case by case basis, often responding to approaches from adjoining landowners or other private sector interests. In 2011, Council adopted a new policy, Council Policy C34 'Council Land Ownership'. This policy provides guidelines when dealing with Council land and any associated sale, exchange, purchase and/or development. The sale of these two lots were considered under this policy.

The policy was revoked at the Ordinary Council Meeting held on 19 May 2021. This because the procedural and consultation requirements it dealt with, are now covered by the *Local Government Act 2020*.

### Land Realisation Project

On 19 December 2012, Council approved objectives for the establishment of the 'Land Realisation Project'. These included:

- a) Align Council's property sales and development with Council's policy direction, strategic initiatives and inter-departmental plans.
- b) Plan for the sale and development of Council's properties by assessing candidate sites and preparing a list of land sales/development projects to be rolled out over a dedicated period (over 5-10 years).
- c) Identify opportunities for State and Federal Government grants and/or other funding opportunities to deliver optimum results.
- d) Draw upon the resources and active involvement of the private sector for those Council properties suitable for inclusion in private land development projects that are strategically significant to the Shire.

- e) Improve public amenity and facilities.
- f) Provide a financial return to Council and the Community.

### **Strategic Review of Land Holdings Project**

On 23 October 2013, Council resolved to conduct:

... a rigorous evaluation of Council's owned vacant land (excluding road reserves) that have not been previously resolved for sale by Council, that has regard to specific attributes for individual land holdings such as: public use and access, community linkages, environmental, historical, cultural and other matters and details the risks and costs of ownership referring to current Council plans, policies, strategies, planning frameworks and legislative requirements.

Council established the Strategic Review of Land Holdings Project. As part of the project, an 'Evaluation Matrix' was developed as an assessment tool to provide appropriate guidelines when dealing with Council land as outlined by the Council Land Ownership Policy (2011).

The Evaluation Matrix formed part of an evaluation exercise on Council owned vacant land. It was used as an assessment tool when reviewing Council's vacant land holdings to better understand a vacant land's contribution within its township and towards improved facilities for the broader community.

After considering community concerns, which became apparent in the submissions received in response to the 2013/14 Council Land Sales Program, Council resolved at the 23 October 2013 meeting to review the Evaluation Matrix.

The Evaluation Matrix was amended in 2014 to address concerns raised by submissions and additional criteria were added on biodiversity values. In 2014, the revised Matrix was used to re-evaluate remaining Council owned sites identified for potential sale.

The implementation of the *Strategic Review of Landholdings Project* began in 2015/2016. The program assessed 57 Council owned properties to determine their value for public open space and identify those that were excess to the needs of the community.

On the 24 February 2016, Council resolved to sell 19 properties, including 15 Old Waratah Road, Fish Creek.

On 25 May 2016, Council resolved to sell seven properties, including 6A Warralong Court, Leongatha. 6A Warralong Court received a lower score in the 2014 evaluation due to the increased difficulty to sell. This lower score was because of the reserve associated with the current title. Since this time, Council has received interest from a potential purchaser and now provides additional justification for the removal of the reserve status.

### **Recreation Planning**

Council in 2007 adopted a Recreation Plan. Considerable attention was given to open space provision and planning as part of this work. This included a Local Analysis Strategy that included Fish Creek and Leongatha. Since then, Council has been following the key principles and strategic directions outlined in the Plan and implementing the recommendations.

Council's Part A submission to the Panel contained an analysis of the history of consideration of the contribution these sites make to implementing the Plan.

### **Consultation**

Submissions were received that community consultations on the Fish Creek proposal were not sufficiently engaging. However, the Panel concludes there has been community consultation over

a long period of time on both this site in the context of planning and land sales proposals, and open space more broadly in terms of township strategies, paths and trails strategy, recreation plan and visitor economy strategy.

### 1.3 Planning policy

The key state policy is:

#### **19.02-6S Open space**

##### **Objective**

To establish, manage and improve a diverse and integrated network of public open space that meets the needs of the community.

##### **Strategies**

Plan for regional and local open space networks for both recreation and conservation of natural and cultural environments. Ensure that open space networks:

- Are linked, including through the provision of walking and cycling trails.
- Are integrated with open space from abutting subdivisions. Incorporate, where possible, links between major parks and activity areas, along waterways and natural drainage corridors, connecting places of natural and cultural interest.
- Maintain public accessibility on public land immediately adjoining waterways and coasts.
- Create opportunities to enhance open space networks within and between settlements

Council submitted that the Amendment is consistent with the Local Planning Policy Framework:

- a) Clause 21.02-2 Settlement: The rezoning encourages infill development. The rezoning encourages consolidated urban development in close proximity to central activity districts of settlements to achieve a more efficient use of urban infrastructure, community facilities and transport services.
- b) Clause 21.07 Housing: The rezoning provides the option for new housing and development that provides for the retention and development of sustainable communities and supports housing options with good access to secondary and further education, employment and transport for younger people.
- c) Clause 21.12: Ensure that sufficient areas of residential land, at a range of densities, are available to accommodate future township growth (relevant to 6A Warralong Court Leongatha).
- d) Clause 21.15-4: Encourages infill development to land adjoining the Town Centre (relevant to 15 Old Waratah Road).
- e) Clause 21.15-4: Ensure that new growth, infill and redevelopment is responsive and respectful of the site and Fish Creek's rural character, picturesque location and unique identity (relevant to 15 Old Waratah Road).

### 1.4 The Panel's approach

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

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under for each site in the next chapters.



## 2 15 Old Waratah Road, Fish Creek

### 2.1 The issues

The issues are:

- Is Fish Creek adequately provided for in terms of open space?
- What contribution might this site make?
- If the site is not to be retained for open space, is the alternative zoning proposed appropriate?
- Has due process been followed?

### 2.2 Strategic justification

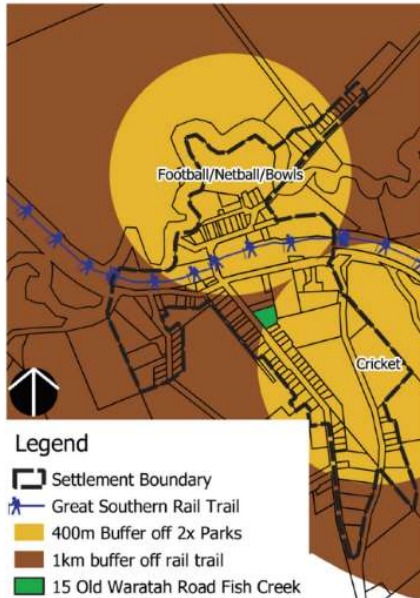
#### Background

Planning Scheme Amendment C100sgip initially included the rezoning of 15 Old Waratah Road, Fish Creek from Public Park and Recreation Zone to Township Zone and notification was given. Council received eight objections to the exhibited amendment. The proposed rezoning was removed from that amendment and the remaining items were adopted.

#### Open space provision

Council submitted:

- Fish Creek has two existing parks: 3.09 hectare Cricket Oval at 1813 Meeniyān–Promontory Road and 5 hectare Football/Netball and lawn bowls at 47 Falls Road.
- The township also has access to the Great Southern Rail Trail.
- Using the provisions specified in Clause 56.05 (Urban Landscape) of the Planning Scheme, an analysis of public open space available to residents in Fish Creek was conducted. This was supplemented with an analysis against Councils Recreation Plan.
- Figure 1 shows that 100 per cent of properties within the settlement boundary are within 1 kilometre of the Great Southern Rail Trail. It also demonstrates that there are a large number of properties that are within 400 metres of the two parks in Fish Creek.

**Figure 1: Analysis of Access to Public Open Space in Fish Creek****Response to Victorian Planning Policy Framework, Clause 19.02-6S, Open Space**

Council submitted that 15 Old Waratah Road, will not improve, diversify or integrate the local network of public open space to further meet the needs of the community. Other nearby open spaces have much greater opportunity to provide recreation benefits for local and visitor use. The township has limited growth potential because reticulated sewerage is not available, and additional open space will not be necessary until this changes and settlement expansion is supported and assessed by a future planning scheme amendment.

Since the subject site was acquired by Council, a much larger tract of land close to associated facilities containing the Rail Trail has been developed as open space and is now managed by Council. Other land that is currently being leased adjacent to the kindergarten and recreational reserve in the town's activity centre and adjacent to the Fish Creek is to be retained and may provide additional open space should there be a need for it through population growth. This has ensured that *"where there is a reduction of open space due to a change in land use or occupation, additional or replacement parkland of equal or greater size and quality is provided"* as is required by the Planning Scheme Clause 19.02-6S.

**2.3 Evidence and submissions**

Some issues were raised with existing open space provision in Fish Creek claiming Fish Creek township needs more public space, not less especially during the Football Netball season match days, when the Falls Road Reserve is a pay to enter open space, which affects free access by visitors and residents.

Submissions said that:

- Buckley Park, while greatly valued and regularly used as a Community Farm and Community Picnic Day venue and for other events, lacks the safe pedestrian access and location advantage that 15 Old Waratah Road does.

- Centennial Park was well used and is well sited with regard to public toilets and the shops, cafes and playground, but the number of picnic tables was limited, and the mature trees limited the satisfactory siting of additional tables due to “bird poop from above”
- The Great Southern Rail Trail passes through Fish Creek township, and its old train platform is well used as the site of the Fish Creek Community Organic Garden, but much of the grassy area along the rail trail within the township has very poor drainage and sodden underfoot in winter and spring. It is important to note that the Rail Trail land is not owned by Council.

A number of submissions proposed developing the land as open space claiming:

- the size, topography, and location near the town centre made it an exceptional location for a parklet
- it has the advantage of a long street frontage for parking and has a shared boundary with the primary school
- the topography makes it appropriate for a range of planting types and densities, and together with meandering paths, small footbridges, small social spaces, outdoor eating spaces and seating it can become a restful passive space and bird sanctuary
- it has the advantage of a borrowed canopy of mature trees to the east boundary and one or two mature trees on the site to give it a more park like feel
- mains water is available to the site
- the traffic calming measures along Old Waratah Road will make the road more pedestrian friendly.

Specific uses of the land included:

- more trees to provide shade and to help with climate change
- as an extra COVID ‘distancing’ space for the cafe and hotel nearby with an undercover space
- a half pipe for skateboarding and BMX
- a common paddock especially for children wanting to agist their animals allowing them to feed and exercise this piece of land is the perfect block for this past-time, the ideal area adjacent to the state school.

Some submissions raised general issues about future development of the land:

- old Waratah Road, Fish Creek is already a built-up area with homes close together
- increased traffic would add to the heavy local and tourist traffic each summer which causes ‘nightmares’ short cutting to Promontory Road
- the land is not suitable for buildings, its slopes making the centre prone to flooding
- septic systems are a real problem in Fish Creek
- should the land be sold and rezoned, a developer could face considerable difficulty in developing the land due a lack of sewerage in Fish Creek.

In response to submissions, Council submitted:

- Fish Creek is well provided for in terms of active and passive open space provision meeting both local and regional needs.
- The management of the 70 kilometre section of Rail Trail, having been absorbed by Council in response to the folding of a community committee, is a substantial organisational undertaking and maintenance cost. The Rail Trail, adjacent and nearby parks and streetscapes are most important to develop and maintain for local enjoyment

and for the visitor economy. Spaces will continue to be developed or created when and if the residential development expands.

- The sale of the reserve will allow for those funds to support projects like development of the rail trail.
- The development of the land is not appropriate for a park as the grade prevents this without significant earthworks or concrete platform construction.
- The land is within the settlement boundary, is near to services and is capable of retaining wastewater onsite as single lot. Subdivision of the site will be constrained until sewer is provided, but also the addition of residential lots will support the business case for implementation of sewer in the future.
- Other proposed uses were not supported:
  - Horse agistment was not appropriate on Council land and in the middle of the township
  - The fuel load associated with vegetating the site as a nature reserve may pose an unacceptable bush fire risk. The site is in a Bush Fire Prone area, in the middle of the Township and more appropriate sites for this type of use were located adjacent to the rail trail
  - Half pipes for skateboarding and BMX were best located in parks with high passive surveillance and facilities such as toilets.

## 2.4 Discussion

The key matter for review by the Panel is the relationship between the obligations of Council as a Planning Authority in regard to open space provision, the contribution this site makes to that obligation, and if removed additional or replacement parkland is identified.

Council contends that it is meeting the Objectives and Strategies of State Open Space Policy, with the provision of a range of open space and recreation opportunities with two existing recreation reserves and the rail trail precinct park and adjacent areas. These open space areas and their improvements and facilities provide for a range of passive and active uses for both residents and visitors and provide opportunities for further improvements and upgrades.

The Panel agrees with Council analysis of open space provision against the requirements and directions outlined in Clause 56.05 of the Planning Scheme and the Councils Recreation Plan and agrees it is satisfactorily meeting its planning obligations for open space planning and provision without the subject site playing any part.

It is a moot point as to whether there is a need for replacement parkland in this instance as, on the available evidence, the site has never been parkland. Even so, Council identified that the land surrounding the rail trail has been created and repurposed as parkland since 15 Old Waratah Road was zoned as parkland. Council is the Committee of Management for the rail trail land and its status as parkland into the future is secure.

Lesser but not irrelevant considerations are whether the land was acquired strategically for the purposes of open space provision and how the site would rate in terms of performance as open space. On all the available evidence, Council did not acquire the site for open space purposes, but in all likelihood as compensation for unpaid rates. The Panel accepts that as a local neighbourhood park it does not meet contemporary standards in terms of size and slope, and that as a nature reserve it is not appropriately located.

Any proceeds of the sale of open space land need to be reinvested in open space acquisition and improvements. The Panel considered the question 'if Council had the value of the land to spend on open space in Fish Creek, would acquisition of this site for open space be a priority?' and concluded the answer was no.

To the extent that there are issues with the park adjacent to the rail trail (the submissions raised issues about shade, car parking, drainage and safe pedestrian access), the Panel believes these can be addressed and do not provide strategic reasons to retain 15 Old Waratah Road as parkland.

The Panel is satisfied that the proposed Township Zone for the site is appropriate. Whilst slope, drainage effluent containment and lack of reticulated sewage are constraints, they are not such that uses permitted by a Township Zone could not be realised, subject to careful site planning.

## **2.5 Conclusion**

For the reasons set out in this Chapter the Panel concludes that the rezoning of 15 Old Waratah Road is supported by, and implements, the relevant sections of the Planning Policy Framework, and is consistent with the relevant Ministerial Directions and Practice Notes. The rezoning is well founded and strategically justified, and this part of the Amendment should proceed.

## 3 6A Warralong Court, Leongatha

### 3.1 The issues

The issues are:

- Is this neighbourhood and Leongatha adequately provided for in terms of open space?
- What contribution might this site make?
- If the site is not to be retained for open space, are the alternative proposed uses appropriate?

### 3.2 Strategic justification

It was Council's view that 6A Warralong Court, Leongatha, will not improve, diversify or integrate the local network of public open space to further meet the needs of the community. Other nearby open spaces have much greater opportunity to provide recreation benefits and link other spaces together for the growing township and greater interest in walking and cycling based activities.

The Amendment reduces land available for open space within the local catchment. However, since it was acquired by Council, nearby, a much larger tract of land adjacent to a waterway and section of natural vegetation, that connects new residential land with the town centre and the regionally significant Rail Trail, is now owned and managed by Council. With the addition of some infrastructure, this parkland is much better suited to serve the residential area for family recreation and access to town centre or education.

Figure 2 is an analysis of Standard C13 against Warralong Court and neighbouring streets. The Great Southern Rail Trail is within 1 kilometre of Warralong Court Leongatha. Figure 1 also shows an informal recreation opportunity along a waterway (MacDonald Street Reserve) within 400 metres to the south of Warralong Court. Although MacDonald Street Reserve cannot be classified formally as Public Open Space, the South Gippsland Shire Council [Paths and Trails Strategy 2018](#) identifies the land as future unfunded projects for further investigation.

Figure 2: Analysis of Access to Public Open Space to Warralong Court



The South Gippsland Community Infrastructure Plan 2014 formed a reference document for the Paths and Trails Strategy 2018. Figure 3 is from the Infrastructure Plan 2014 indicating proposed

trails in Leongatha. The proposed trail that is within 400 metres of Warralong Court has been highlighted below.

Figure 3: Leongatha Proposed and Existing Trails and Paths



Despite meeting the 1-kilometre linear access requirements to the Great Southern Rail Trail, Council acknowledges that there is a deficit of usable public open space in the general area of Warralong Court. Even with this being the case, 6A Warralong Court is not a site Council believes should be developed for Public Park and Recreation purposes.

Council believes it is appropriate to remove 6A Warralong Court from its open spaces reserves due to the shape of the parcel making it unsuitable to be developed into a park.

Council submitted that the laneway wings:

- do not provide beneficial connections and the park has no infrastructure and is not a well-used.
- pose a safety risk to park users and pedestrians as they create long unlit areas with poor passive surveillance where unsociable behaviour may occur.
- were most likely created for the purpose of securing infrastructure connectivity (sewer, water, telecommunications) and that pedestrian connectivity was a secondary outcome resulting from this.

Council advised that it had not sought to formalise the pathway in almost 40 years of existence. The existing infrastructure services will be identified in easements on the new title to be issued after the land is rezoned.

Currently, the Warralong–Noel Court pedestrian link offers the potential for access to the school precinct to the north. If a pedestrian was heading along MacDonald Street from the South towards the schools to the north (or vice versa), it is around twice the distance for a pedestrian to detour and use Warralong–Noel Court to access the school crossing. Despite the higher vehicle traffic pedestrians would encounter continuing along MacDonald Street, it is assumed the low usage rates of 6A Warralong Court reflect that pedestrians prefer the most direct route.



Council said it has a limited capital works budget and does not believe it is appropriate to invest in parks with low usage rates, that have inherently poor spatial configuration and very poor passive surveillance. Council's priority project is to establish and connect to a rail trail corridor which is where significant funds have been allocated to give residents and visitors a unique exercise and recreation experience.

Section 20 of the *Subdivision Act 1988* stipulates that any payment towards public open space must be used for either purchasing of land for public recreation or improve land already set aside for these purposes. This guarantees that the funds from the sale of Warralong Court will be reinvested into open space opportunities that have greater net benefit for the community.

### 3.3 Evidence and submissions

A number of submissions dealt with open space planning and improvement, noting:

- Council's website shows that there are only six parks in town – this seems somewhat inadequate for a town which is growing
- the open green space is an asset to Warralong Court providing a safe place for the children of the street to play in, and on environmental grounds should remain as a natural corridor
- rather than permanently removing this public space, Council consider installing outdoor exercise equipment in it and promoting this facility as an opportunity for low cost, healthy exercise
- 'pocket parks' should be kept and expanded to meet local passive recreation and outdoor experiences.

The role of the open space as a link was also supported by opposing submissions, with claims that the reserve also is used by students as a safe thoroughfare to the education precinct on Nerrena Road.

A number of submissions questioned the feasibility of developing the land:

- Access and development of the site is problematic in regard to sewerage and stormwater. Also, there is currently a street light and drainage pit situated where access to development of the property would be necessary from Warralong Court.
- The block is an irregular shape due to all these services, the fall of the land and the location of the sewer lines could well prove problematic in that any reasonable sized house would more than likely need to pump sewerage up to the sewer line.
- There are a considerable number of underground services in the form of drainage and sewerage in and around the block which would render it an unwise choice for a domestic dwelling.

Council submitted:

- MacDonald St Reserve, within 400 metres of this site provides better opportunities and potential as a neighbourhood park.
- The cost of maintenance of the park and additional benefits are not warranted in terms of benefits and these resources would be better spent on parks and recreation facilities elsewhere.
- The implementation of the Paths and Trails Strategy will be supported by the sale of this land. The strategy proposes additional paths to connect with the Rail Trail, town centre and the Coalition Creek reserve to improve walking options for residents in the area.

- South Gippsland Water has declined to provide a submission to the planning scheme amendment after reviewing the documentation. They will seek further referral when and if buildings and works are proposed for the site.

### 3.4 Discussion

The key matter for review by the Panel is the relationship between the obligations of Council as a Planning Authority in regard to open space provision and the contribution this site makes to that obligation, and if removed additional or replacement parkland is identified.

The Panel agrees with Council contention that it is meeting the Objectives and Strategies of State Open Space Policy, with local provision better met by the more recently developed MacDonald Street Reserve and the continuing development of this space, combined with improved connectivity to larger recreation reserves and the rail trail. Higher level recreation and open space provision is accessible at Horn St Reserve, approximately 600 metres from Warralong Court. The Warralong Court property does not meet contemporary standards for a neighbourhood park, it is too small, has poor street frontage and the slope makes it unusable for many functions expected of a local park. Whilst further upgrades to the park may increase utilisation, they cannot overcome these fundamental deficits.

There is very little medium density housing in the vicinity and what there is – is closer to the MacDonald St Reserve in terms of satisfying local open space requirements. Any proceeds from sale of the land are required to be spent on open space acquisition or improvements.

The Panel accepts Council's submission that the park does not provide a direct or inviting accessway to the school or neighbouring properties, and this is better achieved through on street sealed pavements.

The rezoning of the land to General Residential Zone is consistent with the zoning of surrounding land. Whilst the location of services and easements create a number of site constraints, the Panel is satisfied that these can be addressed through the development process.

The layout of the land is also suboptimal in that there will be 2 rather long, dead end 4.2 metre wide (former) laneways with a drainage easement within it, that extend to the north, part way towards Noel Court, and to the south, at the rear of the property. They have little if any utility value for 6A Warralong Court, other than as possibly chook or dog runs. The 1.8 metre high fences on both sides will substantially overshadow the land for much of the day limiting its use for a vegetable garden, or any other plantings, which in turn are constrained by the drainage easement over the eastern half of the land. They are likely to pose a maintenance headache and potential for neighbourhood disputes down the track. Should the Amendment be approved, Council may wish to seek valuation advice as to whether 6A Warralong Court is more highly valued without these former laneways than with, and enter into discussions with neighbours about possible boundary realignments prior to finalising a sale process.

#### **The planning permit**

A Planning Permit is proposed to remove the Municipal Purposes Reserve 1 from the title of 6A Warralong Court prior to its sale.

The permit is procedural in nature and an appropriate mechanism to remove the reserve to allow the land when sold to be used in accordance with the zone.

### **3.5 Conclusion**

For the reasons set out in this chapter, the Panel concludes that the rezoning of 6A Warralong Court, Leongatha is supported by, and implements, the relevant sections of the Planning Policy Framework, and is consistent with the relevant Ministerial Directions and Practice Notes. The rezoning is well founded and strategically justified, and this part of the Amendment should proceed. The Panel also concludes that permit CP2020/214 should be granted to allow the land when sold to be used in accordance with the zone.

## Appendix A Submitters to the Amendment

No.	Submitter	No.	Submitter
1	Sue-Ellen Lee	24	Tina Carter
2	Anne and Lauris Martin	25	Helen Ritt
3	Eileen McLaren	26	Michaela Dempsey
4	Department of Transport	27	Samara Cunningham
5	Pearl Christoffersen	28	Donna Rich
6	David and Pauline John	29	Catherine Gibbs
7	Bev Cowan	30	Robert Vuliermin
8	Grant and Cynthia Roberts	31	Ellen Porter
9	Fish Creek Tea Cosy Festival Committee	32	Linda Gibbs
10	James Dowson	33	Anya Smolders
11	Bridget Crowe	34	Michaela Lein
12	Tony Walker	35	Frank Smolders
13	Susan Quinn	36	K Campbell
14	Buckley Park Community Farm	37	Angela Holland
15	LP and MJ Bleaser	38	Gary Jarvis
16	Catherine McGlead	39	Alison Newman
17	Lyndall Caldwell	40	Werner Lange
18	Samantha Hayward-Bannister	41	Fish Creek Community Development Group
19	Michael Brody	42	Petition - 91 Signatures
20	Isabel Whyte	43	Michael Chang
21	Sigrid Kohs	44	Ron Leeworthy
22	Joe Bliss	45	Natalie Leeworthy
23	Suellen Lee		