



AGENDA APPENDIX
Council Meeting
Wednesday 26 June 2013

AGENDA ITEM FOR SEPARATE DISTRIBUTION TO COUNCILLORS AND EXECUTIVE LEADERSHIP TEAM DUE TO DOCUMENT SIZE.

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E.21- ADOPTION OF AMENDMENT C72 - LOCH, NYORA, POOWONG AND MEENIYAN STRUCTURE PLAN IMPLEMENTATION.

Appendix 3 - Independent Planning Panel Report - February 2013



Planning and Environment Act 1987

Panel Report

South Gippsland Planning Scheme

Amendment C72

Township Structure Plans

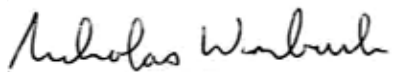
Loch, Nyora, Meeniyan, Poowong

15 February 2013

Planning and Environment Act 1987

Panel Report pursuant to Section 25 of the Act

Amendment C72 to the South Gippsland Planning Scheme



Nick Wimbush, Chair



Kevin Breen, Member



Sue Porter, Member



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List of Abbreviations

B1Z	Business 1 Zone
CFA	Country Fire Authority
DDO	Design and Development Overlay
DPCD	Department of Planning and Community Development
DPO	Development Plan Overlay
DSE	Department of Sustainability and Environment
ESO	Environmental Significance Overlay
FZ	Flood Zone
GILUP	Gippsland Integrated Land Use Plan
GLGN	Gippsland Local Government Network
GRMF	Gippsland Regional Managers Forum
GRP	Gippsland Regional Plan
HSS	Housing Settlement Strategy
IN3Z	Industrial 3 Zone
LDRZ	Low Density Residential Zone
LPPF	Local Planning Policy Framework
NSP	Nyora Structure Plan
R1Z	Residential 1 Zone
SPPF	State Planning Policy Framework
TZ	Township Zone
UDF	Urban Design Framework
UGB	Urban Growth Boundary
VPP	Victoria Planning Provisions

Executive summary

The South Gippsland Shire is located about 100 km south east of metropolitan Melbourne. Loch, Nyora, Poowong and Meeniyan are small, picturesque towns located in the Shire.

Most of the land within the four townships is in the Township Zone (TZ). South Gippsland Shire Council proposes to replace the TZ with new residential, commercial, industrial and public land zonings, along with other incidental zone changes. Council considers that the TZ is no longer appropriate for the towns because it relates to towns with no sewerage and limited growth potential. Reticulated sewerage services have either been constructed in the case of Meeniyan or planned to be introduced within the next 5 years in the case of the other three townships. This increases the opportunity for urban density and expansion in the four townships and the proposed structure plans together with zone changes seek to manage future development until 2030 and beyond.

The planning provisions in the Amendment aim to implement the key recommendations of the township Structure Plans that were adopted by Council in August 2011. It seeks to update the Planning Scheme's Local Planning Policy Framework township planning provisions for the four towns which either require updating (Nyora and Loch) or do not exist (Poowong and Meeniyan). The Amendment introduces new township Overview statements, Objectives, Strategies, Actions for implementation and Framework Plan maps.

Interest in residential development in the four townships appears to be increasing with the likely introduction of reticulated sewerage. The Council, through the Structure Plans and Amendment, considers that in order to ensure the appropriate and logical growth of the towns in the future, it is important to identify where any future growth should occur, and if so, at what density.

In response to exhibition, 76 submissions were received, considered by Council and referred to the Panel. The majority of these related to Nyora where there are significant proposals for expanding the township through urban-density residential development and to expand the opportunities for rural living around the town.

There were also many submissions relating to individual properties, and objections to particular directions in the Structure Plans and Amendment.

The Panel heard submissions and evidence over three days in Korumburra relating to the Amendment, and in general concludes that the Structure Planning process, and its implementation through Amendment C72, will assist in the sound planning of these settlements in future.

The Panel recommends:

Adopt Amendment C72 to the South Gippsland Planning Scheme as exhibited subject to the further recommendations set out in this report.

1 Background

1.1 The Amendment

Amendment C72 to the South Gippsland Planning Scheme, as exhibited, proposes to introduce into the Municipal Strategic Statement (MSS) section of the Planning Scheme the key elements of the Loch, Nyora, Poowong and Meeniyan Structure Plans that were adopted by Council in August 2011.

The planning authority and proponent is South Gippsland Shire Council.

1.2 The subject site and surrounds

The South Gippsland Shire is located about 100 km south east of metropolitan Melbourne. It is situated on the south western boundary of the Gippsland region and abuts five municipalities: Baw Baw, Latrobe City, Wellington, Bass Coast and Cardinia. The Strzelecki Ranges form much of the Shire's northern boundary.

The largest town within South Gippsland Shire is Leongatha, with other significant towns being Korumburra, Mirboo North and Foster. Leongatha, Korumburra and Foster are located on the South Gippsland Highway, which is the main transport link providing access within the Shire and to Melbourne. Smaller towns in the Shire include Bena, Fish Creek, Koonwarra, Loch, Meeniyan, Nyora, Welshpool, Poowong and Toora. The townships relevant to the current amendment are Loch, Nyora, Poowong and Meeniyan.

(i) Loch

Loch is located 105 km south east of Melbourne CBD, 55 km east of Cranbourne and 13 km west of Korumburra. It is a small rural township with heritage buildings, a village character and is popular with tourists.

Currently, most of Loch's residential lots are around 1,000m² in area with some unsubdivided parcels of land and an area of rural-residential sized allotments that are undeveloped. A reticulated sewerage system is to be introduced which will remove the need for onsite retention and treatment of waste water.

(ii) Nyora

Nyora is the closest South Gippsland Shire township to metropolitan Melbourne, and is located 2 km to the north of the South Gippsland Highway, next to the Melbourne to Leongatha railway corridor, only part of which is now used infrequently as a tourist railway. Nyora has recently experienced population growth due to its close proximity to the South East Growth Corridor of Melbourne and its relatively flat land, although it does not have a reticulated sewerage system. The Town was developed around the railway station which opened in 1890, although it does not have a clearly defined town centre.

(iii) Poowong

Poowong is located at the intersection of Lang Lang-Poowong Road and Drouin-Korumburra Road, approximately 110 km south east of Melbourne, 9.7 km east of Nyora and 17.7 km

north of Korumburra. It has views over the surrounding rural hills. Poowong has community facilities such as a library, community hall, indoor sports hall, oval, swimming pool, primary school, preschool and tennis courts, along with local businesses and industries such as an abattoir and milk processing factory.

(iv) Meeniyan

Meeniyan is a traditional small Gippsland township located between Leongatha and Foster, 150 km south east of Melbourne, 16.9 km east of Leongatha and 21.9 km west of Foster. The commercial area is surrounded by residential development which decreases in density moving further from the town centre. Meeniyan is a service centre for nearby agricultural communities and receives tourism from the nearby Wilson's Promontory, and attracts international folk musicians to events at its public hall. It also has new art and craft boutiques. The Meeniyan Wastewater Treatment Scheme and Wetlands was officially opened in late 2012 to address water contamination problems through the completion of a sewerage scheme.

1.3 The Amendment

(i) Background

The Amendment seeks to update the Planning Scheme's township planning provisions for Loch, Nyora, Poowong and Meeniyan. Council submits that the current provisions for Nyora have not been updated since 1999, and that the Loch provisions also require updating. There are currently no provisions for Poowong and Meeniyan.

Most of the land within the four townships is in the Township Zone (TZ). Council considers that TZ is no longer appropriate because the TZ applies to small townships that do not have sewerage and have limited growth potential. The TZ will be replaced by new residential, commercial, industrial and public land zonings. Other incidental zone changes are proposed, which are mostly in relation to zone mapping corrections and minor anomalies. The zone changes will affect the use and development potential of land in the towns - while some rezonings will result in land use restrictions, other zone changes will remove restrictions.

The Amendment also rezones land in Nyora north of Lang Lang-Poowong Road, between Walters Road and Davis Street, from a mix of the Farming Zone and Low Density Residential Zone to the Residential 1 Zone.

(ii) Implementing the structure plans through the Planning Scheme

The Amendment also seeks to implement the findings and recommendations of the four Structure Plans within the Local Planning Policy Framework of the South Gippsland Planning Scheme.

In particular, the Amendment seeks to introduce a specific Clause for each township within Clause 21.04 – *Objectives, Strategies and Implementation* of the Municipal Strategic Statement. Each Clause includes an *Overview* of the township, the *Objectives* to be achieved and *Strategies* to be adopted, as well as identification of *Actions for Implementation*. In addition, each township Clause will include a *Framework Plan* which identifies the broad

existing land use categories within each township, as well defining the future strategic growth directions.

This approach is consistent with the approach adopted in the Planning Scheme for other key townships within the municipality.

1.4 The Panel

This Panel was appointed under delegation on the 5 October 2012 pursuant to Sections 153 and 155 of the *Planning and Environment Act 1987* to hear and consider submissions in respect of the Amendment.

The Panel consisted of:

- Nick Wimbush (Chair);
- Kevin Breen (Member); and
- Sue Porter (Member).

1.5 Hearings and inspections

A Directions Hearing was held on 9 November 2012 at the Coal Creek centre in Korumburra. The Panel Hearings were held on 11-13 December 2012 at the same location.

On 9 November 2012 the Panel inspected the sites and surrounding areas relevant to the Amendment, including an unaccompanied visit to the four townships and their surrounds.

1.6 Exhibition and submissions

The Amendment was exhibited in March and April 2012. A total of 76 submissions were received, of which 44 related to Nyora, 4 to Meeniyan, 4 to Poowong, 16 to Loch and 8 were received from Referral Authorities and Government agencies.

A number of submitters to the Amendment were critical of the notice provided to landowners and residents during the Amendment. Mr Griffiths for Council outlined the various processes and formal notifications that have occurred. The Panel is satisfied from the submissions received and the knowledge of the Amendment in the community that the consultation processes have been adequate.

The Panel have considered all written and oral submissions and all material presented to it in connection with this matter.

The Panel heard the parties listed in Table 1.

Table 1 Parties heard at the Panel hearing

Submitter	Represented by
South Gippsland Shire Council	Mr Ken Griffiths
Wallis Watson (Nyora) Pty Ltd	Mr Adrian Finanzio, Barrister instructed by Norton Rose who called the following expert witnesses: - Mr Matthew Lee in economics - Mr Michael Collie in town planning
Yannathan Road Development Group	Mr Mick Maguire
Restlee Estate	Mr John Cicero of Best Hooper who called the following expert witness: - Mr Glenn Kell in town planning
Cardinia Shire Council	Mr Nick Crawford of Best Hooper
Ms Margaret Lockhart	
Ms Machel Crichton	
Maguire Family Holdings and Hume Family Holdings	Mr Nevan Wadeson and Mr Joseph Indomenico of Tract Consultants
Love and Associates Pty Ltd	Mr Lindsay Love
Mr Michael Buckingham	
Mr Lloyd Hunter	
Mr John and Mrs Tricia Fleming	
Mr Matt and Mrs Dawn Bardwell	Mr Jeff Bennett of Jeff Bennett Planning and Development

A list of all submitters is included in Appendix A.

1.7 The Panel's approach to the issues

The Panel provides an overview of policies relevant to the Amendment and then addresses the individual township structure plans and rezonings on a case by case basis in following chapters.

The Panel has made a number of recommendations in relation to amending the exhibited Structure Plans. Different Panels have taken different approaches to amending these reference documents post exhibition and post hearing. This has included recommending redrafting of the reference document (for example Ballarat C151) or not requiring revision of the reference document as the key content is now in policy (for example Greater Dandenong C96, Bayside C100, C101, C102 & C103).

This Panel recommends that as some of the changes to the reference documents (Structure Plans) are substantive, they should be amended to make it clear to the reader that changes have been made. We do not recommend how this should be done as it could be via a rewrite of the documents (which could be expensive), or simply by appending a 'list of changes' document. The method is left to Council to determine, but the Panel considers it should be done in some way that makes the changes clear.

The Panel recommends:

Amend the Structure Plans (reference documents) in accordance with the recommendations in this report.

2 Planning Context

This section of the Report considers the policy context for the Amendment and focuses on the strategic and policy issues, highlighting the key policy objectives of the Planning Scheme. The following sections of this Report include a brief summary of the State Planning Policy Framework (SPPF), the Municipal Strategic Statement (MSS) and Local Planning Policy Framework (LPPF), as well as other relevant planning strategies.

2.1 Policy framework

(i) State Planning Policy Framework

Clause 11.02-1 – Urban Growth - Supply of urban land – seeks to ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses. The strategies specify that sufficient supply should be available to accommodate projected population growth over at least a 15 year period and provide clear direction on locations where growth should occur. In planning for urban growth opportunities for the consolidation, redevelopment and intensification of existing urban areas should be considered, along with neighbourhood character, landscape considerations, land capability, natural hazards and environmental quality. Planning should also restrict low-density rural residential development that would compromise future development at higher densities. Finally, planning should monitor development trends and land supply/ demand for housing and industry. In planning for urban growth, planning must consider (amongst other strategic documents) Victorian Government population projections and land supply estimates.

Clause 11.02-3 – Urban Growth - Structure planning – seeks to facilitate the orderly development of urban areas. A key strategy to achieve this is to ensure effective planning and management of the land use and development of an area through the preparation of strategic plans, development contribution plans and other relevant plans. Some of the relevant issues that need to be considered in preparing these plans include the following:

- strategic and physical context of the location;
- identifying the location of broad urban development types, for example activity centres, residential areas, employment, freight centres and mixed use employment;
- establishing a sense of place and community;
- creating highly accessible and vibrant activity centres;
- providing for local employment and business activity;
- developing sustainable and liveable urban areas in an integrated manner;
- assisting the development of walkable neighbourhoods;
- facilitating the logical and efficient provision of infrastructure and use of existing infrastructure and services;
- identifying transport networks and options for investigation, such as future railway lines and stations, freight activity centres, freeways and arterial roads;
- identifying the location of open space to be retained for recreation and/or biodiversity protection and/or flood risk reduction purposes guided and directed by regional biodiversity conservation strategies;

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- showing significant waterways as opportunities for creating linear trails, along with areas required to be retained for biodiversity protection and/or flood risk reduction purposes;
 - creating greater housing choice, diversity and affordable places to live;
 - responding to climate change and increase environmental sustainability; and
 - delivering accessible, integrated and adaptable community infrastructure.

Clause 11.02-4 – Urban Growth - Sequencing of development – seeks to manage the sequence of development in growth areas so that services are available from early in the life of new communities. Key strategies to achieve this include defining preferred development sequences to better coordinate infrastructure planning and funding and ensuring that new land is released in a timely fashion to facilitate coordinated and cost-efficient provision of local and regional infrastructure, with an emphasis on ensuring water supply, sewerage and drainage works receive high priority in early planning for new developments with opportunities for the co-location of facilities. In addition, new development should be required to make a financial contribution to the provision of infrastructure such as community facilities, public transport and roads.

Clause 11.05-1 – Regional Development - Regional settlement networks – seeks to promote the sustainable growth and development of regional Victoria through a network of high quality settlements identified in the Regional Victoria Settlement Framework plan. This plan identifies Nyora, Poowong and Meeniyan and larger nearby towns such as Korumburra and Leongatha as ‘Regional towns’. A key strategy is to guide the structure, functioning and character of each settlement taking into account municipal and regional contexts and frameworks and to provide for growth in population and development of facilities and services across a region or sub-region network.

Clause 11.05-2 – Regional development - Melbourne’s hinterland areas – seeks to manage growth in Melbourne’s hinterland which is defined as the area immediately beyond Metropolitan Melbourne and within 100 kilometres of the Melbourne’s Central Activities District. Nyora and Poowong are located within the identified Melbourne hinterland. A key strategy is to provide for development in selected discrete settlements within the hinterland of Metropolitan Melbourne having regard to complex ecosystems, landscapes, agricultural and recreational activities in the area. Other strategies include the following:

- maintaining the attractiveness and amenity of hinterland towns;
- preventing dispersed settlement;
- siting and designing new development to minimise risk to life, property, the natural environment and community infrastructure from natural hazards such as bushfire and flooding;
- managing the growth of settlements to ensure development is linked to the timely and viable provision of physical and social infrastructure and employment;
- strengthening and enhancing the character and identity of towns; and
- improving connections to regional and metropolitan transport services.

Clause 11.05-3 - Regional development - Rural productivity – seeks to manage land use change and development in rural areas to promote agriculture and rural production. A key strategy is to prevent inappropriately dispersed urban activities in rural areas, including limiting new housing development in rural areas. This is to be achieved by directing housing

growth into existing settlements and discouraging development of isolated small lots in the rural zones from use for rural living.

Clause 11.05-4 – Regional development - Regional planning strategies and principles – seeks to develop regions and settlements which have a strong identity, are prosperous and environmentally sustainable. The policy then establishes a number of key principles to guide settlement planning in Victoria’s regions, including the hinterland areas, the most relevant to this Amendment being:

- Support a network of integrated and prosperous regional settlements by:
 - Directing growth to locations where utility, transport, commercial and social infrastructure and services are available or can be provided in the most efficient and sustainable manner;
 - Strengthening networks of settlements by maintaining and improving transport links, spatial patterns of service delivery and promoting commercial relationships/activities; and
 - Ensuring there is a sufficient supply of appropriately located residential, commercial and industrial land across a region to meet the needs identified at regional level.
- Maintain and provide for the enhancement of environmental health and productivity of rural and hinterland landscapes by:
 - Avoiding development impacts on land that contains high biodiversity values, landscape amenity, water conservation values, food production and energy production capacity, extractable resources and minerals, cultural heritage and recreation values, assets and recognised uses.
- Maintain and enhance regional Victoria’s competitive advantages by:
 - Ensuring that the capacity of major infrastructure (including highways and railways) is not affected adversely by urban development in adjacent areas;
 - Focusing major government and private sector investments in regional cities and centres on major transport corridors, particularly railway lines, in order to maximise the access and mobility of communities;
 - Providing adequate and competitive land supply, including urban regeneration, redevelopment and greenfield sites to meet future housing and urban needs and to ensure effective utilisation of land; and
 - Strengthening settlements by ensuring that retail, office-based employment, community facilities and services are concentrated in central locations.
- Support the growth and development of distinctive and diverse regional settlements by:
 - Limiting urban sprawl and directing growth into existing settlements, promoting and capitalising on opportunities for urban renewal and redevelopment; and
 - Ensuring the potential of land that may be required for future urban expansion is not compromised.
- Promote liveable regional settlements and healthy communities by:
 - Responding to changing community needs and facilitating timely provision of and access to social infrastructure and services; and

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- Encouraging the development of compact urban areas which are based around existing or planned activity centres to maximise accessibility to facilities and services.

Clause 12.02- Biodiversity - Protection of habitat – seeks to assist the protection and conservation of biodiversity, including native vegetation retention and provision of habitats for native plants and animals and control of pest plants and animals. A key relevant strategy is to assist the conservation of the habitats of threatened and endangered species and communities as identified under the *Flora and Fauna Guarantee Act 1988*. This is particularly relevant to the Giant Earth Worm.

Clause 13.03-2 - Soil degradation - Erosion and landslip – seeks to protect areas prone to erosion, landslip or other land degradation processes. A key strategy is to identify areas prone to erosion or instability and to prevent inappropriate development in these locations.

Clause 13.05-1 - Bushfire - Bushfire planning strategies and principles – seeks to assist the strengthening of community resilience to bushfire, particularly in the strategic and settlement planning stage. The overarching strategies are to prioritise the protection of human life over other policy considerations in planning and decision-making in areas at risk from bushfire; and where appropriate, apply the precautionary principle to planning and decision-making when assessing the risk to life, property and community infrastructure from bushfire.

Clause 14.01-1 – Agriculture - Protection of agricultural land – seeks to protect productive farmland which is of strategic significance in the local or regional context. A key strategy to achieve this is to ensure the State’s agricultural base is protected from the unplanned loss of productive agricultural land due to permanent changes of land use. Any permanent removal of productive agricultural land must not be undertaken without consideration of its economic importance for agricultural production and the processing sector and should not detract from the long-term productive capacity of the land. Consideration must also be given to the impacts of the proposed subdivision on the continuation of primary production on adjacent land, with particular regard to land values and compatibility between the proposed or likely development and the existing uses of the surrounding land.

Clause 16.01-1 - Residential development - Integrated housing – seeks to promote a housing market that meets community needs. The key strategies to achieve this include increasing the supply of housing in existing urban areas by facilitating increased housing yield in appropriate locations, including under-utilised urban land. This should also include supporting the provision of the appropriate quantity, quality and type of housing, including the provision of aged care facilities. An additional strategy is to ensure housing developments are integrated with infrastructure and services.

Clause 16.01-2 – Residential development - Location of residential development – seeks to locate new housing in or close to activity centres and employment corridors and at other strategic redevelopment sites that offer good access to services and transport. The key strategies to achieve this include ensuring an adequate supply of redevelopment opportunities within the established urban area to reduce the pressure for fringe development; and to identify opportunities for increased residential densities on sites that are well located in relation to activity centres, employment corridors and public transport to help consolidate urban areas.

Clause 16.02-1 - Housing form - Rural residential development – seeks to identify land suitable for rural living and rural residential development. The key strategies include managing development in rural areas to protect agriculture, avoid inappropriate rural residential development and to reduce the proportion of new housing development provided in rural areas. Encouragement is to be given to consolidation of residential development in existing settlements where investment in physical and community infrastructure and services has already been made. In addition, there should be demonstrated need for and identification of appropriate locations for rural residential development through a housing and settlement strategy.

A strategy of this policy also seeks to ensure land is not zoned for rural living or rural residential development if it will encroach on high quality productive agricultural land. In addition, only land located close to existing towns and urban centres, but not in areas that will be required for fully serviced urban development should be zoned for rural living or rural residential development.

Clause 17.01-1 -Commercial – Business – seeks to encourage development which meets the communities’ need for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities. The key relevant strategies are to locate commercial facilities in existing or planned activity centres and to provide new convenience shopping facilities within or immediately adjacent to existing commercial centres.

Clause 17.02-1 – Industry - Industrial land development – seeks to ensure availability of land for industry. A key relevant strategy is to provide an adequate supply of industrial land in appropriate locations including a sufficient stock of large sites for strategic investment and to protect and carefully plan existing industrial areas, where possible, to facilitate further industrial development. In addition, industrial activity in industrial zones should be protected from the encroachment of unplanned commercial, residential and other sensitive uses which would adversely affect industry viability.

Clause 18.01 – Integrated transport – Land use and transport planning – seeks to ensure a safe and sustainable transport system by integrating land-use and transport. A key relevant strategy is to plan urban development to make jobs and community services more accessible by ensuring access is provided to developments in accordance with forecast demand, taking advantage of all available modes of transport and to minimise adverse impacts on existing transport networks and the amenity of surrounding areas. An additional strategy is to coordinate improvements to public transport, walking and cycling networks with the ongoing development and redevelopment of the urban area.

Clause 19.03-1 - Development infrastructure - Development contribution plans – seeks to facilitate the timely provision of planned infrastructure to communities through the preparation and implementation of development contributions plans. Key strategies are to prepare development contributions plans to manage contributions towards infrastructure and to collect development contributions on the basis of an approved development contributions plan.

Clause 19.03-2 – Development infrastructure - Water supply, sewerage and drainage – seeks to plan for the provision of water supply, sewerage and drainage services that efficiently and effectively meet State and community needs and protect the environment. A key strategy is to provide for sewerage at the time of subdivision, or ensure lots created by the subdivision are capable of adequately treating and retaining all domestic wastewater within the boundaries of each lot.

(ii) Local Planning Policy Framework

Municipal Strategic Statement

Clause 21.01-2 – Municipal profile - Municipal overview - recognises that in addition to a number of larger towns within the municipality, there are also a number of smaller towns including Loch, Nyora, Poowong and Meeniyah which were primarily established to service the surrounding rural communities and now provide quality urban lifestyles in a scenic environment.

The overview recognises the municipality contains some of the most productive agricultural areas in Victoria and provides a substantial proportion of Victoria's milk and milk products as well as beef, prime lamb and timber products. It recognises the abundant rainfall and high quality agricultural soils of the area will continue to make the Shire attractive to agricultural producers.

Clause 21.01-6 – Municipal profile - Economy and Clause 21.01-10 – Rural areas - recognise that agriculture and the associated manufacturing and service industry underpin the Shire's economy. They recognise the Shire contains some of the most productive agricultural areas in Victoria and provide a substantial proportion of Victoria's milk and milk products. They also recognise that in addition to traditional farming enterprises such as dairy, beef, lamb and vegetable production, more recently boutique farming activities such as ostrich, emu, deer and alpaca rearing have been introduced into the municipality. These overviews also recognise that agricultural production is supported by important industries, the most relevant to this Amendment being the Poowong abattoir.

Clause 21.01-7 – Municipal profile - Transport and infrastructure - recognises that part of the former Great Southern Railway line still exists through the western half of the Shire which now operates as a tourist railway between Nyora and Leongatha. Whilst recognising that rail services to Melbourne have discontinued, the overview states that it is essential for the long term economic and social planning of the Shire that the option to return rail services in the future remain.

Clause 21.02-1 – Key influences - Environment and heritage – recognises the incidence of landslip and erosion (particularly within steep areas of the Strzelecki Ranges), flooding and drainage problems and the potential risk to population and property from fire hazard in certain areas as a key influence.

Clause 21.02-2 – Key influences - Economy – recognises the need to protect and promote the importance of a strong agricultural base to the Shire's economy. In addition, it recognises the need to provide sufficient industrial land to accommodate and encourage existing and future industrial opportunities and the need to recognise that economic and social pressures may affect the viability of small towns as key influences. Finally, there is

recognition that the role and function of some of the small towns and villages are changing and there is a need to encourage each town to develop its own identity.

Clause 21.02-3 – Key influences - Settlement – recognises that the network of smaller rural towns throughout the Shire provide a valid alternative to the large settlements, particularly where reticulated services are provided. It also recognises there is a need to plan for housing and facilities to cater for anticipated population growth in the north-west of the Shire.

Clause 21.02-4 – Key influences - Transport and infrastructure – recognises the need to provide reticulated water and sewerage services and drainage improvements to many of the smaller towns in order to encourage population growth. It also recognises there is no Development Contribution Policy in the planning scheme to guide infrastructure provision.

Clause 21.02-5 – Key influences - Community services – recognises that economic pressures affect the viability of existing community services, yet there is a need to provide residents with access to community services in an efficient and equitable manner.

Clause 21.02-6 – Key influences - Rural areas – recognises the need to preserve rural land for commercial scale agricultural production.

Clause 21.03-1 and 2 - Vision – recognises that the vision of the Council Plan is *To effectively plan and provide for the social, built, economic and natural environment that ensure the future wellbeing of South Gippsland communities*. This forms the basis for a series of vision statements under specific headings within this Clause. The vision statements relevant to this Amendment are outlined below.

Economy - seeks to encourage investment and development to facilitate population growth and employment. In addition, to promote the region as a food bowl supplying clean, high quality food and encouraging diversity in the region's agricultural base to enhance its status as one of the key agricultural regions in Australia. The Council recognise and wish to capitalise on the Shire's proximity to Melbourne.

Settlement – seeks to promote high quality and diverse lifestyle opportunities.

Transport and infrastructure – seeks to promote and improve the urban environment and towns and to maintain and improve physical infrastructure in order to support the future needs of the community.

Community services – seeks to provide and facilitate a range of community services in an efficient and equitable manner.

The Framework Plan accompanying this vision, identifies Nyora, Loch, Poowong and Meeniyan as 'Towns' which are to be *Strengthened and promoted as sustainable communities*. In addition, the Framework Plan also identifies the area around these townships as being predominantly within an area identified as *High Quality Agricultural Soils – protect and promote sustainable agricultural practices which are economically and environmentally efficient*.

Clause 21.04-1 – Objectives, strategies and implementation - Environment and cultural heritage:

Element 2 – Biodiversity – seeks to achieve a measurable net gain in the extent and quality of the Shire’s biodiversity. A key strategy to achieve this is to ensure the protection of sites of biological significance on both roadsides and private property via a range of management actions.

Clause 21.04-2 – Objectives, strategies and implementation – Economy:

Element 1 – General agriculture – seeks to maintain a viable and sustainable agricultural industry as the corner stone to the Shire’s economy and its future wellbeing. The key strategies are to protect high quality agricultural land for primary production and to strongly discourage rural residential use of land on lots over 4.1ha in agricultural areas.

Element 3 – Processing and manufacturing – seeks to attract and develop value adding opportunities, diversify the industry base and maximise employment opportunities as well as encouraging the location of industries within existing industrial precincts. A key strategy to achieve this is to promote Leongatha, Korumburra and Mirboo North as industrial precincts to new manufacturing industries.

Element 7 – Office and retail – seeks to encourage businesses which generate employment opportunities, provide good and services to meet the needs of the community and to strengthen existing town centres by encouraging commercial development within identified precincts. The key strategies to achieve this include the following:

- Encourage retail and office activities to locate in precincts identified in the local structure plans for each town;
- Encourage the visual improvement of town centre business precincts to attract new commercial development;
- Discourage the establishment of office and retail developments outside the existing business precincts; and
- Encourage and support new investment through the redevelopment of existing retail facilities within town centres identified on the township framework plans and the promotion of new retail facilities on key redevelopment sites within established town centres.

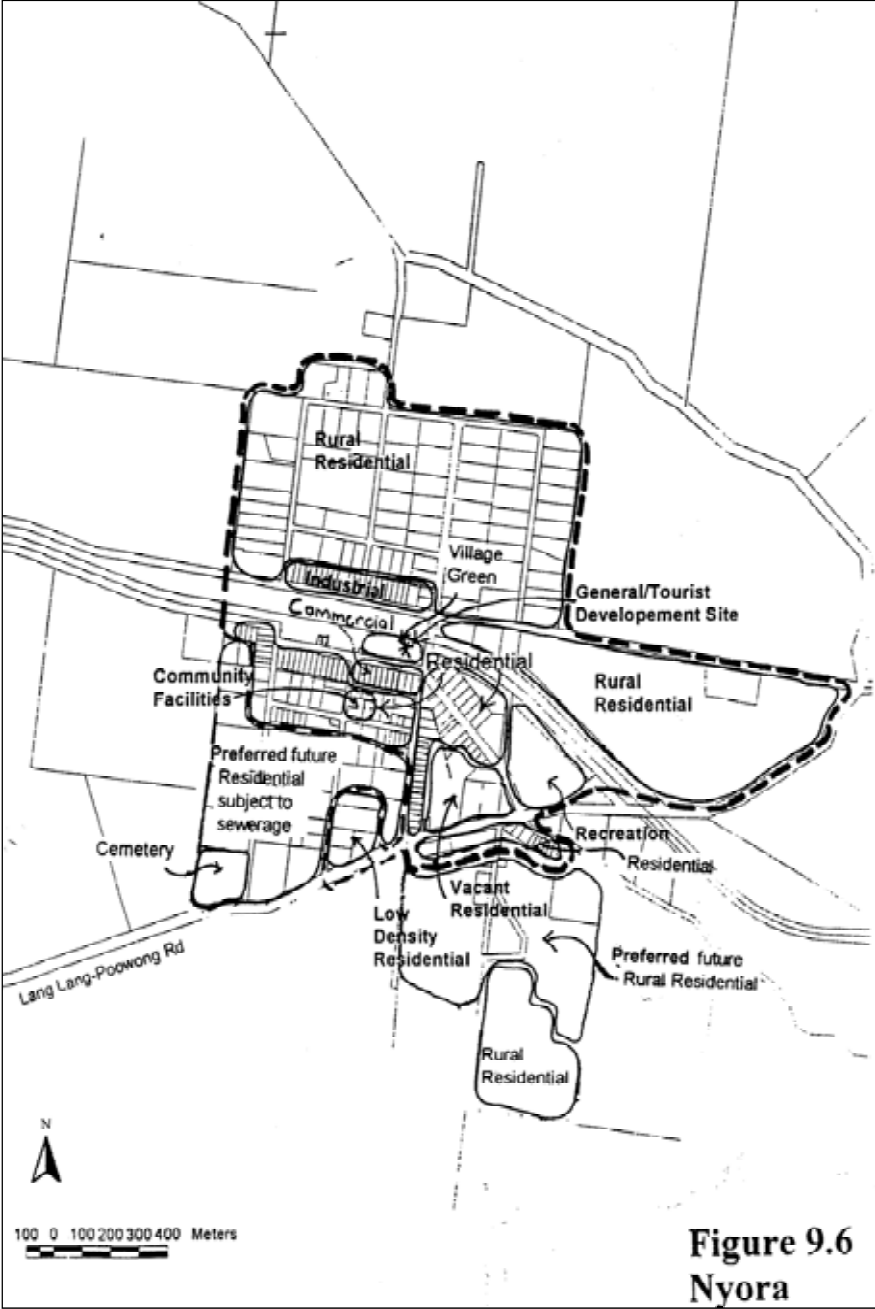
Clause 21.04-3 - Objectives, strategies and implementation – Settlement:

Element 1 - Housing choice – seeks to encourage diversity in housing types to meet the changing needs of the population and to promote new housing that provides for the retention and development of sustainable communities throughout the Shire. In addition, it seeks to encourage consolidated residential development adjacent to central activity districts of towns to achieve a more efficient use of urban infrastructure. A key strategy is to encourage diversity in dwelling type and size to provide greater choice and affordability.

Clause 21.04-8 – Nyora – seeks to promote Nyora as the Gateway to the Shire and to strengthen Nyora as a sustainable low-density community through the promotion of economic growth and the provision of a quality lifestyle. Key strategies to achieve this include discouraging development in areas susceptible to water logging and strongly discouraging medium density housing until reticulated sewerage becomes available. In addition, it encourages new light industrial activities to locate within the designated industrial area in Watts Road and development of public transport facilities to improve access to community services and employment.

A copy of the framework plan for Nyora included within the planning scheme is included below.

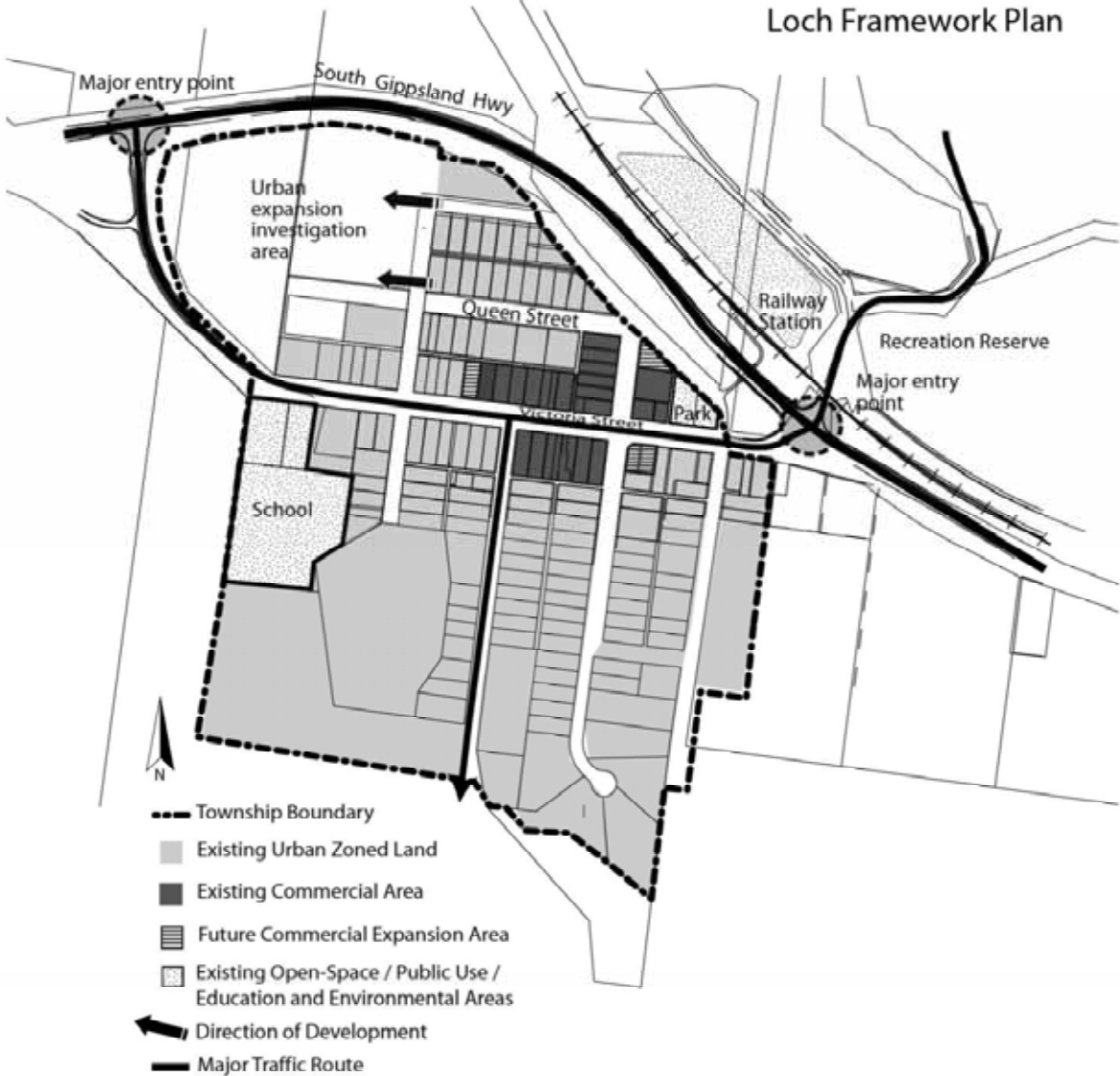
Figure 1 Existing Nyora Framework Plan



Clause 21.04-9 Loch – seeks to establish Loch as a small thriving rural township which has a rich array of heritage architecture and is promoted for its distinctive garden village character. Key strategies to achieve this include identifying the Town Centre as the preferred focus for all business, community/tourist services and facilities and retaining the existing character, design and built form of the buildings along Victoria Road, recognising their contribution to the overall image of Loch. In addition, strongly discouraging residential rezoning of land within the Township Boundary until reticulated sewerage is provided.

The Framework Plan for the Loch included within the planning scheme is included below.

Figure 2 Existing Loch Framework Plan



Clause 21.04-14 - Small towns – seeks to maintain a network of small towns with a range of roles and services designed to cater for the needs of residents and visitors to the Shire and to provide an attractive and safe residential environment and strengthen the economic future of the small towns within the Shire. Key strategies identified to achieve this include continuously monitoring and readjusting the current level of access to community services

and infrastructure within the small towns and encouraging them to identify niche business sectors that can be used to exploit the tourist market.

Clause 21.04-15 - Transport and infrastructure – recognises a range of transport services and physical infrastructure is required to support the existing and future needs of the community, facilitate economic growth and protect the environment. It recognises that the possible re-opening of the South Gippsland railway line and the development of a deep-sea port at Barry Point will create important national and international transport links.

Clause 21.04-16 - Community services – recognises a need to identify and provide for a range of social, cultural, educational, leisure and health services to meet the needs of the community. It recognises that adequate provision of community services assists in sustaining the Shire’s population and attracting new residents to the region and that there is a co-relation between the wellbeing of the community and the economic prosperity of the region. Continual improvements to the quality and type of community services and facilities available are also required to meet the changing needs of the community.

In addition, there is also recognition that due to the widespread distribution of the population throughout the Shire, there is a need to undertake effective planning to ensure the community has access to a range of services in an efficient and equitable manner. The driving principle is the community development model, with an emphasis on partnerships with a wide range of stakeholders.

Clause 21.04-17 - Rural areas – Primary production – seeks to ensure that the resource of agricultural land is protected and retained in primary production and that there is a need to support existing and emerging agricultural activities and associated rural industries that will maintain and build on this element of the economic base of the Shire. Key strategies to achieve this include protecting the long term farming future of the Shire and the rural farmland landscape. This is to be partly achieved by strongly discouraging dwellings not related to commercial scale agriculture in rural areas on lots over 4.1ha.

Local Planning Policy

Clause 22.05 - Industrial Development – seeks to encourage well designed industrial development which is safe and functional in its layout and does not detract from the amenity of surrounding area.

Clause 22.09 - Rural subdivision policy - seeks to limit the further fragmentation of rural land by subdivision and ensure that lots resulting from subdivision are of a sufficient size to be of benefit to agricultural production. As part of this policy, applications proposing an area of greater than 2 hectares for the dwelling lot will be strongly discouraged.

2.2 Planning strategies

A number of planning strategies have been drawn to the Panel’s attention through submissions and the course of the Hearing. Some of the key ones are summarised below.

(i) South Gippsland Shire Council Rural Land Use Strategy

The *South Gippsland Shire Council Rural Land Use Strategy (2011)* was developed by Council from 2006-2011. Council undertook a research project conducted by RM Consulting Group

(RMCG) with the assistance of Council officers. The strategy was formed with the assistance of the research project and the following documents:

- South Gippsland Draft Rural Land Use Strategy 2008;
- Rural Strategy Reference Group;
- Rural Tourism Development Strategy 2009; and
- C51 Amendment Review Committee.

RMCG's final report: *Rural Land Use Strategy Draft for Public Consultation* was released in April 2011. This report involved engagement with industry bodies, farmers, and communities over a five year period. It also included a public consultation process and a public forum in April 2011. This document detailed the following:

- A number of refinements to the complex Incorporated Document;
- The introduction of Rural Activity Zone;
- Council has incorporated findings from the community consultation in the Rural Land Use Strategy. The Strategy includes the following;
 - Rural Dwellings Policy at clause 22.08;
 - Rural Subdivision Policy at clause 22.09;
 - Rural Activity Policy at clause 22.10; and
 - Introduction of Rural Activity Zone areas.

The *Rural Land Use Strategy* includes the findings from the RMCG final report. The Strategy was introduced into the South Gippsland Planning Scheme via Amendment C63.

(ii) The township Community Plans

Each town has a Community Plan which outlines the community's vision in regard to the growth and development of each town. The plans were adopted by their respective communities but not formally by Council, as Council wanted the plans to remain the communities. The Community Plans are not referenced in the planning scheme.

The Community Plans each have the following respective visions for the ensuing five years:

Nyora Community Plan October 2010

The vision for Nyora is:

- *To retain Nyora's rural lifestyle by protecting valuable farming land and the natural environment, providing for sensitive and appropriate development at the interface with rural land.*
- *To provide residential accommodation for all age groups, family types and lifestyles.*
- *To develop a compact and attractive Town Centre in which retail and small business can thrive and visitors are welcomed.*
- *To provide a unique series of walking paths, bike paths and horse trails connecting the Town Centre with local amenities, recreational facilities, and residential areas and to ultimately connect with neighbouring towns.*
- *To respect Nyora's agricultural origins and heritage assets while supporting energy reduction and environmentally sustainable development.*
- *To have comprehensive transport options for both public and business use linking nearby towns and larger towns and cities.*

-
- *To manage Nyora's population to such a level as will guarantee the retention of the rural lifestyle valued by its residents.*
 - *To ensure provision of infrastructure such as sewerage, drainage, water, electricity, gas, access roads, etc. to support Nyora's growth and prosperity.*

Loch Community Plan December 2010

The vision for Loch is:

...to preserve the village atmosphere and to extend its historic, cultural and garden themes. We see the town as continuing to be safe and well-serviced for all age groups, providing sustainable support and opportunities for our community into the future.

The Community Plan also states:

Loch is a small thriving rural township with a rich array of heritage architecture, renowned for its arts, crafts, antiques and quality food. It is a destination and a stopping point for visitors, providing public facilities, tourist information, accommodation and food and drink—a place where both residents and visitors alike have time to relax and enjoy the scenery.

The Loch community accepts the need to grow, but is determined to lead and influence how such growth occurs in order to maintain the valued characteristic of the township. It is committed to the sustainable use of resources and to ensuring the continuation of its high quality educational, health, recreational and sporting services.

Poowong Community Plan August 2010

The vision for Poowong is:

Poowong's vision is to continue to take pride in being a strong and supportive community that acknowledges the benefits of local leadership and experience...Priorities include encouraging young people to remain in the area.

It also states that continued priorities in the local culture of Poowong include improved recreation facilities, parks, trails and multi-purpose assets along with best use of open spaces.

Meeniyan Community Plan 2010

The vision for Meeniyan is:

Meeniyan is committed to remaining a desirable and liveable town of quality that provides for the needs of all its residents and visitors whilst retaining the small town atmosphere and spirit...It will work to support the planned growth of the town, with a stronger commercial centre encouraging a relevant and suitable increase of necessary services and businesses to provide for the community.

(iii) The Gippsland Regional Plan

The *Gippsland Regional Plan* (GRP) (2010) was developed by the Gippsland Regional Plan Project Control Group with members from the Gippsland Local Government Network (GLGN), the Gippsland Regional Managers Forum (GRMF) and representation from Regional Development Australia (RDA) Gippsland. The plan was prepared as a partnership between Bass Coast, Baw Baw, East Gippsland, Latrobe, South Gippsland, and Wellington councils, DPCD Project Team, state agencies, and with the support of representatives of the Gippsland Regional Development Australia Committee.

The GRP involved the outcomes from workshops in 2009 which discussed the following issues in relation to Gippsland: land use; liveability and health; economic development; transport; skills and employment; population and demographics; connecting people; and climate change, water and environment. The GRP analysed the region's economic, social and environmental challenges and trends. It states that:

Gippsland's prosperity, liveability and sustainability depend on two strategic drivers: an economy based on natural resources and strong population growth.

(iv) Gippsland Integrated Land Use Plan July 2012

The *Gippsland Integrated Land Use Plan* (GILUP) (2012) refines and implements the directions outlined in the *Gippsland Regional Plan 2010*.

The GILUP identifies preferred locations for particular activities or development in both urban and rural areas. In particular, the GILUP:

- *Establishes the direction of future urban development at a regional scale.*
- *Provides direction for accommodating change and additional land requirements for residential, employment, industrial, commercial and primary industry uses.*
- *Identifies important regional environmental, economic, community and cultural resources to be preserved, maintained or developed.*
- *Identifies key regional priorities for future infrastructure planning and investment to support growth.*

It considers the following to be the key priorities for the region:

- *Managing population growth.*
- *Maintaining competitive economic advantages and realise new opportunities through the transition to a low-carbon economy.*
- *Protecting agricultural land and associated Infrastructure.*
- *Providing reliable transport networks for passenger and freight movement.*
- *Preserving and enhancing natural assets including water catchments, habitat and landscapes.*
- *Reducing risk from hazards such as flooding, bushfire, and coastal inundation.*

(v) Urban design frameworks

Nyora Urban Design Framework 2005

This states under its 'Aspirations, principles and objectives' that:

Nyora will continue to develop and expand to accommodate a residential population that desires a rural lifestyle within easy reach of the Melbourne Metropolitan area.

It will consist of the following:

- *...a vibrant town centre, easily and safely accessible by foot, bicycle, horse or car as the focus for all commercial, educational, recreational, community, cultural and transport services and facilities.*
- *It will be a peaceful town where people and horses can be heard, rather than just car and truck traffic accessible from Melbourne by road, rail and bus.*
- *...an identity that reflects both its historic links to agriculture and the railways and its contemporary association with horses and the natural environment.*
- *It will develop as an attractive tourist and visitor stopping point through the provision of food and rest facilities, it will become a destination for visitors with interest in horses. Potential appears to exist to pursue the establishment of a West Gippsland Tourism Trail which could see the townships of Nyora, Loch, Bena and Poowong linked by pedestrian, bicycle, train (excepting Poowong) and horse trails and each contributing to the delivery of an overall tourist experience.*

It comments that that for the town to grow, it '*...relies on the provision of an effective sewerage system for the township, especially the town centre and residential areas within 1 km of the town centre*'.

Loch Urban Design Framework 2005

This states under 'Key issues and principles' that Loch's character is defined by the following:

- *The slow and unhurried pace of life.*
- *The friendliness of the community.*
- *The style and nature of the existing businesses.*
- *The unstructured, informal and "non urban" nature of the streetscapes in the town.*
- *The formal and yet haphazard nature of the gardens on nature strips throughout the town.*
- *The ease of access for all, to all features and facilities in the town.*
- *The connection of the town to its rural surroundings and communities.*
- *The history and heritage of the town.*
- *These attributes are valued by the community and must be maintained in the future.*

It considers that Loch's image and identity includes the following:

- *...antique shops and events such as the Quilters Festival extend the town's reputation throughout Victoria and interstate.*

-
- *Loch's major positioning in the tourism marketplace should be built on its already well established reputation for European trees, street gardens and living heritage...*
 - *...Loch's ability to sustain a horticulture theme should help to provide it with a major point of difference.*

2.3 Discussion and conclusions

The Panel has considered the Amendment in some detail against the policy framework in the South Gippsland Planning Scheme. It notes and supports Council's general direction of introducing a more contemporary and nuanced approach to planning in the four townships subject to the Amendment.

Given that there may be significant change in some of these townships in the future driven by location, general attractiveness and infrastructure provision, the need for such an approach is clear.

The Panel considers that the Amendment implements policy in important ways including:

- Establishing clear town boundaries;
- Reinforcing historical town centres and providing for future retail and commercial opportunities;
- Identifying likely population growth scenarios and the type and location of development needed to cater for that growth; and
- Establishing clear policy for infrastructure provision and the need for this to be a shared across the existing communities and development projects.

There are a number of issues that give rise to further consideration that are raised in submissions and the Panel addresses these in the following chapters. Where these result in suggested changes to the Amendment, recommendations are made accordingly.

3 Loch township

3.1 The Loch Structure Plan and implementation in the planning scheme

The *Loch Structure Plan* identifies the Loch township as:

... an attractive small rural township nestled in the rolling hills of South Gippsland. It is located 105 south east of the Melbourne CBD, 55 km east of Cranbourne and 13 km west of Korumburra. ... Heritage buildings that line Victoria Road, a strong landscape character, and tourist related businesses, create a village character making Loch a popular tourist stopping point for the South Gippsland Highway and the tourist railway which operates on the weekends.

For this reason, the town is branded as the 'garden village'. It has a very strong and active local community that takes pride in the appearance and presentation of the town and strives to improve the range of public facilities and services available for local residents and visitors.

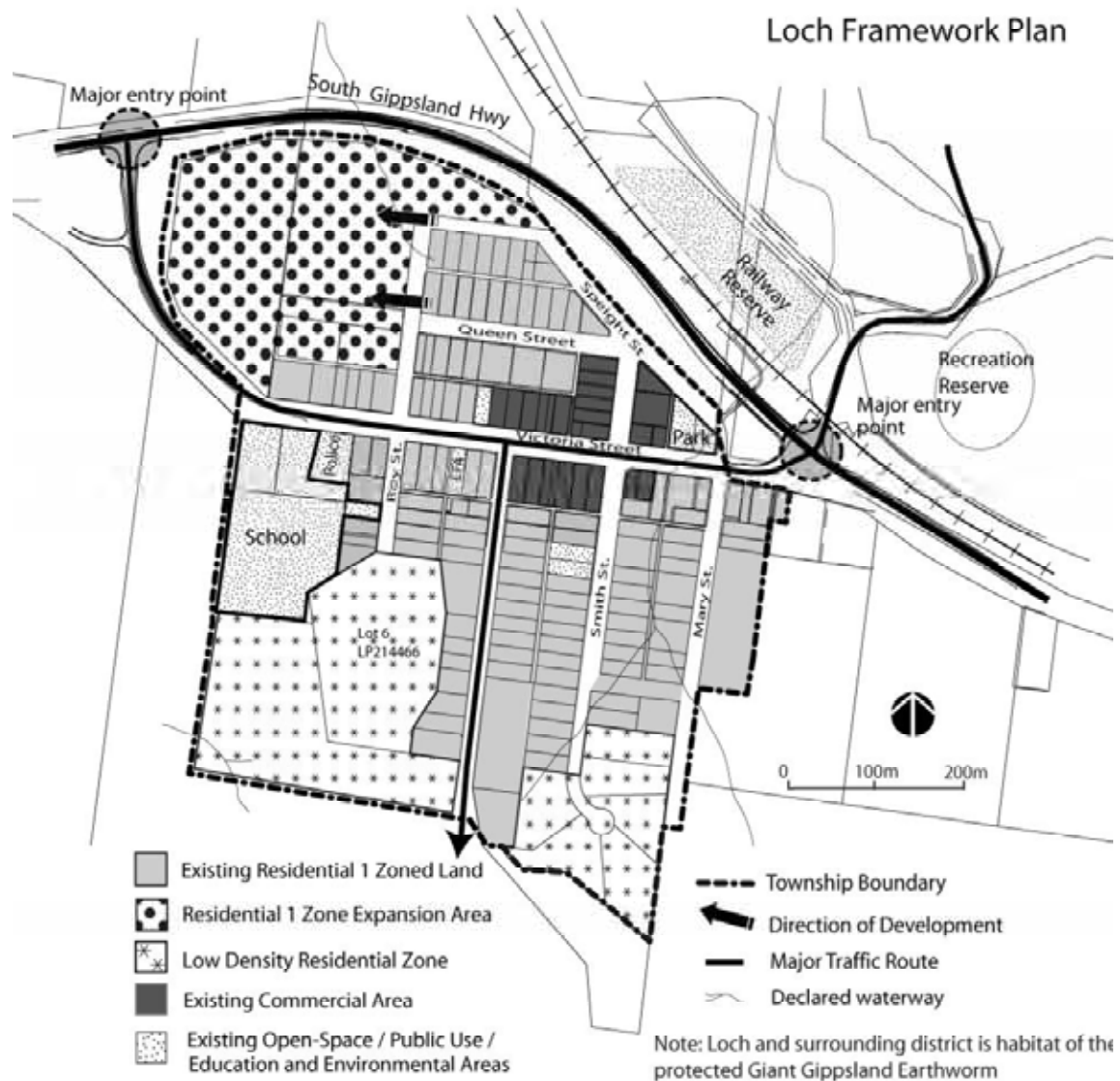
In considering the submissions to the Amendment that relate to Loch, the Panel notes they do not challenge the general directions contained within the Structure Plan for the Loch township. Rather the main focus of submissions has been on the proposed zoning of individual properties.

In considering the submissions, the Panel has made a number of comments about the Structure Plan. These will be discussed further in relation to the individual submissions.

Overall, the Panel accepts the general directions as contained within the Structure Plan and implemented through this Amendment are appropriate and are supported.

The proposed Loch Framework Plan in Clause 21.04-9 is shown in Figure 3.

Figure 3 Exhibited Loch Framework Plan



3.2 Proposed rezonings

(i) 11 Roy Street

What is the issue?

Whether the site should be included within a Residential 1 or Low Density Residential Zone.

Policy context of the issue

The relevant policy context is outlined in Chapter 2 of this report.

Evidence and submissions

A submission was received from Ms G Smith (Submission 1) the former owner of the property, objecting to the proposal to include this site within a Low Density Residential Zone on the following grounds:

1. The land is within easy walking distance of the town centre and associated community facilities;
2. The property abuts onto properties in Clarence Street which are used for residential purposes and included within the proposed Residential 1 Zone;
3. The property has the potential to be subdivided and sewered and to include the site within a Low Density Residential Zone would result in the underdevelopment of the land;
4. Residential subdivision of the land would be more attractive to potential purchasers;
5. With the introduction of sewerage, this property is ideally situated to assist with accommodating future population growth; and
6. Whilst some areas within Loch may be too steep or marshy to enable development, the topography and slopes on this site are not too restrictive.

Despite the site being identified within the Loch Structure Plan and the Amendment as Low Density Residential Zone, a number of submissions were received objecting to the potential inclusion of this site within a Residential 1 Zone. These submissions were received from Mr & Mrs Humphrey (Submission 4), Mr Booth (Submission 5), Mr D & Mrs L Hinkley (Submission 11) and Mr R & A Philpott (Submission 15). The basis of the objections is as follows:

1. Residential 1 zoning would facilitate high density housing which would significantly impact on the village environment and tranquillity of the street;
2. High density housing would lead to associated traffic problems, particularly given the proximity of the site to the primary school;
3. High density development would lead to drainage problems which would be extreme;
4. High density development would lead to landslip problems;
5. Infrastructure would not be able to accommodate with the increased development; and
6. People bought in the area on the assumption this site would remain rural.

A submission was also received from South Gippsland Water advising that the future development of the property has been incorporated into the current design planning process for the sewer.

Council, in its submission, advised that the submitters to 11 Roy Street no longer own the property and therefore no longer have an interest in the Amendment. Council advised the new owners have verbally stated they support the application of a Low Density Residential Zone and have long term plans to undertake a low density subdivision of the site. The Panel notes that no submission has been made by the new owners of the site.

At the Hearing, Council advised the site was included in a Low Density Residential Zone rather than Residential 1 because the slope was prohibitive. Council recognised however, that the Loch Structure Plan makes reference to potentially supporting the application of the

Residential 1 Zone as the land has characteristics that could support more intensive development subject to further investigation and that such reference should remain. Council stated the application of the Low Density Residential Zone does not stop the landowner from seeking to rezone the land to Residential 1 at a later date and that any future rezoning request could explore the site specific issues, including consultation with 13 adjoining landowners.

The Council have asked the Panel to consider this matter further.

Discussion

In considering this site the question the Panel must put its mind to is the role the site is likely to play in the future development of the Loch township; and based on that, is that role appropriately reflected in the Framework Plan and by the proposed zone.

In terms of assessing the future role of this site, the Panel has had specific regard to the *Loch Structure Plan*, which outlines the anticipated potential growth rates and residential supply/demand analysis for Loch. In terms of the future growth the Structure Plan concludes:

It is envisaged that Loch is likely to grow at a rate of approximately 2.3% each year, reaching a total resident population of around 300 people in 2030. This implies that 66 additional new dwellings will be required to accommodate an additional 121 new residents by 2030. The existing vacant lots and the proposed rezoning in Loch can accommodate such population growth.

Despite this conclusion, it is also important to plan for the rapid growth scenario The rapid growth scenario can be accommodated within a 15 year planning horizon based on existing vacant lots and lots created by the proposed rezoning. However, should rapid growth occur this assumption should be reviewed in 5 years to identify if there are any new areas for growth capable of accommodating the increased population.

It is therefore clear that there is no immediate need to rezone additional land for residential purposes at this time, however should rapid growth occur in Loch, there may be the need for additional residential land in the future. In order to ensure the appropriate and logical growth of the town in the future, it is important to identify where any future growth should occur.

The next question is whether this site would be suitable for future residential development should the need arise? In considering this question, the Panel notes the Structure Plan makes specific reference to this site and the adjoining land south-west of Loch and its suitability for residential purposes and states:

The Loch UDF 2005 identified an area to the south-west of the township as an area with potential for urban expansion. This area includes land susceptible to erosion and included within the Environmental Significance Overlay (ESO5). The land is currently undeveloped grassed paddocks with scattered vegetation. Due to its steep topography, it forms a green landscaped backdrop to the Loch township which is nestled into a valley The location of the small historic township amongst the rolling green hills is a major contributor to the unique

village character and attraction of Loch. Given this, it is considered that both the environmental and important landscape character constraints of these areas lend themselves to lower density residential development within a reduced area than was identified in the UDF.

New development should contribute to and strengthen the important and valued 'green landscape setting' to the Loch township. A Design and Development Overlay (DDO) should be considered for residential zoned land to manage future development in keeping with the character of Loch.

The Panel notes that in the Council report of 25 July 2012, it was stated the slope of the land influenced the recommendation to include it in a Low Density Residential Zone. It was stated that consideration was given to the application of the Residential 1 Zone, however it was decided the Residential 1 Zone could present problems regarding slope stability, minimising earthworks, drainage and addressing the requirements of Council's Infrastructure Design Manual.

The Panel notes that both Council and the community have accepted that this land is suitable for some form of residential development, however the question is what density of residential development is appropriate?

The Panel notes there has been no detailed analysis of the capability of this land to accommodate any form of residential development and the recommendations relating to the future residential use of this land have been based on some very basic assumptions. Whilst the Structure Plan states there are physical limitations associated with the residential development of this land, having inspected the area the Panel considers the site has some significant characteristics that make it worthy of further consideration for future residential development, these being:

- the site located within easy walking distance of the town centre and nearby community facilities;
- the site is in one ownership and therefore subdivision would be possible;
- the site is adjoined by Residential 1 Zoned land to the north and east;
- South Gippsland Water has indicated the site could be seweraged;
- the site is not affected by the Environmental Significance Overlay 5 – *Areas susceptible to erosion* and based on contours seems to have areas with reasonable slopes that could be developed;
- the site has good road access which could be easily extended to accommodate future development;
- the site is located within the defined township boundary; and
- the site would not be subject to flooding.

Given the factors above, the Panel considers the subject site has the potential for future residential development should the need arise and warrants more detailed investigation before any decisions are made which may limit its future development potential. The Panel considers this option should be preserved at this time and identified accordingly within the Framework Plan. The Panel therefore considers this site should remain within the township boundary and be identified as a *'Potential Residential 1 Zone Expansion Area – subject to further investigation'* on the Loch Framework Plan.

In terms of the zone to be applied, whilst Council has stated the application of the Low Density Residential Zone does not stop the landowner from seeking to rezone the land to Residential 1 at later date, the Panel is concerned that should such a zone be applied and a subdivision undertaken, this could effectively exclude this land from any further subdivision and therefore potentially compromise the logical future expansion of the Loch township.

As the Structure Plan has identified there is sufficient capacity to meet the future housing needs of Loch up to 2020, there is no need to immediately rezone additional residential land at this time. The Panel therefore considers it is important to include this land within a zone that will preserve any future options for residential development in the future; and a zone that would not in effect transform this Amendment. The Panel does not accept the Low Density Residential Zone will achieve this. The Panel considers that at this time this site should be retained within the existing Township Zone until such time as further investigative work is undertaken to determine the suitability of this site for residential development and therefore the ultimate zone. If it is found there is a need for additional residential land within Loch and it is found that this site has the appropriate capacity to accommodate this development, the merits of such a proposal could be appropriately considered as part of a planning permit application which would be assessed against the provisions of the Township Zone and Clause 56 – *Residential Subdivision* in the planning scheme.

The Panel recognises that concern has been raised by submitters that future residential development of this site would lead to a high density development which would have a number of adverse amenity impacts on the neighbourhood. The Panel believes that given the size of the site and the surrounding form of development, it is unlikely this land would ever be developed for high density residential development. Should this site be developed for residential purposes, it is more likely to be conventional residential allotments consistent with the nature of the surrounding residential area. Issues around the appropriate density of development, traffic management, drainage and other amenity impacts can all be addressed following detailed analysis of land capability and the preparation of subdivision plans as part of any future rezoning or planning permit application, all which would need to be undertaken in consultation with neighbouring properties and be subject to review rights.

The Panel notes that the Structure Plan identified that a Design and Development Overlay should be prepared in order to manage the built form outcomes on land in the south-west corner of the township and that this has been identified as an Action for Implementation. The Panel agrees that any conventional or low density residential development in this area could have a significant impact on the landscape values of the township and that a Design and Development Overlay would be appropriate in order to manage any future built form outcomes in this location. The Panel considers the recommendations of any Design and Development Overlay should form an important consideration in determining the future development potential of this land.

Recommendations

The Panel recommends:

Amend the Loch Framework Plan in Clause 21.04-9 to identify 11 Roy Street, Loch as 'Potential Residential 1 Zone Expansion Area – subject to further investigation.'

Retain 11 Roy Street, Loch within the Township Zone.

Prepare a Design and Development Overlay to determine appropriate built form outcomes, particularly in the south-west corner of the Loch township.

Amend the Loch Structure Plan March 2011 to identify 11 Roy Street, Loch as 'Potential Residential 1 Zone Expansion Area – subject to further investigation.'

(ii) Victoria Road

What is the issue?

What is the appropriate zoning of land fronting onto Victoria Road?

Policy context of the issue

The relevant policy context is outlined in Chapter 2 of this report.

Evidence and submissions

A submission was received from Mr Richard Ryan (Submission 6) objecting to the inclusion of land fronting onto Victoria Road within a Residential 1 Zone on the basis that the zone is overly restrictive. Mr Ryan submitted the proposed zoning should encourage growth in business activity and investment in Loch rather than restrict it. He recommended all of Victoria Road be included within a Mixed Use Zone so that future positive tourist friendly activities can be considered on merit, rather than excluded forever.

A number of submissions were also received from people who owned land fronting the northern side of Victoria Road, also objecting to the inclusion of this land in a Residential 1 Zone on the basis that the proposed zone would be overly restrictive. These submitters included Faye & Terry Oakley (Submission 7), K & C Reid (Submission 8), James Smart (Submission 9), Mr Peter McEwan (Submission 10) and Melinda Davies (Submission 12). Many of these submitters highlighted they own property which has either been historically used for light industrial/manufacturing types purposes (such as woodworking and blacksmithing) or other commercial purposes operated in conjunction with a dwelling. Many of these submitters stated they bought these properties with the intention of (and many had already commenced works) establishing a home based lifestyle business focussing on art, craft or tea rooms etc, which would be in keeping with the historical nature and tourism focus and potential of the Loch township. The submitters raised concern the proposed Residential 1 Zone would be overly restrictive and prevent many of the proposed uses.

In support of this request, Mr Smart also provided a signed petition with 109 signatures.

Many of these submitters suggested the properties on the north side of Victoria Road from Clarence Street to the Church should be either left in the Township Zone or included within a Business 1 Zone.

A submission was also received from Ms Suyin Anson (Submission 14) highlighting the importance of ensuring an appropriate zoning for the northern part of Victoria Road in order to allow cottage industry development consistent with Loch's village heritage, other retail ventures in town and support Loch's growing reputation as a cultural and arts precinct. Ms Anson suggested an alternative to the proposed Residential 1 Zone could be a Mixed Use Zone.

The Loch Community Development Association Inc (Submission 3 & 13) also made a submission raising concern about the proposed Residential 1 zoning of the northern side of Victoria Road from Centennial Park to the Catholic Church. The submission states this area is currently occupied by both residential and business premises and remains integral to the retail potential of the village, both on a day to day basis and the village's success in conducting festivals and events. The association submits the proposed zoning should be reviewed in order to retain the option for boutique style enterprises which Loch is known for and which attracts widespread visitation to the region.

In its submission, Council states the objections to the proposed Residential 1 Zone make a strong case for a zone that allows the area to be used for both residential and commercial purposes. Council recognised the township economy is not strong and providing flexibility of land use along the main road in a township that benefits from tourism supports the application of the Mixed Use Zone rather than either the Residential 1 or Business 1 Zones. Council suggested the benefit of a Mixed Use Zone is that it provides flexibility whilst allowing Council to consider the impact of proposed commercial uses on adjoining sensitive land uses through permit applications. Council advised the proposed zone change was exhibited to adjoining and opposite properties owners and that no objections were received.

In relation to the suggestion that all of Victoria Road should be rezoned to Mixed Use Zone on both sides, Council advise that the extension of the zone as far as Roy Street is not supported as the Masonic Hall and dwellings at 22 and 24 Victoria Road are appropriate to be retained within the proposed Residential 1 Zone.

In relation to the submissions received, Council advised that it considers the application of a Mixed Use Zone will address the concerns raised.

Discussion

In considering this issue, the Panel has had particular regard to the *Development forecasts for Loch – April 2010* prepared by Tim Nott. This report identifies:

Even under the most bullish growth scenario the number of local residents will not be sufficient by 2030 to warrant a set up activity centre hierarchy for the centre of Loch. The resident demand will remain at the level of a local centre There may be a need for one or two more shops to provide local services such as hair-dressing or pharmacy. However, there will not be sufficient demand for a significant supermarket; residents will continue to travel to Korumburra and elsewhere for their grocery shopping.

The principal influence of the scale of the retail offering in the township will be the success of the town in attracting visitors. Tourism is the key economic activity for the township; it provides jobs and incomes for township residents and it expands the range of local services that are available (the town would not support several cafes and household goods shops on the spending of residents alone).

The long term forecast for growth in domestic tourism is for growth in visits of 1% per year (Tourism Forecasting Committee, 2009). If this holds good in Loch, and assuming the growth in demand translates to retail floorspace, then the Loch

town centre could be called on to accommodate at least a further 200sqm of retail space for tourism purposes over the period to 2030. In fact, tourism in Loch may grow at more than 1% per year particularly if the township is seen as being attractive for investment in new visitor facilities. This could include accommodation (motels, small hotels, and bed and breakfasts), regional craft and food outlets, restaurants and so on.

It is therefore clear that much of the future commercial focus in Loch will be in developing tourism related commercial enterprises, which is consistent with the type of uses have been and are emerging along the northern side of Victoria Road.

The Panel agrees that the Residential 1 Zone on the north side of Victoria Road between Clarence Street and the Church would be overly restrictive in facilitating this type of development and supports the proposal to include this land within the Mixed Use Zone.

At the Hearing, Council confirmed that following discussions with local submitters it had undertaken extensive notification of the proposed change to the zone as exhibited from Residential 1 to Mixed Use and that no objections had been received. On that basis, the Panel is satisfied the change in zoning can be undertaken as part of this Amendment.

In relation to the suggestion that the Business Zone 1 be extended along the southern side of Victoria Road as far as Roy Street, the Panel accepts Council's argument that this is not appropriate as the Masonic Hall and dwellings at 22 and 24 Victoria Road would be more appropriately retained within a Residential 1 Zone. The Panel does accept however, that it would be appropriate for the Church on the western corner of Clarence and Victoria Road to be included within a Business 1 Zone. Given this site is no longer used for Church purposes and the Church building remains, the land immediately to the east is zoned Business and this site would be separated from the residential properties to the west by the CFA site. It is thus considered that this site would be more appropriately included within a Business 1 Zone enabling its conversion to a commercial use.

Recommendations

The Panel recommends:

Amend the Loch Framework Plan at Clause 21.04-9 to identify the land at 3-23 Victoria Road, Loch to be 'Commercial expansion - Mixed Use Zone.'

Amend Map 4 to include land at 3-23 Victoria Road, Loch in the Mixed Use Zone.

Retain land at 12 – 24 Victoria Road, Loch within the proposed Residential 1 Zone as exhibited.

Amend Map 4 to include the former Church building on the western corner of Clarence and Victoria Roads, Loch, in the Business 1 Zone.

Amend the Loch Structure Plan March 2011 to identify the land at 3-23 Victoria Road, Loch to be 'Commercial expansion - Mixed Use Zone.'

(iii) 58 Victoria Road

What is the issue?

Whether the site should be included within a Residential 1 or Industrial zone.

Policy context of the issue

The relevant policy context is outlined in Chapter 2 of this report.

Evidence and submissions

The owners of the property (Submission 2) have objected to the inclusion of this site within the Residential 1 Zone on the basis that when they bought the property in 1997, it was being used for industrial purposes and was included within an Industrial A zone.

The submitters suggested there has been no consideration of the existing use and existing use rights in nominating a replacement zone. They advise they wish to continue with the industrial use of the land and intend to invest money in upgrading the building. The submitter further believes that Loch has already lost many businesses and jobs and that retention of this site in an industrial zoning would be to the advantage of Loch as it will provide jobs, investment and services to the town that are not possible under a Business Zone.

Council, in its submission to the Panel, states it is reluctant to apply a site specific industrial zoning on the basis that the land immediately adjoins residential land uses and is situated at the entry to the township. Council advised that whilst the community have expressed mixed feelings about the use, Council considers the zoning of this site should be considered in a broader strategic context rather than as a site specific rezoning given industrially zoned land is provided in larger surrounding townships. Whilst Council recognises the application of a Mixed Use Zone could be a solution, it also recognised the application of the Mixed Use Zone along the northern part of Victoria Road (as discussed previously) has been applied on a precinct basis and where land is contiguous with the Town Centre, neither of which apply to the subject land. Council added that an alternative zoning has also not been explored with the adjoining owners. Council recommended that the Residential 1 Zone be applied to the site and that the use be allowed to continue pursuant its 'Existing Use Rights'.

Discussion

In considering this issue, the Panel has had particular regard to the *Development forecasts for Loch – April 2010* prepared by Tim Nott. In relation to the need for industrial land within Loch this report identifies:

Loch presently has no industrial activity apart from a garage and shop selling old tools.

The current and proposed future structure of the township is unlikely to accommodate industrial activity without creating amenity issues or undermining the tourism which sustains the township economy. As a result pressure for industrial development is likely to be directed to other industrial areas in nearby towns such as Korumburra, Nyora and Poowong.

Based on the information prepared by Mr Nott, the Panel accepts it is unlikely that more traditional industrial uses will establish within Loch and are more likely to be located in larger towns with better infrastructure; with the major economic focus of Loch being on tourism related commercial development. The Panel agrees with Council that provision of industrial zonings should be considered in a broader strategic context rather than on a site specific basis. The Panel therefore agrees with Council that it would not be appropriate to include this site within an Industrial Zone and that the site should be included within a Residential 1 Zone.

In supporting the proposed Residential 1 Zone, the Panel recognises the current use can continue to operate and improve under 'existing use rights', and that any future proposals to alter/expand the operation would need a planning permit enabling Council to consider any proposal on its merits, including any potential amenity impacts.

Recommendation

The Panel recommends:

Retain the property on the south-eastern corner of Mary Street and Victoria Road, Loch within the Residential 1 Zone as exhibited.

(iv) Southern end of Smith Street, Loch

What is the issue?

Whether the site should be included within a Residential 1 Zone or Low Density Residential Zone.

Policy context of the issue

The relevant policy context is outlined in Chapter 2 of this report.

Evidence and submissions

A submission was received from Mr Owen Browne (Submission 16) stating that in applying the Residential 1 Zone there should be no discrimination between smaller and larger allotments within the township. On that basis, the entire existing subdivision on this property should be classified as existing residential area and therefore included within a Residential 1 Zone.

In its submission, Council advised the land at the southern end of Mary Street contains a 20 lot subdivision which once provided with the necessary infrastructure could be sold separately. Council advised the Amendment seeks to apply the Residential 1 Zone to the smaller lots (those less than 1000m²) and the Low Density Residential Zone to the six larger lots which are on steeper sloping land and are not considered suitable for further subdivision. Given the slope of the land, Council consider it is less likely that people would seek to subdivide these lots, however the application of the Low Density Residential Zone would settle this matter.

Discussion

The considerations in relation to this site are identical to those considered in relation to 11 Roy Street, Loch; these being the role the site is likely to play in the future development of the Loch township; and based on that, is it appropriately reflected in the Framework Plan and by the proposed zone.

In terms of assessing the future role of this site, the Panel has again had specific regard to the *Loch Structure Plan* which outlines the anticipated potential growth rates and residential supply/demand analysis. In terms of the future growth of Loch, the Structure Plan concludes:

It is envisaged that Loch is likely to grow at a rate of approximately 2.3% each year, reaching a total resident population of around 300 people in 2030. This implies that 66 additional new dwellings will be required to accommodate an additional 121 new residents by 2030. The existing vacant lots and the proposed rezoning in Loch can accommodate such population growth.

Despite this conclusion, it is also important to plan for the rapid growth scenario The rapid growth scenario can be accommodated within a 15 year planning horizon based on existing vacant lots and lots created by the proposed rezoning. However, should rapid growth occur this assumption should be reviewed in 5 years to identify if there are any new areas for growth capable of accommodating the increased population.

Based on Council's advice it is noted that fourteen of the allotments included within this subdivision (lots less than 1000m²) are already included within the proposed Residential 1 Zone and have therefore been factored into the future supply of residential land. The outstanding issue (and the focus of this discussion) is whether the six remaining larger allotments to the south should also be included within the Residential 1 Zone. As outlined above there is no immediate need for the identification of additional residential land within Loch and therefore it is not necessary to include this land within a Residential 1 Zone at this time based on demand/supply analysis.

In terms of whether these six lots have longer term residential development potential and should be identified accordingly in the Loch Framework Plan, having inspected the site the Panel does not consider this site has the same characteristics as 11 Roy Street. This property is very steep in parts and partly included within the Environmental Significance Overlay Schedule 5 – *Areas susceptible to Erosion* and as such would be difficult to develop for conventional residential purposes. The property has already been subdivided and it would be difficult to re-subdivide these allotments into useable conventional residential allotments, particularly given the slope. In addition, no commitment has been made to servicing the site by South Gippsland Water.

The Panel considers these six allotments should ideally be included within the Farming Zone and not developed for residential purposes, however recognising the site has already been subdivided, the Panel accepts the Low Density Residential Zone more accurately reflects the existing subdivision in this instance and supports this proposed zone as exhibited.

Recommendations

The Panel recommends:

Amend the Loch Framework Plan to identify the six allotments at the southern end of Smith Street Loch as ‘Low Density Residential Development.’

Retain the six allotments at the southern end of Smith Street, Loch within the Low Density Residential Zone as exhibited.

Amend the Loch Structure Plan 2011 to identify the six allotments at the southern end of Smith Street Loch as ‘Low Density Residential Development.’

(v) Country Fire Authority site - Victoria Road, Loch

What is the issue?

Whether the site should be included within a Public Use Zone 1 or within the Residential 1 Zone.

Policy context of the issue

In considering this issue, the most relevant policy direction is contained in *Planning Practice Note 2: Public Land Zones – June 2011*. This Practice Note states:

Where should the public land zones be applied?

It is intended that a public land zone be applied to public land where the surrounding zoning is inappropriate or where there is a special reason to identify separately the public land for planning purposes. This will commonly be where land management arrangements apply under legislation other than the Planning and Environment Act 1987.

Public land zones are not intended to identify the legal status of the land nor indicate the existing land use. They are intended to set out appropriate statutory requirements which apply to the use and development of the land in addition to the relevant land management legislation. The principles are similar to those that apply to the Special Use Zone.

A useful test in considering if a public land zone is appropriate is to determine if a public land manager needs some level of flexibility, protection or exemption different from the surrounding zone provisions because of the special nature of the public land or asset and its control (in a land use or management sense) under another Act.

A public land zone will normally be applied to public land owned or managed by the Department of Sustainability and Environment or Parks Victoria, including national parks, state forests, coastal crown land and land reserved under the Crown Land (Reserves) Act 1978.

Evidence and submissions

A submission was received from the Country Fire Authority (CFA) which states the Authority generally supports the Amendment, however it does not support the zoning of the Fire Station on Victoria Road to Public Use 1 Zone. The CFA request the zoning of this site conform to the adjoining applicable zone as proposed to enable the Authority as a 'Statutory Authority' to maintain practical and effective control of the fire station and land development options. The CFA also state this approach is consistent with the DPCD Practice Note 2 June 2011 – Public Land Zones.

Council has accepted the request by the CFA and accordingly propose to include the site within the Residential 1 Zone.

Discussion

The Panel accepts that agreement has been reached between the CFA and Council in relation to the zoning of the land and the agreed approach is consistent with the *Planning Practice Note 2: Public Land Zones – June 2011*.

The Panel accepts the requested Residential 1 Zone is consistent with the adjoining zones and the approach adopted by this Panel in relation to the appropriate zoning for land on the southern side of Victoria Road as outlined in Section 3.2(ii) of this report. The Panel considers the Residential 1 Zone is not likely to have an impact on the future use of the land or on the broader community. In addition, it is considered the change in proposed zoning does not transform the Amendment and can therefore be undertaken as part of this Amendment.

On this basis, the Panel supports the inclusion of this site within the Residential 1 Zone as part of this Amendment.

Recommendation

The Panel recommends:

Amend Map 4 to include the existing Country Fire Authority site on Victoria Road, Loch, within the Residential 1 Zone.

3.3 Proposed rezonings not included in the exhibited Amendment

In addition to the issues raised through submissions, Council has also identified a number of sites where it is either recommending or seeking direction in relation to amending the zones as exhibited as part of this Amendment. The Panel has provided comment on these sites below.

(i) Police Station site, 12 Victoria Road, Loch

What is the issue?

Whether the Police Station should be included within a Public Use 1 or Public Use 7 Zone.

Policy context of the issue

In considering this issue, the most relevant policy direction is contained in *Planning Practice Note 2: Public Land Zones – June 2011*. The relevant part of the Practice Note is quoted in Section 3.2(v) above in relation to the CFA site.

Discussion

Council has recommended the Loch Police Station be included within a *Public Use Zone 7 – Other Public Use (PUZ7)* rather than the *Public Use Zone 1 – Service and Utility (PUZ1)* as exhibited.

The issues relating to the appropriate zoning of the site are similar to those raised in relation to the CFA site as discussed in Section 3.2(v). Based on the directions contained within the *Planning Practice Note: 2 – Public Use Zones* it is not necessary to include this site within either Public Use Zone just to reflect the existing land use. The Public Use Zone, whether it 1 or 7 should only be applied if the land manager needs some level of flexibility, protection or exemption different from the surrounding zone provisions because of the special nature of the public land or asset and its control (in a land use or management sense) under another Act.

The Panel notes that no submission was received from the Victoria Police raising concern about the proposed zone and requesting an alternate zone. Without any indication from the landowners about whether the land manager needs some level of *'flexibility, protection or exemption different from the surrounding zone provisions'*, it is not possible for the Panel to determine whether the appropriate zone for the site is either PUZ1, PUZ7 or Residential 1 Zone. Whilst the Panel considers that the Residential 1 Zone would most likely be the most appropriate zone and consistent with Planning Practice Note 2, the Panel recognises the owners/land managers have made no submission. On that basis, the Panel considers the Amendment should proceed as exhibited.

Recommendation

The Panel recommends:

Retain the Loch Police Station within the Public Use Zone 1 – Service and Utility as exhibited.

(ii) 9 Smith Street, Loch

What is the issue?

Whether the site should be included within a Residential 1 Zone or the Business 1 Zone as exhibited.

Policy context of the issue

The relevant policy context is outlined in Chapter 2 of this report.

Discussion

Council has raised the issue of whether this site should be included within a Residential 1 Zone or the Business 1 Zone as exhibited. The Council highlighted the site is identified in the Loch Structure Plan as being 'Existing Residential 1 Zone' and that further consultation should be undertaken with the landowner to determine which is the preferred zone.

The Panel notes the site is developed for residential purposes, however given this is an existing use and a dwelling is a *Section 1 Use – Permit not required* within the Business Zone, the inclusion of the site within the proposed Business 1 Zone would not compromise the use of this site for residential purposes. At the same time, inclusion within the Business 1 Zone would enable the development, of commercial activities on the site which the Panel considers is appropriate given the sites proximity to Victoria Road.

The Panel notes that no submission was received from the land owner objecting to the proposed Business 1 Zone and Council has not indicated notification was undertaken to adjoining and surrounding landowners to gauge community reaction to inclusion of this site within the Residential 1 Zone. On that basis, the Panel considers that a change to the proposed zone from that exhibited is not appropriate and would in effect transform the Amendment. On this basis, the Panel considers the Business 1 Zone should be retained as exhibited.

Should Council wish to pursue this matter, it would need to be undertaken as part of separate Amendment.

Recommendation

The Panel recommends:

Retain 9 Smith Street, Loch within the proposed Business 1 Zone as exhibited.

(iii) Lot 1 TP405466 Rawlings Lane and Lot 1 TP584314 Catholic Church rear lot

What is the issue?

Whether this site should be retained within the existing Farming Zone or included within a Residential 1 Zone.

Policy context of the issue

The relevant policy context is outlined in Chapter 2 of this report.

Discussion

Council has sought advice about whether this site should be included within a Residential 1 Zone or retained within the Farming Zone as exhibited.

In considering this issue, the Panel notes the Loch Structure Plan identifies this land as being 'Proposed Residential' area and that in the future it may be appropriate to include this land within a Residential 1 Zone.

The Panel notes no submission was received from the landowners objecting to the proposed Farming Zone and Council did not indicate that notification had been undertaken to adjoining and surrounding landowners to gauge the community reaction to inclusion of this site within the Residential 1 Zone. On that basis, the Panel considers that a change to the existing Farming Zone to Residential 1 Zone would transform the Amendment in relation to this site. On this basis, the Panel considers that the existing zone should be retained at this time and should Council wish to pursue this matter further, it would need to be undertaken as part of separate Amendment.

Recommendation

The Panel recommends:

Retain Lot 1 TP405466 Rawlings Lane and Lot 1 TP584314 Catholic Church rear lot Loch within the Farming Zone as exhibited.

(iv) Lot 6 Victoria Road, Loch

What is the issue?

Whether this site should be retained within the existing Farming Zone or included within a Residential 1 Zone.

Policy context of the issue

The relevant policy context is outlined in Chapter 2 of this report.

Discussion

The Panel notes the Loch Structure Plan identifies this land as being 'Existing Residential' within the township boundary, despite this the site is included within the Farming Zone. Council advised this was an error in preparing the Amendment and seek to correct this as part of this Amendment.

In considering this issue, the Panel notes the eastern boundary of the township has been extended to include this one property, yet forms a clearly defined line along the rear boundary of properties facing Mary Street. Whilst the site is identified as 'Existing Residential' within the Structure Plan, the Panel notes there is no house on the site and that it is currently used for farming purposes.

The Panel considers there are two issues that need to be considered and these are *Should the township boundary be extended to include this one site?* and following that *What is the appropriate zone for the site?*

In terms of the township boundary, the Panel do not consider it is appropriate to extend the township boundary to include one allotment which does not contain a dwelling as this weakens the logic behind establishing a clear and defensible township boundary. The Panel considers the rear of properties facing Mary Street does form a clear, logical and defensible eastern boundary to the township and should be retained. It may be appropriate to extend the township boundary to the east at some future date, however that would need to be undertaken as part of a review of the Structure Plan and its recommendations. On that basis, it is considered the eastern township boundary as shown in the Structure Plan and the associated Amendment documentation should be amended to exclude this property.

In relation to the zone, it is therefore considered the existing Farming Zone is the most appropriate zone and should be retained.

In considering this issue, the Panel notes that no submission was received from the landowners in relation to the Amendment and Council has not indicated that any notification has been undertaken to adjoining and surrounding landowners to gauge the community reaction to inclusion of this site within the Residential 1 Zone.

On that basis, the Panel considers that a change to the existing Farming Zone to Residential 1 Zone is not appropriate and would also in effect transform the Amendment. On this basis, the Panel considers that the existing zone should be retained and should Council wish to pursue this matter further, it would need to be under a rezoning as part of separate Amendment.

The Panel also recommends that the township boundary as shown in the Structure Plan and the associated Amendment documentation should be amended to exclude this property.

Recommendations

The Panel recommends:

Retain Lot 6 Victoria Road, Loch in the Farming Zone.

Amend the Loch Framework Plan in Clause 21.04-9 to continue the township boundary along the eastern boundary of sites fronting Mary Street, removing Lot 6 Victoria Road, Loch from the township.

Amend the Loch Structure Plan March 2011 to continue the township boundary along the eastern boundary of sites fronting Mary Street, removing Lot 6 Victoria Road, Loch from the township.

4 Nyora township

4.1 The Structure Plan

(i) Background

Nyora is a township with a population of 900 in 2006. The township is largely defined by subdivisions and development of low density residential and rural living lots. This in turn has been largely driven by the absence of sewerage in the town, meaning lots have to be large enough to accommodate on site effluent disposal. With the anticipated provision of sewerage by 2017, this constraint will have been addressed and Nyora will be in the position to accommodate higher urban densities.

There is limited commercial development in the town, consisting primarily of a small retail area on Mitchell Street. There is small light industrial area along the northern side of Watts Road.

When considering the character of Nyora, the Nyora Structure Plan (NSP) states:¹

Nyora is seen as a desirable 'rural residential' and lifestyle location within easy reach of the major Cranbourne, Narre Warren, Pakenham and Dandenong urban centres. An additional factor that makes Nyora and its hinterland attractive for possible residential development is that Nyora is surrounded by gently undulating farming land which can be assessed for possible rezoning.

and

Recent development in Nyora appears to be establishing the town primarily as a primarily residential location that relies on other centres for services, facilities and employment (Lang Lang and Cranbourne for example).

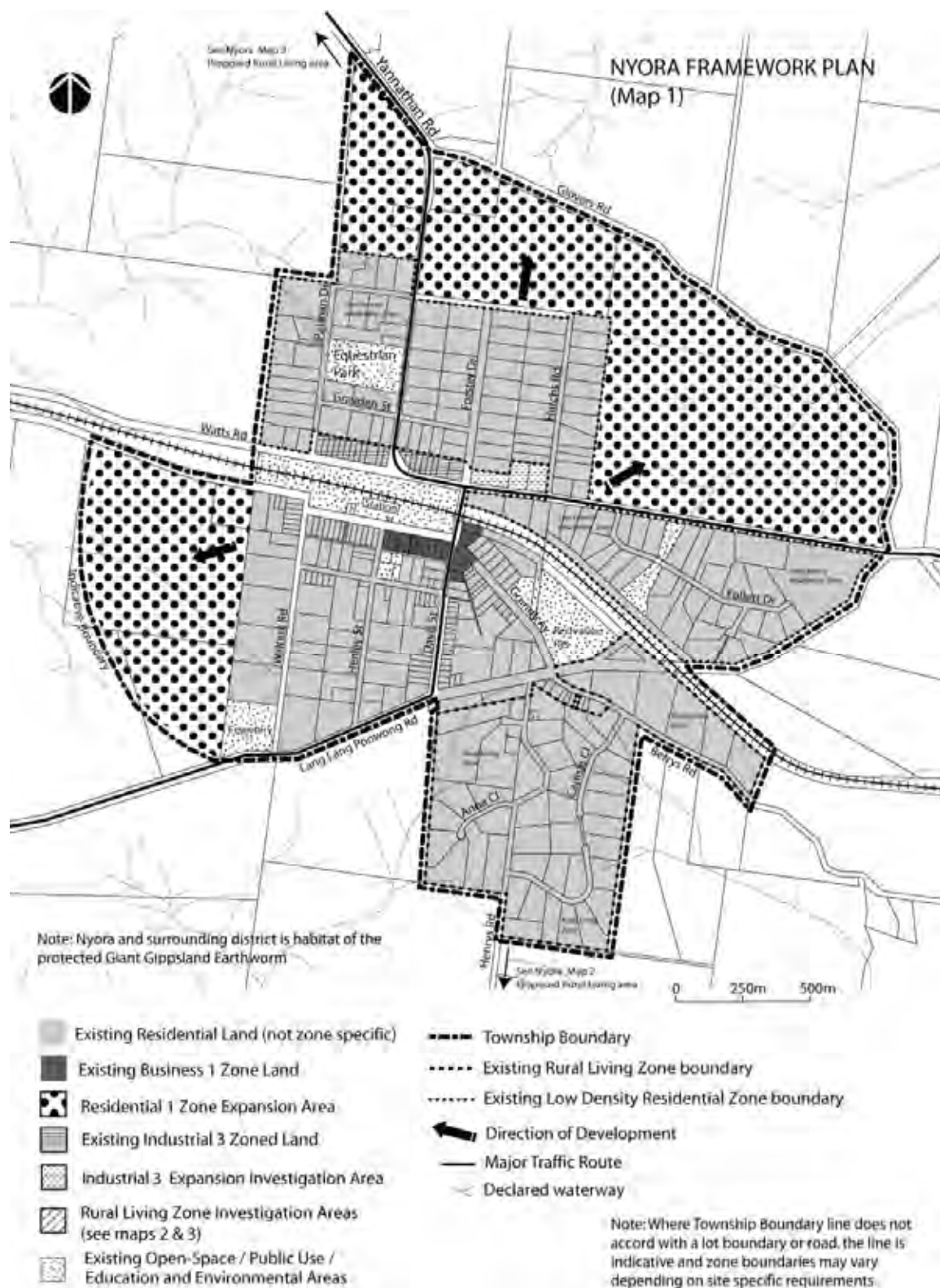
Tim Nott and Matters More produced the *Development Forecasts for Nyora* report in March 2010. This report identified the following key issues for Nyora which were then included in the NSP. The issues are:

- The township is to be seweraged;
- There is an interest in residential development at urban densities;
- Market demand is unclear for urban density development;
- Melbourne's south east is growing, creating a demand for property in places like Nyora;
- Urban development will require the provision of infrastructure beyond just sewerage and this will need to be funded equitably; and
- Increasing population will create demand for more commercial development and community services.

The proposed Loch Framework Plan in Clause 21.04-8 is shown in Figure 4.

¹ NSP Page 3

Figure 4 Exhibited Nyora Framework Plan²



² Note two smaller plans were also exhibited showing rural living expansion investigation areas.

(ii) Residential growth

Background and submissions

In terms of the growth of Nyora, Council noted in the Hearing³ that between 2007 and 2011, there were 40 dwellings, or eight dwellings per year, constructed in Nyora; and the population by 2030 is projected to be 1,460 based on the work undertaken by Tim Nott and Matters More in the *Development Forecasts for Nyora* study of March 2010.

This latter figure is based on State Government forecasts of population and would result in the need for an additional 213 dwellings up to 2030 or 11 new dwellings a year. The *Development Forecasts* study also modelled a range of other growth scenarios including an 'Explosive Growth' scenario which resulted in a population of 5,000 by 2030 with a need for an additional 1,568 dwellings or 78 dwellings per year.⁴

The NSP Plan identifies Nyora as having around 26 existing vacant rural residential allotments. The existing Township Zone currently has land that could be subdivided into a further approximately 30 lots.

The Amendment rezones the existing Township Zone to the Residential 1 Zone (and some Business 1 areas in the town centre) and applies the Development Plan Overlay (DPO) to attempt to coordinate any subsequent development. Council indicated that it may need to coordinate the preparation of a development plan in the future to advance planning for this area.⁵

Council submitted there are a number of factors which could make the zoning of larger parcels of land to the Residential 1 Zone appropriate, even given the lack of such development in the past. These included:

- Regional market forces (proximity to the south east growth corridors of Melbourne and limited development potential in other local townships);
- The likely provision of sewer to Nyora in the next few years; and
- Environmental and other constraints on the future residential land could be managed.

Council concluded on this issue that the identification of land for future development at urban densities⁶ was appropriate and that the low density nature of Nyora to date may be transformed in future.

The NSP itself notes:⁷

Whilst acknowledging the uncertainties surrounding land demand predictions, and the currently evolving State Government response to peri urban growth planning, this Structure Plan allows for the consideration of higher growth scenarios on the basis that they may reasonably occur and furthermore, an acceptance of the 'past growth continued' model could commit land to lower density development that exclude (sic) a future more efficient use of the key sites adjoining the township.

³ At paragraph 137 of their submission.

⁴ Table 13 of the *Development Forecasts* report.

⁵ See Council submission paragraph 164.

⁶ The design concept tabled by Wallis Watson suggests an average lot size of 1,000m² for a lot yield of 725 lots for their 99ha. This is a significantly larger lot size than typical metropolitan development.

⁷ NSP, page 10.

The *Development Forecasts for Nyora* study identified approximately 463 ha of land around Nyora that may be suitable for residential development.⁸ The Study suggested that assuming 75% of that land could be developed, this would result in potentially 4,167 residential allotments at an (urban) density of 12 lots/ha.⁹

Of this land, the NSP Council has identified two large parcels to the north of town (the Wallis Watson and Hunter land) and a parcel to the west of Nyora south of Walters Road. The size of these parcels are summarised in Table 2 below with possible lot yields based on similar assumptions used in the *Development Forecast* report.

Table 2 Possible lot yields for the Proposed Residential 1 Zone in the NSP

Land identified for future residential in Framework Plan	Size	Size at 75% developable	Possible Yield ¹⁰	State Government growth figures – dwellings per year ¹¹	Years of supply	Explosive growth – dwellings per year ¹²	Years of supply
Wallis Watson	99ha	74.25	891				
Hunter land	15ha	11.25	135				
Land west of existing township	50ha	37.50	450				
Total	164ha	123ha	1,476	11	134	78	19

Mr Lindsay Love (Submission 36), who runs an engineering and town planning practice in the area, provided an extensive submission in support of the case for releasing land for development in Nyora at urban densities to promote the growth of the town and drive demand for more commercial development.

H and W Biggs (Submission 21) expressed general support for the need for Nyora to grow, noting that they have seen businesses close in town.

Discussion

The current development pattern in Nyora raises a number of challenges.

The Panel concurs with the directions contained within the NSP and Amendment which encourage the development of a compact town centre (discussed further in Section 4.2(iii) below) focussed on the existing Township Zone area (proposed Residential 1) centred

⁸ Hand written notations on Figure 4.

⁹ Table 2 on page 9.

¹⁰ At 12 lots/ha as suggested by Knott.

¹¹ From Knott, Table 13.

¹² From Knott, Table 13.

around and within easy walking distance of the town centre; which will in effect create an activity centre.

The Panel also recognises that due to the size and configuration of lots in the existing Township Zone it is unlikely that significant infill redevelopment will occur without active facilitation by Council. The development of a more robust commercial centre is likely to act as incentive for landowners to redevelop larger lots in this area in the future, but before this is likely there will need to be sufficient population to attract new business to the town.

Accordingly, the Panel supports the application of the Residential 1 Zone and DPO to the existing town centre to encourage redevelopment and infill.

Given it may take some years for development to occur in the proposed town centre, it is likely there will be a need in the short to medium term to provide additional residential land away from the town centre to meet the demand for residential growth and to provide the 'critical mass' of residents to support increased retail and commercial services. This is less than ideal in planning terms due to increased walking distances and possible physical division of communities, however Nyora provides a complex and complicated planning puzzle that the NSP is at least moving to tackle, even if not immediately solve.

It seems plausible to the Panel that the proximity of Nyora to the south east growth corridor, its attractiveness and the future connection of sewer, may well drive a different type of settlement and development in Nyora in future. Exactly what level of growth this will result in is impossible to determine at this stage.

The broader issue then becomes how much land should be identified in the NSP for future residential development and where? The Panel's view is that the location and amount of land identified for proposed residential development is excessive - 134 years of supply based on current growth rates.

If growth is to be managed and services and infrastructure provided in a timely manner, development will need to occur in a logical, staged manner, moving outwards from the town centre. The Panel therefore considers it would be appropriate to identify preferred short to medium and long term residential growth areas. It is considered that these areas should be measured from the centre of town radiating out, as indicated on the 'Land Use Framework Plan' contained within the NSP.

That is, the Panel considers the land within the 0 – 1000m concentric circles from the town centre should be identified in the NSP Land Use Framework and the Nyora Framework Plan as short to medium term residential investigation areas and beyond that as longer term investigation areas.

Based on this approach, it is not entirely clear to the Panel why the Wallis Watson land and the land to the west have been supported for residential expansion in the NSP as opposed to the land to the north west or on the southern side of town south of the Lang Lang – Poowong Road. The Panel considers there are other parcels of large rural land within a reasonable distance of the town centre and within the identified medium term development area which appear to have similar characteristic and may also be suitable for long term residential growth, if the need arises. The Panel considers these areas should be given further detailed consideration before any development occurs in areas identified for potential long term residential development.

Inclusion of the Wallis Watson land is clearly being developer-led to a large extent and whilst this is not unreasonable and could provide the necessary injection of growth required to attract more commercial services into the centre of town, planning for the future residential growth in Nyora needs to consider the broader issues around ensuring growth occurs in appropriate locations, not just responding to individual proposals.

There were requests through the Amendment to include the properties in the north west (60 Watts Road) and the south (100 Lang Lang Poowong Road) in the residential expansion area but Council has not supported these.¹³ Again the strategic justification for why these areas are not included is not clear, but the Panel considers that all areas within the proposed short to medium term growth areas (0 – 1000m) warrant further future investigation and identification in the Nyora Framework Plan as ‘Residential 1 Zone – Investigation Area.’

Whilst the Panel accepts that by identifying additional area as ‘Residential 1 Zone – Investigation Area’ this will add to the potential land supply, the Panel is not saying all these areas should be developed for residential purposes. The Panel believes that it is sound to identify areas where the potential growth of the town could occur in order to preserve these options; and to ensure that this is appropriately reflected in the planning scheme. Whether this land is ultimately suitable for residential development will be determined through a separate amendment process.

In relation to other submissions about the nature of Nyora and how this may change, the Panel is of the view that significant change is likely over time but this will not be uniform and it is likely that there will remain pockets of larger lots sizes in and around Nyora for the foreseeable future. However, an increasing population should drive demand and thus provision of better services, possibly including improved public transport.

The Panel considers that the Nyora Land Use Framework Plan can be strengthened to assist identify appropriate staging.

Conclusion and recommendations

Whilst the Panel has concerns about the amount of land being identified for future residential land in the NSP, provided that this land is rezoned in a planned, staged manner with due consideration of servicing issues and demand and supply analysis, the Panel accepts the general directions. The Panel believes that the Amendment documentation and the Structure Plan could be strengthened to assist in ensuring this occurs.

The Panel recommends:

Amend the Nyora Framework Plan contained in Clause 21.04-8 to:

- **identify preferred short to medium (0 – 1000m) and long term (beyond 1000m) residential investigation areas within the exhibited township boundary. These should be based on distance from the town centre and should generally reflect the concentric rings as indicated on the ‘Land Use Framework Plan’ contained within the NPS;**
- **amend the legend in the Nyora Framework Plan to alter ‘Residential 1 Zone Expansion Area’ to read ‘Residential 1 Zone – Investigation Area’. Include land**

¹³ See notes on Council changes to the Amendment, Document 3 in the Hearing.

identified as 'Residential 1 Expansion Area' and located outside the short to medium term investigation area (as discussed above) within a new classification 'Longer term Potential Residential 1– Investigation Area)'; and

- retain the township boundary as exhibited with the exception of including all land in the Farming Zone within the short to medium term residential investigation area (as discussed above) within the township boundary and identifying it as 'Residential 1 Zone – Investigation Area)'.

Amend Objective (dot point 2) of Clause 21.04-8 to read 'To support staged residential growth commensurate to the need for additional residential land and the improvement of development and community infrastructure in the township.'

Amend Objective (dot point 4) of Clause 21.04-8 to delete reference to 'support' and to replace it with 'encourage'.

Amend Strategy (dot point 2) of Clause 21.08-4 to read 'Ensure that any subdivision in the Residential 1 Zone – Investigation Areas and the Long term potential Residential 1 Zone – Investigation Areas identified in the Nyora Framework Plan does not occur until the following prerequisites have been met:....'

Include an additional prerequisite (a new first secondary dot point) to Strategy (dot point 2) of Clause 21.04-8 which reads 'There is an identified need for additional residential land within the township.'

Amend the Nyora Structure Plan March 2011 to reflect the changes described above.

(iii) The commercial centre

Background and submissions

The NSP identifies that of the towns likely to gain sewer, Nyora has the largest population but the lowest provision of commercial facilities. This is currently a post office and general store of approximately 120m² and a pizza restaurant.

The *Development Forecasts* report indicates that the population of Nyora in 2010 was supporting approximately 2,000m² of retail floorspace¹⁴, clearly showing that there is significant retail escape expenditure from the town to surrounding areas.

The *Development Forecasts* report suggests that if the State Government forecast growth rate is used, Nyora will have a population of 1,460 by 2030 which could support a 'local centre' and 'small neighbourhood centre'. A small neighbourhood centre is defined to contain a small supermarket and a small range of other food and grocery stores and other retail and services.¹⁵ Higher growth forecasts would of course lead to the possible provision of a greater range of retail and services.

The NSP identifies that on these figures 1000-2000m² of retail floorspace will be required (or 4,000m² of zoned land).

¹⁴ See *Development Forecasts in Nyora*, page 21.

¹⁵ Ibid page 22.

The NSP proposes the following, in terms of retail and commercial land:

- Consolidate the existing retail/commercial area along Mitchell Street between Henley Street and Davis Street;
- Potentially include as part of the town centre, the triangle site on the corner of Grundy Avenue, former hotel on the corner of Mitchell Street and Davis Street to the existing takeaway shop on Davis Street; and
- Rezone the land Business 1 Zone to facilitate retail and commercial opportunities in the town centre.

Council proposes to prepare a Masterplan for the town centre to guide development, and this is an action proposed in Clause 21.04-8.

Council does not envisage that the land on the north side of Mitchell Street, known locally as 'Toby's Paddock' will be required for retail/commercial development.

The *Development Forecasts* report concludes that if a site for a small supermarket cannot be found on Mitchell Street then other options such as Hewson or Henley Streets or on Lang Lang Poowong Road might need to be considered.¹⁶

Mr Lindsay Love (submissions 36) considered that Nyora requires a ready supply of land which can be developed for commercial growth. However, he held the view that the proposed structure plan was based on inaccurate assessments. He believed that the planning scheme should provide for Nyora to become a 'neighbourhood' style activity centre and therefore will require substantial land for commercial activity. In stating this, he expressed concern in relation to the proposed commercial area being in Mitchell Street which he believed is an unsuitable location for implementing extra services. He believed a new town centre would be more suitably located at the junction of Forster Drive and Poowong Road, north of the railway.

One of the issues, related to greenfield residential development, is whether there will be pressure for new retail and commercial facilities in these new areas outside the existing town centre.

Tim Knott in the *Development Forecasts* report observed:¹⁷

There may be some pressure for the development of an activity centre in a location away from the existing town centre and in conjunction with a significant residential development on the outskirts of the existing town. This should be resisted unless it can be clearly demonstrated that such a location would be more accessible by means of a sustainable transport option.

Discussion

The Panel believes the development of a viable commercial centre is one of the most critical issues facing the future growth of the Nyora township.

The Panel considers it is common ground that Nyora is currently under-served with retail and commercial development. The Panel supports Council's position and approach in that the existing area of the town centre around Mitchell Street should continue to be the core

¹⁶ Ibid page 23.

¹⁷ On page 24.

retail area. The move to satellite retail development in greenfield sites should be avoided to prevent dividing the town into separate communities.

The Panel shares the concerns of some submitters such as Mr Love, that the proposed Business 1 Zone area is limited and will cover an area where it will be very difficult to accumulate enough land to develop, for example, a small supermarket.

Whilst the Panel notes that Council is proposing to prepare a Masterplan for this area, it is considered it will need to be more active in addressing this issue to facilitate commercial opportunities.

With this in mind the Panel has recommended that Council undertake a town centre strategy as a matter of urgency to determine if the area to be zoned Business 1 is adequate for future commercial development out to 2030. This should include the proposed Business 1 Zone area but could also include immediately surrounding areas such as properties on Hewson Street and Davis Street and the Industrial 3 Zone across Watts Road.

Conclusion and recommendations

The Panel concludes that the strategic direction to support commercial development in the town centre is sound and any moves to provide 'out of centre' commercial development on greenfield sites should be resisted.

The Panel considers that Council should prepare a town centre strategy as soon as possible to provide stronger direction for commercial development and determine whether the land proposed in the Business 1 Zone is adequate. This could be done as a broadened Masterplan (already proposed) or as a separate, focused, strategy that effectively addresses the private commercial issues as well as the public domain.

The Panel also suggests strengthening the MSS at Clause 21.04-8 to reinforce the importance of maintaining the town centre in the Mitchell Street vicinity.

The Panel recommends:

Add the following to Clause 21.04-8 in 'Actions for implementation' after the 'Prepare a Master Plan.....' dot point: 'Prepare a town centre strategy to provide greater direction for commercial development in the Mitchell Street area and to determine whether the Business 1 Zoned land is adequate in location and extent to provide for future commercial growth in Nyora.'

Add an additional objective in Clause 21.04-8 which reads 'To develop the town centre in the vicinity of Mitchell and Davis Streets which is the focus for all business, community and tourist services and facilities.'

(iv) Industrial land use planning

Background and submissions

The *Development Forecasts for Nyora* study identifies that there are about 10 industrial enterprises in the town and notes that industrial activity is significant for such a small town.¹⁸

The study and NSP highlight that the existing industrial land appears to have 6 vacant lots which could be redeveloped. In addition, it states:

- The sites fronting Watts Road/Lang Lang – Poowong Road between Patman Drive and Forster Drive – should be included in an Industrial 3 Zone (IN3Z); and
- The east of Forster Drive to Hatches Road should be identified as a future Industrial 3 Zone expansion investigation area although this is dependent on demonstrated need into the future.

The Structure Plan also states that assessment of the suitability of this additional land for industrial development should be considered as part of the town centre.

Partly in response to submissions from Keith White (Submission 33) and Helen and Don Lyon-Jones (Submission 34), and partly to consider the future of this land in the context of the future Masterplan, Council recommended to the Panel that the Industrial 3 expansion area be removed from the NSP and Amendment.

Discussion

The Panel accepts that the expansion area should be removed from consideration at this stage as it is not clear that Industrial 3 is the best use of the land in the context of master planning of the town centre.

The Panel is conscious, however, that industrial development (light industry) is an important element of the town's economy and the future provision of Industrial 3 Zone land is likely to be important for growth. The *Development Forecasts* study identifies that even under the State Government forecast growth, 18.5 new industrial lots may be required by 2030.¹⁹

The Panel considers that Council, either through planning for Nyora or broader industrial land use planning for the Shire, needs to consider where this demand might be accommodated to ensure local economic growth and employment.

Conclusion and recommendations

The Panel concludes that the removal of the Industrial 3 Zone expansion area along the Lang Lang – Poowong Road east of Forster Drive is appropriate. The Panel further concludes that the provision of Industrial 3 Zoned land in Nyora or surrounding townships requires further investigation.

¹⁸ *Development Forecasts for Nyora*, page 24.

¹⁹ *Development forecasts for Nyora*, page 25.

The Panel recommends:

Amend the Nyora Structure Plan Land Use Framework on Page 18 to remove the Industrial 3 Zone Expansion Area and remove reference in the text to this area on Page 12 of the Structure Plan.

Amend the Nyora Framework Plan in Clause 21.04-8 to remove the Industrial 3 Expansion Area from the plan.

The Panel further recommends:

Investigate the need for additional Industrial 3 Zoned land in Nyora or on a regional basis to ensure there is adequate supply.

4.2 Site specific submissions and issues

(i) 675 Yannathan Road (The Restlee Estate Land)

Evidence and submissions

In the exhibited *Nyora Structure Plan*, the land at 675 Yannathan Road Nyora was identified as Rural Living Expansion Investigation Area 1. This was then reflected in the Amendment documentation with this land being identified as *Rural Living Expansion Investigation Area 1* in the Nyora Framework Plan (Map 3) which is to be included within Clause 21.04-8 of the Municipal Strategic Statement.

In their submission to the Panel²⁰, Mr Ken Griffiths for Council identified the original rationale for the inclusion of the land as an investigation area. These included:

- The land is contiguous with the existing rural living estate;
- The land size and orientation allows for development of a suitable subdivision layout;
- Environmental issues could be managed to result in a net environmental benefit;
- Amenity buffers to surrounding land uses could be provided;
- There are few undeveloped rural living lots in the area; and
- The agricultural value of the site is not such as to prevent development.

Exhibition attracted 15 objecting submissions. The issues in these submissions were identified by Council in Attachment 1 to the Council meeting agenda of 25 July 2012 as:

- Loss of agricultural land and the potential for conflict between new residents and farming operations;
- The identification of the land for rural living is premature given that Council is preparing a Housing Strategy;
- Development of the land for rural living will place pressure on land in the adjacent Cardinia Shire Council area;
- The potential for adverse environmental outcomes;
- Traffic generation and road conditions; and
- Impacts on rural views and lack of community consultation.

²⁰ At paragraph 179.

The Council at its meeting of 25 July 2012 resolved (in relation to this property):

Advise the Panel that Council intends to refer all Rural Living Zone Investigation Areas in the Nyora Structure Plan to its imminent Housing and Settlement Strategy, with the exception of the land at Yannathan Road Nyora which Council does not support for development.

Mr John Cicero appeared for Restlee Estate and called evidence from Mr Glenn Kell, a Town Planner from Beveridge Williams. Mr Cicero outlined the chain of events and correspondence over the past several years leading to the land being included as an investigation area in the Structure Plan and the Amendment.

In particular he noted correspondence from Council dated 25 November 2009 which²¹:

...provided confidence to Restlee to move forward with a revised proposal for the creation of 24 lots.

Mr Cicero also outlined the extensive range of background reports commissioned by his client to support the future rezoning, subdivision and development of the site. These covered, among other things:

- Infrastructure servicing;
- Cultural heritage;
- Land capability and agricultural productivity;
- Supply and demand analysis; and
- Flora and fauna.

Mr Cicero concluded that²²:

... none of these reports contains information which would support the view that there are inherent constraints in the Restlee land which would make it unsuitable for rural living lots.

He submitted that the Structure Plan and exhibited Amendment were clear in identifying the land as an investigation area and that the first his client learned that there might be a change in Council's position was when they sighted the Council Officer's Report leading to the 25 July 2012 meeting. He noted that whilst the Officer's Report suggested referring rural living investigation areas to the Housing and Settlement Strategy, there was no mention of the Restlee land in the Issues Paper for that strategy.

In concluding Mr Cicero submitted that²³:

Restlee supports the Amendment as exhibited based upon the strategic work done by Council and by it. There is nothing that has come to light since that strategic work was done to justify the "about face" of the Council.

Mr Cicero called Mr Glenn Kell to give planning evidence. Mr Kell took the Panel through a detailed chronology of the site's recent history in relation to correspondence and submissions made by Restlee.

²¹ Restlee Submission (Document 8) paragraph 15.

²² Ibid paragraph 18.

²³ Ibid paragraph 39.

He attached copies of the various specialist reports undertaken to his evidence to demonstrate the amount of work and expenditure undertaken by Restlee. He also addressed the strategic justification for the future rezoning and development of the land. He concluded that:

- There is no sound planning reason not to include the Yannathan Road land in the Structure Plan for future rural living investigation;
- The Structure Plan and Amendment C72 are the appropriate processes to advance consideration of the land;
- Exclusion of the site from Amendment C72 appears to be on other than planning grounds; and
- In the absence of further guidance from the DPCD Peri-Urban Planning Unit it is appropriate to progress the planning proposals based on the available information.

Mr Nick Crawford appeared for Cardinia Shire Council. He highlighted a number of elements in the Structure Plan related to supply and demand in Nyora. He submitted that a key role of the Structure Plan is to define a township boundary for Nyora and future growth, such as it may be, and to encourage at higher (urban) densities rather than rural living type densities.

He submitted that given the potential residential land supply immediately around Nyora:²⁴

There is, therefore, no compulsion to add an additional (up to) 25 lots from 90ha in Yannathan Road.

He also observed that Council itself noted in its submission that under the existing Farming Zone in the Shire, there is the potential for dwellings to be built on the already existing 2,100 small lots.

Mr Crawford, and other submitters, drew the Panel's attention to the fact that 675 Yannathan Road is approximately 3 km from the Nyora town centre and about 2.5 km from the existing township edge.

He submitted that the Cardinia Shire Council has been working for some time to establish township boundaries in Cardinia. Cardinia is classified as a metropolitan Council and its farming areas are generally zoned Green Wedge or Special Use rather than Farming as in South Gippsland. He drew the Panel's attention to a number of State Policies he argued do not support the identification of the Yannathan Road property for rural living including Clause 11.05-2, 11.05-3 and 16.02-1.

Mr Mick Maguire submitted on behalf of the Yannathan Road Development Group (Submission 57) in opposition to the proposal to include 675 Yannathan Road in the Structure Plan as an investigation area. The Group's position was summarised in the Hearing as:

The Group strenuously opposes the inclusion of the proposed Rural Living Zone Expansion area at 75 (sic) Yannathan Road, Nyora with Amendment C72 to the South Gippsland Planning Scheme:

- *The property is not part of the Nyora township and should not be considered part of the Nyora Structure Plan*

²⁴ Cardinia Shire Council submission paragraph 2.15.

-
- *There has been no justification as to why this land should be included as a Rural Living Investigation Area, other than those of vested interests*
 - *It will adversely impact on productive agricultural land*
 - *It will result in further pressure to expand rural living development into adjoining areas/properties.*

The Group was also concerned that the process of identifying the land for consideration for rural living and including it in the Structure Plan lacked transparency.

The Murray Goulburn Co-operative (Submission 50) was concerned about potential impacts to the dairy industry as a result of small lot subdivision for lifestyle housing:

...that is limiting the growth of agriculture, changing the land-use of the shire and potentially causing irreversible consequences for the shire's economy.

This sentiment was shared by other submitters including the Victorian Farmers Federation (VFF) (Submission 62), J and S Verlaat (Submission 62), Robert Maguire (Submission 55), Shona and Blair Lynch (Submission 47) and Katrina Glover (Submission 49) who commented on the adverse impact on productive farming land.

Some submitters (for example Mr Mal Wildes (Submission 43), P and A Hubbard (Submission 59) and Katrina Glover (Submission 49)) raised the issue of the incompatibility of farming operations with the lifestyle development that might occur on the site in future. These amenity impacts could include stock movement, manure spreading and farm machinery movements.

A number of other individual submitters objected to the proposal to include 675 Yannathan Road as a rural living investigation area based on the various grounds discussed above and other issues such as lack of services and infrastructure and the distance of the property from town.

Discussion

The Panel has considered carefully the extensive background reports on physical capability and other issues that have been prepared by the Proponent for future rezoning and development of 675 Yannathan Road Nyora.

These reports (apart from Mr Kell's witness statement) were not called as evidence in the Hearing. However the Panel considers that in general they appear to have been prepared by reputable consultants and could stand for the proposition that the property could be developed for Rural Living subject to further investigation of infrastructure requirements and other issues.

That does not mean that it would be sound planning to do so however. The Panel has significant concerns with the identification of the property as an investigation area for the following reasons.

The Panel understands that being remote from Nyora may be a positive in that it should not restrict urban development of the town. It has concerns however that in being as remote as it is, it has the potential to become a remote 'island' development away from the town and services. The Panel does not accept that it having a short shared boundary across Yannathan Road makes it a logical extension of the existing rural living area.

The Panel also has concerns with the strategic justification for identifying the property as an investigation area. Apart from a willing Proponent, there does not appear to be any particular rationale as to why this property, as opposed to many more within three kilometres of South Gippsland's townships, is the preferred location for a new rural living area.

The Panel also considers that the issue of demand for rural living does not provide an overwhelming case for the property. The Proponent's own economic report, prepared by Spade Consultants, was generally consistent with Council's economic consultants in the *Development Forecasts for Nyora*. Spade identified a likely demand for between 15 and 26 lots per annum in Nyora in the period to 2026.²⁵

Their report stated that the demand for rural living specifically:²⁶

..is not a well defined area of economic research. It is however generally accepted that a demand for rural residential lots exists and that, where an area is defined as appropriate for the provision of such development, it should be provided.

They emphasised that a diversity of lot types is important in the market and that development of the Yannathan Road land should thus be supported.

The Panel understands the logic behind this assessment but considers it underplays two significant issues. Firstly, the character of Nyora is likely to move to a more compact township over time with the provision of services such as sewerage, and consequently less emphasis on large lots requiring on-site effluent disposal.

Secondly, as pointed out in Council's submission at paragraph 110, there is already latitude in the Planning Scheme to allow for additional small lot development in a dispersed manner throughout the Shire through Amendment C63. This Amendment was gazetted in 2012 and implements the *South Gippsland Rural Land Use Strategy* in the Scheme and provides the potential for a significant number of dwellings to be developed on small rural holdings.

The agricultural significance of the property has also been considered by the Panel. We note the report of Mr Brewin, *Land Capability and Agricultural Productivity Report*, April 2011. He concluded that the land is not strategically important agricultural land in the district²⁷ but also noted that:²⁸

- *The subject land can produce output on a per hectare basis to the equivalent of a local commercial farm in this landscape.*

From this, the Panel concludes that the property may not be economically viable in its current form, but that its agricultural productivity is on par with the surrounding area. The potential for the land to be aggregated with other properties in the area and grazed as a viable economic unit remains, and we do not see its supposed poor agricultural quality as a fundamental rationale for developing the property.

The Panel notes Mr Cicero's submission that inclusion of the area as an 'investigation area' is only an initial first step that may or may not lead to the land being found suitable for future

²⁵ Total lots, not necessarily rural living lots.

²⁶ Economic analysis: 675 Yannathan Road, Nyora, Spade Consultants March 2011, page 20.

²⁷ At page 7 of his report.

²⁸ At page 6 of his report.

development. Strictly speaking this may be true, as rezoning of the land to Rural Living or similar would need to occur in future through a separate amendment prior to subdivision and development.

The planning system, however, often acts incrementally on these issues. It is right to say that an area marked as an investigation area is just that, there is no certainty of future development. The reality, however, is that purely by being marked as an investigation area gives significant weight to the expectation of future rezoning and development. If it didn't, the Proponent for the site may well be more relaxed about the land not being included in the Structure Plan and local policy as an investigation area.

The Panel has also considered the position of the Proponent in relation to their communications with Council since 2009, whereby they submit that Council has given tacit if not active support for the consideration of the property on Yannathan Road to be included as an investigation area for Rural Living.

On the one hand the Panel can see the Proponent's point. They have invested significant funds into investigating a range of issues around the land on the basis that Council has given some level of support for the land's consideration, most recently in agreeing to exhibit Amendment C72 with the investigation area included.

It is also Council's right, however, to withdraw that support in the face of submissions objecting to the Amendment and the proposal in the Structure Plan. This happens frequently in the planning system where third party involvement influences the direction of particular planning issues. The Amendment process countenances such changes, and the Council is within its rights to change its position and put that position to a Panel.

In this case the Panel considers that the removal of the investigation area at 675 Yannathan Road is sound planning and has recommended accordingly.

Conclusions and recommendations

For the reasons above, the Panel concludes that the proposal to include 675 Yannathan Road as an investigation area for rural living in the Nyora Structure Plan and the Amendment documentation is not strategically justified. The Panel thus supports Council's resolution of 25 July 2012 to not include the property as an investigation area in the Structure Plan and to remove it from the Amendment.

The Panel recommends:

Delete the seventh major dot point in the exhibited Clause 21.04-8 under 'Strategies' which commences with 'Support development of the Rural Living Zone Expansion Areas....'.

Remove the reference to 'See Nyora Map 3 – Proposed Rural Living Area' and the associated arrow on the exhibited Nyora Framework Plan (Map 1 in clause 21.04-8).

Delete the Nyora Framework Plan (Map 3) from exhibited clause 21.04-8.

Remove the text and plan referring to 675 Yannathan Road as an investigation area for rural living from page 14 of the exhibited Nyora Structure Plan.

In relation to whether the property should be referred to the Housing and Settlement Strategy for consideration, the Panel concludes that for the reasons above this is also not

justified. Whilst the supply of rural living land in and around Nyora might be at issue, the Panel does not consider that this property, remote from the town as it is, should be considered in this round of strategic planning for Nyora. That being said, this particular issue is beyond the Amendment itself and is a matter for Council. No specific recommendation is made accordingly.

(ii) The Wallis Watson and Hunter land

Evidence and submissions

The broader strategic issues around residential growth are considered in Section 4.1(ii).

The Wallis Watson and Hunter land lies on the northern edge of the existing Nyora township generally between Hogans Road/Lang Lang Poowong Road and Glovers Road. The Wallis Watson land is east of Yannathan Road and makes up the majority of the area. The Hunter land is a smaller parcel west of Yannathan Road.

The land is currently in the Farming Zone. The land is identified in the Nyora Land Use Framework Plan in the NSP as 'Residential 1 Zone Expansion Area'.

Council submitted that the then owners of the Wallis Watson land approached Council in 2005 to rezone that land to the Low Density Residential Zone, but Council did not support the request on the basis of the likely provision of sewer and the impact that may have on the town.

In submissions in the Hearing, Council continued to support the approach proposed in the Structure Plan and Amendment to identify this land for future residential development at urban densities. However they noted in relation to development and infrastructure provision that:

The task for Council is to ensure that the gap between demand and provision (Panel note: for infrastructure) is not excessive and does not result in an unacceptable financial drain on Council's budget. Clearly the development of 100ha of Residential 1 Zone land in the next 10 years would place huge strains on Council and should be avoid (sic). The new MSS provisions clearly state that extensive infrastructure investigation and development contributions work must be undertaken before land is released. These provisions and the work they require are the controlling hand on land release and appropriately used will ensure that Nyora does not financially strain Council.

Wallis Watson (Nyora) Pty Ltd was represented in the Hearing by Mr Adrian Finanzio SC. Wallis Watson owns 99 hectares of land at 379 Lang Lang – Poowong Road and 30 Glovers Road in Nyora.

Mr Finanzio called evidence from Mr Michael Collie in town planning. Mr Collie provided the Panel with evidence on a range of issues related to the Wallis Watson land including the strategic support for the future development of the land; its location near to the existing Nyora township; the fact that servicing and environmental issues can be managed; and the likely need for the land for future residential development.

Mr Collie responded to a number of submissions related to Nyora's character and the submitters' preference for retaining the land for low density residential development in

future. Mr Collie responded that the development of land for low density residential development is an inefficient use of land, and particularly in an area where sewer is likely to be provided.

In response to the issue of changing character, his evidence was that the character of Nyora will change; but this will also bring opportunities in terms of increased services and facilities and change of character is not of itself a reason not to countenance the change proposed.

Mr Finanzio also called evidence from Mr Matthew Lee in relation to the economic case for the identifying the future residential areas in Amendment C72.

Mr Lee reviewed the work undertaken in the Development Forecasts for Nyora document and whilst taking issue on some minor points noted that:²⁹

In any event, the underlying conclusions from Tim Nott's analysis are valid; that is, that Nyora's population growth rate has fluctuated since 1981, but that the total population in the township has doubled over that period.

Mr Lee undertook an assessment of other peri-urban townships around Melbourne to identify that significant growth above historical trends is possible given the right set of circumstances.³⁰

He undertook his own assessment of possible growth scenarios and concluded that growth in his opinion is likely to be in the range of 20-50 dwellings per annum for a population in Nyora of 1,530 to 2,865 by 2030. On this basis he also supported the rezoning of the existing township to Residential 1 in this Amendment and the identification of the Wallis Watson land for future residential.

They cited a report by Mr Chris McNeill of Spade Consultants who stated that a range of factors indicate strong demand for residential development. These include:

- *Proximity of Nyora to outer Melbourne;*
- *Affordability of housing that might be provided in Nyora;*
- *Attractiveness of living beyond the metropolitan area; and*
- *Ability to service the land with reticulated sewerage.*

Their submission highlighted that the town is to receive reticulated sewerage by 2017.

Mr Hunter, the owner of 1380 Yannathan Road, the area west of Yannathan Road to be identified as future Residential 1 Zone, attended the Hearing and expressed his support for the Amendment. He outlined the characteristics of his land that make it suitable for consideration for future residential development.

Other submitters expressed concern about development in the northern part of Nyora. For instance, Margaret Lockhart (Submission 39) highlighted that open space, fresh air, wildlife and sense of community would be impacted by development to the north, including that which was proposed by Wallis Watson.

Natalie and Kevin Francis (Submission 41) considered that the Wallis Watson land should be zoned LDRZ rather than R1Z, and that *'New land rezoning and future subdivisions should be*

²⁹ At paragraph 43 of his statement.

³⁰ See Table 2 of his expert statement on page 22.

sympathetic to the existing character of the township’. They preferred large rural style blocks to high density housing.

The submitters R and F Johnson (Submission 38) don’t want Hogans Road to become a bush corridor as they want it to be opened as a road so they can subdivide their land.

David Rasmus and Mary-Ann Ballekom (Submission 40) objected to the proposal to develop the Wallis Watson land. They indicated that there is already an oversupply of property in Nyora with some properties of varying price and lot size on the market for more than a year.

They were also concerned that the township has poor public transport at a time when ‘peak oil’ and consequent potential transport price shocks are likely in future years.

Environmental and health concerns were also raised in their submissions relating to the development of the Wallis Watson land. In particular the topography may give rise to air quality problems from wood heaters and some of the site is also subject to waterlogging.

Like some other submitters they were concerned about the change to the character of Nyora resulting from the potential scale of development.

Discussion

The Panel has already discussed the broader issue of growth in Nyora in Section 4.1(ii) and expressed some concern about the amount of land being identified for future residential growth in the NSP.

The Panel notes that the land being put forward by Wallis Watson is not all in close proximity to the town centre around Mitchell Street, in fact there would be some areas that are quite distant from the town centre. There are arguably other areas closer to the town centre that should be considered earlier by inclusion in the Framework Plan such as the land to the north west of the existing township and land south of the Lang Lang – Poowong Road on the southern edge of town which have been addressed in Section 4.1(ii).

We do note Mr Finanzio’s submissions that the fact that he has a client who is ‘ready to go’ is a more certain planning approach than identifying other areas which may or may not be considered for development over time. The Panel also notes submissions that the environmental constraints on the land should be able to be managed through rezoning and development.

The question of latent demand driving supply or supply driving demand is an age old one in planning and Mr Finanzio reminded us that there may well be an element of ‘build it and they will come’ in the provision of a high quality contemporary development on his client’s land.

The Panel does accept however, that there is a valid argument that if development in the town centre is so problematic given the allotment and ownership configuration, development of part of the Wallis Watson land or other identified ‘Residential 1 Expansion – Investigation Area’ located in the medium/long term areas may provide the necessary boost to the local economy required to start improving the supply of commercial and retail services that will support continued expansion of the Nyora township.

The Panel certainly considers that a Development Plan Overlay (DPO), as suggested in clause 21.04-8, would be the preferred tool to ensure integrated and coordinated development and

that a Development Contribution Plan Overlay would assist in ensuring that developers contribute to the provision of necessary infrastructure.

As discussed in Section 4.1(iii), the Panel also considers it critical that the commercial centre of Nyora remain, and is further developed, in the existing town centre, and that satellite retail not be developed in areas such as the Wallis Watson land. The Panel has made a number of suggested changes to the local policy which it considers will assist.

In relation to other submissions about the nature of Nyora and how this may change, the Panel is of the view that significant change is likely over time but this will not be uniform and it is likely that there will remain pockets of larger lots sizes in and around Nyora for the foreseeable future. However, an increasing population should drive demand and thus the provision of better services, possibly including improved public transport.

Conclusions and recommendation

The Panel concludes that the Wallis Watson land would be appropriately identified as a 'Residential 1 Expansion – Investigation Area' and 'Longer term potential Residential 1 Zone – Investigation Area', subject to the provision of sewerage. The Panel's support however, is contingent upon the changes as recommended in Section 4.1(ii) being made to the Amendment documentation and resolution of two significant issues, being:

- Support in policy to ensure that the existing town centre remains the principal business centre in Nyora; and
- Expression in policy that development of the Wallis Watson land should be undertaken in a staged, logical front that moves east and north from the south west corner of the site.

The Panel recommends:

Add an additional Objective in Clause 21.04-8 Nyora to read 'To ensure development contributes to provision of community services and facilities.'

(iii) Maguire Rural Holdings and Hume Family Holdings land

Background and submissions

Mr Nevan Wadeson and Mr Joseph Indomenico of Tract Consultants presented on behalf of Maguire Rural Holdings (who own land at 135 Henrys Road) and Maguire Rural Holdings (100 Lang Lang-Poowong Road (part only)) in relation to their properties on the south side of the township.

They supported their land being included in the Amendment as a Rural Living Investigation Area, as they believed that the Henrys Road Rural Living Precinct provides relatively underutilised land and there are strategic redevelopment sites which could accommodate future housing demand.

Council submitted that this area (Rural Living Expansion Investigation Area 2) should be deleted from the NSP as per the Yannathan Road proposal. However, the Council resolution of 25 July suggests that the Henry's Road area should be referred to the Housing and Settlement Strategy for consideration, differentiating it from the Yannathan Road proposal which is not to be referred.

Council's submissions as put by Mr Griffiths was that the Henry's Road investigation area has more of an infill character and:³¹

...completes what appears to be a logical Rural Living Zone land unit

A number of individual submissions were received on this proposed investigation area, from, for example, Bill and Anna Quaife (Submission 58), P and D Jones (Submission 22), Robert Hicks (Submission 30) and John and Tricia Fleming (Submission 28). Significantly, compared to the Yannathan Road area, none of these submissions was against the proposal in principle, but wanted to ensure that suitable infrastructure, and particularly road upgrading of Henry's Road, was undertaken.

Discussion

The Panel has considered the issue of the Rural Living Investigation Areas at length in Section 4.2(i) above. In principle, the Panel supports Council's position of removing these areas from the NSP and Amendment.

It does seem to the Panel that the Henry's Road areas may have more merit for consideration than the Yannathan Road area due to its infill characteristic rather than being a new area remote from town and services. However the decision as to whether to refer the area to the Housing and Settlement Strategy for consideration rests with Council.

Conclusions and recommendations

For the reasons discussed in Section 4.2(i), and particularly the need to consider the issues around overall small rural lot provision in the light of Amendment C63, the Panel supports Council's resolution of 25 July 2012 to not include the property as an investigation area in the Structure Plan and the subsequent Amendment documentation.

The Panel recommends:

Delete the seventh major dot point in the exhibited clause 21.04-8 under 'Strategies' which commences with 'Support development of the Rural Living Zone Expansion Areas....'.

Remove the reference to 'See Nyora Map 2 – Proposed Rural Living Area' and the associated arrow on the exhibited Nyora Framework Plan (Map 1 in clause 21.04-8).

Delete the Nyora Framework Plan (Map 2) from exhibited clause 21.04-8.

Remove the text and plan that refer to Henrys Road as an investigation area for rural living from page 14 of the exhibited Nyora Structure Plan.

³¹ Council submission paragraph 176.

(iv) Berrys Road, Nyora

Background and submissions

Mr Michael Buckingham (Submission 26 and Document 16), the owner of land at 145 Berrys Road, believed that his land should be included in the Amendment in the Rural Living Zone.

In the Hearing he outlined the reasons for his opinion as being, in summary:

- The site is underutilised and well situated in terms of attractiveness and basic infrastructure;
- The site is unconstrained apart from some remnant vegetation;
- The property forms a buffer between the town and agricultural land along with the rail trail and Berrys Road;
- The site is adjacent to the proposed Rural Living Zone; and
- Berrys Road has seen ad-hoc development over the years resulting in a de facto rural living area.

Council responded in the Hearing that:

The proposal appears to have some merit from the view that rural living land uses are established in the area and it completes a precinct bound by the rail reserve and the northern side of Berrys Road.

They submitted that the property could be considered during the preparation of the Housing and Settlement Strategy.

The owner of 1 Berrys Road (Submission 25) also asked that their property be considered as part of the Amendment for rural living given the proximity of existing small rural lots.

Discussion and conclusion

The Panel agrees that given the location of 145 Berrys Road and the fact that it is a discrete pocket bounded by the rail reserve and Berrys Road in an attractive landscape that the property may have merit for rural living.

The Panel is less clear on 1 Berrys Road and Council submitted that it did not have the same characteristics that support 145 Berrys Road for consideration.

Either way, the Panel considers that neither property should be considered for inclusion in the NSP and Amendment at this stage without reference to the Housing and Settlement Strategy. Their suitability for future consideration can be addressed through that process and broader Shire wide residential land supply and demand.

(v) 18 Walters Road, Nyora

Background and submissions

Ms Mabelle Crichton (Submission 32) objected to the DPO being applied over the property on the basis that:

- The property is small (about 4,000m²) and has limited development potential;
- There are other similar properties east of Walters Road which do not have the imposition of the DPO;
- The requirements of the DPO are onerous for such limited development potential; and

-
- It does not diminish the intent of the DPO to remove it from this property.

Council in their response indicated that as the property is small and on the edge of the DPO it does not detract from the DPO in principle and they would support the removal from this property.

Discussion and recommendation

The Panel accepts the reasoning for the removal of the DPO from this property. It will not compromise the broader aims and intent of the larger DPO area and will enable development of the land or subdivision without the Development Plan requirement.

The Panel recommends:

Remove the Development Plan Overlay from 18 Walters Road, Nyora.

(vi) 18A Davis Street, Nyora

Background and submissions

Mr Massimo Cellante (Submission 64) objected to the rezoning of the above property to the Residential 1 Zone and indicated that he would prefer it stay in the Township Zone. He also considered that the community is not well informed about Council's pursuing of infrastructure contributions through future development.

Council submitted that the land is owned by a development company and will likely be developed when sewer is provided. There are a number of issues with the DPO in relation to development contributions which are discussed in Section 4.3.

Discussion and conclusion

The submission does not provide any substantive reasons as to why the property should not be rezoned and the DPO applied. The Panel supports the Amendment as it relates to this property.

(vii) 32 and 34 Mitchell Street, Nyora

The property at 32 Mitchell Street is owned by Victrack and zoned Public Use Zone Schedule 4 (PUZ4). Council contacted Victrack during the submission period to determine if a rezoning was required, which it was not. Council may investigate rezoning of this area in future.

The property at 34 Mitchell Street is zoned PUZ4 but is privately owned. Both Council and the landowner (Submission 63, Ms R Breen) support R1Z zoning but the property was overlooked in the Amendment. Rezoning is unlikely to significantly affect other parties.

The Panel recommends:

Rezone 34 Mitchell Street to the Residential 1 Zone as part of Amendment C72.

4.3 The Development Plan Overlay

(i) Issue

The Amendment proposes to apply the Development Plan Overlay Schedule 8 (DPO8) over the new Residential 1 Zone areas of Nyora and some of the existing Township Zone areas east of Davis Street to be rezoned R1Z. The DPO is to coordinate development in these areas which have fragmented lots. The DPO introduction states, in part:

Subdivision of the area must plan for and contribute towards improved road, pedestrian and drainage infrastructure and avoid isolated, internally-focused developments, especially on larger lots. A development plan will guide the area's transition to higher density development over an extended period of time.

The DPO also proposes to introduce a requirement for a compulsory Section 173 agreement under the *Planning and Environment Act 1987* to provide for development contributions.

(ii) Submissions

Mr Griffiths in Council's response to submissions³² noted that a recent Panel for planning scheme amendments South Gippsland C52, C66, C70 and C71 had found that it is not supportable to use a DPO to require a mandatory Section 173 agreement under the *Planning and Environment Act 1987*.

He submitted that removal of this mandatory element of the DPO will now require negotiated agreement between Council and developers to achieve a suitable Section 173 agreement.

(iii) Discussion

The Panel notes the discussion and conclusions in the Panel report for Amendment C52, C66, C70 and C71³³ and generally adopts the position of that Panel in relation to the 'mandatory' use of what is meant to be a 'voluntary' agreement.

(iv) Conclusions and recommendation

The mandatory requirement for a Section 173 agreement is not appropriate and should be deleted from the DPO schedule.

The Panel recommends:

Delete the title of 'Agreement' and the following paragraph from clause 1.0 of the exhibited Development Plan Overlay Schedule 8.

Council may wish to consider other mechanisms in relation to development contributions such as a Development Contributions Plan Overlay but this would need to occur as a separate amendment.

³² Hearing Document 2, page 16.

³³ Section 6.6, pages 44-47.

5 Poowong township

5.1 Background

Poowong is a picturesque small township of 318 people, well serviced by an array of community facilities. The township is situated along a ridge line that provides sweeping views across surrounding rural hills. It is some 17 km north of Korumburra and 110 km south east of central Melbourne and this relative proximity to Melbourne's south-east growth corridor in the Shire of Cardinia, along with the township's inherent attributes, suggests Poowong as a potential 'lifestyle change' location underpinning future residential expansion. Poowong also has a range of local service businesses within the township as well as rural industry activities located at the periphery of the township, notably an abattoir and a milk processing factory.

From a land use planning perspective most of the township is included in the Township Zone with small parcels of Industrial 1 Zone, Residential 1 Zone and a large area of Low Density Residential Zone at the periphery.

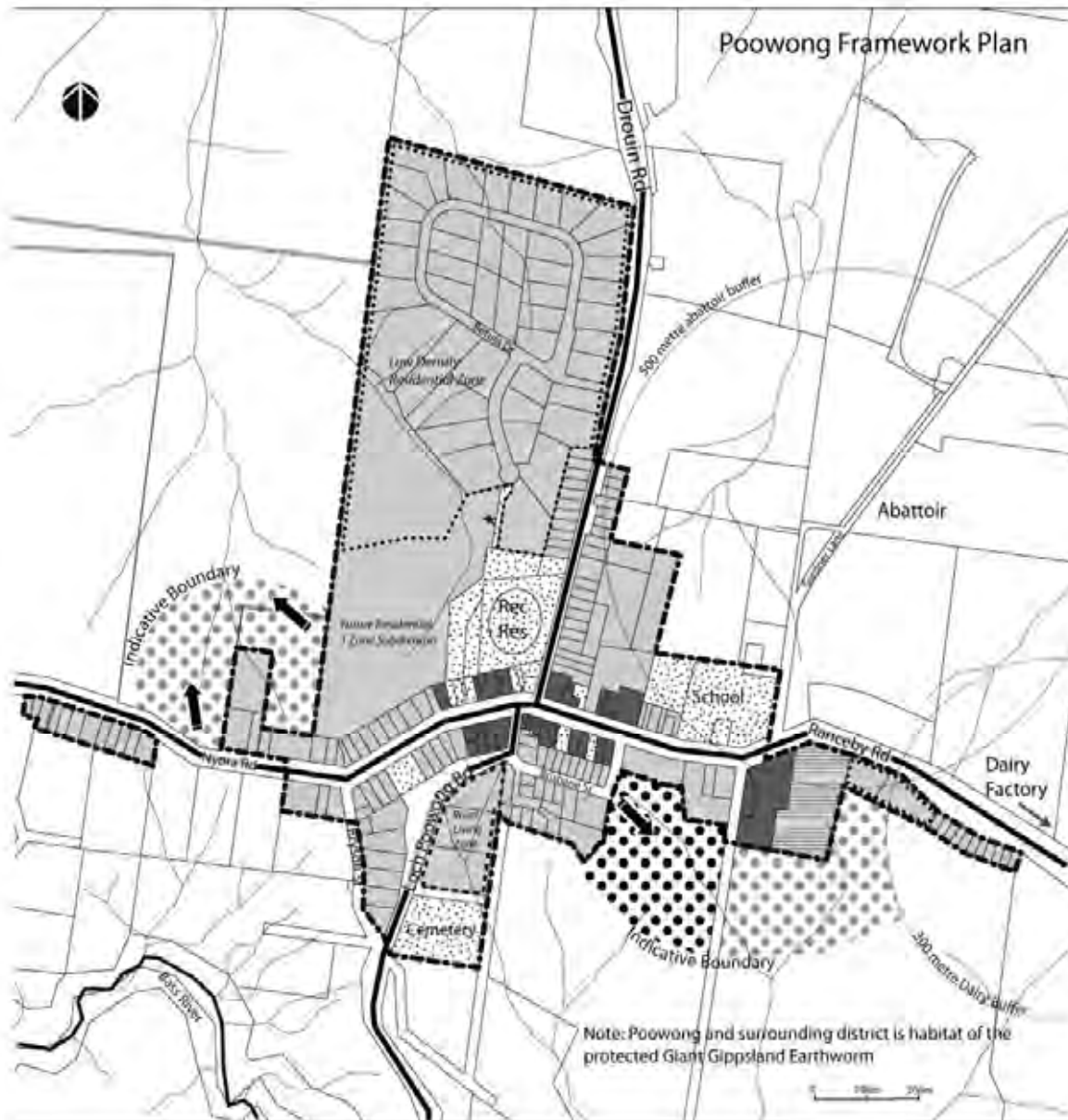
A number of opportunities and constraints have been identified that will influence the future expansion of the township:

- There is a planned reticulated sewerage system for the township that will remove the need for on-site retention and treatment of wastewater. This has been a restriction on development density within the township because of the larger lot sizes required to achieve on-site treatment. The introduction of reticulated sewerage will allow the re-subdivision of existing larger township lots;
- The steep slopes surrounding the urban centre will continue to act as a constraint on the expansion of the township although there are some areas adjoining the township that are suitable for urban subdivision;
- Notably, the existing vacant township lots together with the potential for re-subdivision of existing large township lots already provides for many years of land supply to meet expected growth;
- The presence of economically important rural industry on the periphery of the township creates a requirement to maintain appropriate buffer zones to protect this industry. This in turn acts as a constraint on the expansion opportunities for the township; and
- If the township is to grow more extensively the need for accompanying infrastructure and community services will also occur.

In response to the exhibition of Amendment C72 there were four submissions received in relation to Poowong.

The Poowong Framework Plan is shown in Figure 5.

Figure 5 Exhibited Poowong Framework Plan



- Existing Residential Land (not zone specific)
- Residential 1 Zone Expansion Area
- Long term Residential 1 Zone Expansion Area
- Existing Commercially Zoned Land
- Commercial Expansion Investigation Area
- Existing Open-Space / Public Use / Education and Environmental Areas
- Township Boundary
- Existing Rural Living Zone boundary
- Existing Low Density Residential Zone boundary
- Direction of Development
- Major Traffic Route
- Declared waterway

Note: Where Township Boundary line does not accord with a lot boundary or road, the line is indicative and zone boundaries may vary depending on site specific requirements

5.2 The Poowong Structure Plan and implementation in the planning scheme

There is no structure plan in place covering the Poowong township. The township is currently covered by a Township Zone (TZ) which is often applied to unsewered rural towns with limited growth potential. Amendment C72 seeks to introduce a structure plan into the Scheme to govern future development of the Poowong township through making changes to the Municipal Strategic Statement by including an Overview statement, Objectives, Strategies, Actions for implementation and a Framework Plan map, as well as zone changes. In addition, this Amendment also seeks to correct a zone boundary anomaly that existed in the draft structure plan initially developed.

The Council advises that under the existing TZ there are some 30 current vacant lots. In addition, if the TZ is converted to Residential 1 (R1Z) as proposed within this Amendment, then an extra 126 lots could be created, although several of these would fall within the Abattoir buffer area. Further, other land in Poowong identified in the development forecast study indicates potential for an additional 55 lots. Lastly, through the Amendment process an additional area of land at the rear of 40-70 Ranceby Road, Poowong was supported by Council for future residential development as part of a more rational zoning solution for several adjoining land titles. Therefore, the total number of future residential lots already existing, arising from the exhibited structure plan, or emerging through the Amendment process would potentially exceed 220. The Panel notes that this represents an oversupply of residential lots, some four times the 55 additional dwellings Council identifies as being required to meet the projected population growth of 79 more residents by 2030. This future population estimate is in line with the State's population forecast for the township. This potential oversupply of residential lots is generally proposed to be dealt with by Council through; designating lower priority development areas as a R1Z Expansion Area and a Long Term R1Z Expansion Area; and that the rezoning of these areas to allow residential development should not proceed until the existing supply of residential land is exhausted.

The planning policy context for the Poowong Structure Plan is provided in Chapter 2 of this report.

5.3 Proposed rezonings as part of the Amendment

(i) 40-70 Ranceby Road, Poowong

What is the issue?

The owner of the subject site, through their planning consultant, argued to have an alternative zoning scheme for the future development of their land considered by the Panel to the proposal as exhibited by Council. They submitted that the exhibited proposal regarding their land could be *reconfigured to provide for a comprehensive development of the whole site in a more viable and sustainable way* by placing the main road frontage of their site in a Business 1 Zone (B1Z) and including the rear portion of the site in the R1Z.

The subject site comprises three parcels of land, 3.66ha in total, with two of the larger of these parcels providing a substantial and prominent frontage to Ranceby Road. The site contains the industrial buildings of a former butter factory which are largely constructed on

one parcel of land (1.2ha) in the current Industrial 1 Zone (IN1Z). However, the buildings intrude marginally onto the adjoining and larger land parcel (2.3ha) that sits within the Farming Zone (FZ). It is recognised by the owner and Council that buildings within the disused complex may have some heritage value as it operated as a butter factory for some 93 years before its closure nearly 20 years ago but the site is not included within a Heritage Overlay. The third, smaller lot (0.16ha) contains a dwelling and outbuilding and also sits in the IN1Z. An unmade government road exists along the western boundary of the site but is included in a Road Closure Overlay. Further, the larger land parcel zoned FZ is affected by the Environmental Significance Overlay Schedule 5 that provides protection responding to erosion threats. The exhibited Amendment proposed to include the INZ1 land parcels in the B1Z while leaving the third and largest land parcel in the FZ, albeit that the Framework plan was to show that this FZ land as a 'commercial expansion investigation area'. A minor further administrative change was also proposed to fully align the zone boundaries with the existing lot boundaries.

Evidence and submissions

Two submissions were made regarding the subject site.

Mr Jeff Bennett, on behalf of the owners Matthew and Dawn Bardwell (Submission 66), made a written submission in response to the exhibited Amendment and then presented to the Panel where he tabled supporting documentation (Document 18). The submission provides 'in principle' support for a change in zoning to B1Z but registers strong concerns regarding its extent and configuration.

The tabled submission made the following points:

- The exhibited proposal regarding their land could be *reconfigured to provide for a comprehensive development of the whole site in a more viable and sustainable way* by placing the main road frontages of their site in the B1Z and including the rear portion of the site in the R1Z;
- The B1Z area within their revised schema is commensurate with the exhibited B1Z area. At 1.7ha the site is relatively large and so can contain buffers to adjoining land. Also their proposed B1Z land is sited on flatter and more easily developed land within the overall site;
- The alternative provides the owner with a more commercially viable arrangement to achieve the Council's desired rezoning; and
- The R1Z component of the alternative proposal would complement intended rezonings to the west of the government road that could provide access to both residential developments.

Although the proposed B1Z in the alternative schema adjoins the Low Density Residential Zone, this is argued to be a normal occurrence in townships, and also this part of the subject site has the intended status under the framework plan for investigation for longer term future commercial development.

The submission from Mr Bennett proposes a Development Plan Overlay (DPO) covering the site to provide *a longer - term and more detailed framework for the site's development*. Such a DPO would give certainty regarding amenity impacts on adjoining properties. To this

end a draft schedule to a DPO was prepared, following discussion with Council officers post-exhibition, and this draft was included with the tabled submission.

The submission cites the advantages of the alternative proposal:

- *It provides for a more effective utilisation of the whole site to provide for the long term commercial needs of the township on a more viable and sustainable basis.*
- *It provides for a more diversified development that will assist its viability.*
- *It provides a more viable basis to undertake heritage restoration works as a part of the future development of the site.*
- *The B1Z area is located on the flatter portion of the site which is more suitable for development.*
- *The B1Z portion has a greater frontage to the main road which will provide for a more appropriate layout for the B1Z area with more main road frontage and exposure.*
- *All of the industrial buildings are located on the portion of the site suggested to be included in the B1Z.*
- *The catchment of the alternative B1Z area drains towards the south and south-east. A single wetland area within the existing drainage course in the south-east corner of the site could cater for all of the site's development.*

The submission also recognises that their alternative proposal does not align zone boundaries with lot boundaries, contrary to DPCD guidelines. However this could be remediated through boundary realignment prior to gazettal of any amendment.

If their alternative proposal is not supported, the owners would prefer to leave their site in its current zoning configuration as they believe this would be more viable to develop than under proposed zonings in the exhibited Amendment.

A second submission (Submission 67 from M Murphy) was made regarding the subject site in the form of an objection, at the time of exhibition, by the adjoining neighbour to the east at 72 Ranceby Road. This was on the basis of the Council exhibited Amendment. Essentially, the objection expresses concerns about the loss of privacy resulting from future businesses located so close to the private residence. The objector goes on to say that:

Without any clear and definite answers with regards to the (business) nature, any buffer zones between and any issues with regards additional road usage, I strongly object to any rezoning by the Council in any areas surrounding my home.

This objector elected not to appear before the Panel.

At the Panel Hearing, the Council indicated its support for the owners' alternative proposal. The Council is keen to see the IN1Z removed from the site as they recognise that it is an inappropriate zone in this location, opposite the primary school. Since the owners revealed their preferred zoning schema during the Amendment exhibition process the Council has been in discussions regarding the DPO Schedule and is satisfied with the draft as circulated. The adjoining owner and objector has been consulted by the Council and is also said to be generally satisfied with the provisions of the DPO Schedule. However, the Council also noted that the formal development of a DPO will require separate notice to affected landowners. Among other matters, the draft DPO Schedule addresses interface issues with

the adjoining low density residential area by imposing a 20 metre buffer with landscaped screens and contains requirements for detailing traffic management arrangements. The Council also nominated the application of the Environment Audit Overlay (EAO) for the whole site as one of their requirements.

Given that the alternative zoning arrangement on the land extends the B1Z further east along Ranceby Road than indicated in the exhibited Amendment it raised a question from the Panel as to whether adequate notice could be considered to have been given through the exhibited Amendment to all affected landowners. This appears relevant to the residential property opposite the proposed extended B1Z land. The Council argued that the notice for the DPO would extend to this property and provide ample opportunity for consultation at the subsequent implementation stage.

Discussion

The Panel agrees with removal of IN1Z and the placement of a B1Z on the subject site in principle. The subject site is no longer suitable for industrial uses consistent with its current zone. This is particularly relevant given the site’s location opposite the primary school. It agrees with the Council position that rural industrial uses such as the dairy and abattoir are best located on the periphery of the township in the FZ.

The Panel supports the alternative zoning arrangement of B1Z on the main road frontage of Ranceby Road and in principle support for a future residential component on the balance of the site as contained in Attachment 5 of Mr Bennett’s submission (reproduced below in Figure 6).

Figure 6 Possible rezoning of Ranceby Road, Poowong



In the Panel’s view the arguments advanced in support of the alternative zoning arrangement as outlined above are sound and will lead to the best opportunity to develop a

site that is not without its challenges to achieve both the business/retail and residential objectives sought through the Poowong Structure Plan. Accordingly, the Panel recommends that the Poowong Land Use Framework Plan be changed to delete the reference to *Longer term commercial development opportunity* on the map, and a corresponding notation be made in relation to in the text part of the Poowong Structure Plan (section 3.2). The Panel supports a DPO as the appropriate planning instrument to govern the staged development of the site, give certainty to affected parties and create adequate controls across the site over the timeframe that will be required to justify demand before residential development can commence. The draft DPO appears adequate to the Panel. The Council indicated at the Hearing that the neighbour is generally satisfied however the DPO has not been formally considered by Council at this stage.

The only matter that the Panel identifies that should be expanded is to ensure that the amenity of residential properties opposite, as well as those adjacent, be assessed and responded to. A copy of the proposed draft DPO is included at Appendix B including the altered wording following consultation with the neighbour.

It is apparent that there is an adequate supply of residential land already available in the Poowong township to meet likely demand over the next 15 years so the Panel recommends that the residential component of the subject site not proceed to rezoning to residential at the current time but be retained in the FZ and be designated a *Longer Term Residential Development Opportunity* on the Poowong Land Use Framework map with a corresponding notation to update Section 3 Directions for Structure Plan, 3.1 Residential.

This includes the southern portion of the existing IN1Z land which was exhibited for rezoning to B1Z but will now form part of the longer term residential area. The Panel considers this land should be rezoned to the FZ in preparation for longer term residential use rather than leaving it as IN1Z which may give the impression that industrial use is still countenanced.

This change was not put forward by the submitter but is consistent with their general approach to the land. Council should discuss this with them, and as a worst case it could be left in the IN1Z with the overlying notation in the Structure Plan that it be long term residential.

The Panel recommends that the EAO should be applied to those portions of the subject site with a history of industrial use.

The Panel also notes Council's and the owner's submissions on the Environmental Significance Overlay (ESO5) on the current FZ component of the overall site. It supports the notion that these issues can be adequately addressed through the DPO over the proposed B1Z and a future DPO over the long term residential land accordingly.

The final matter on this site is that of notice of changes. These changes to be considered include:

- Rezoning of the balance of Ranceby Road frontage to B1Z;
- Application of the DPO to the B1Z land;
- Removal of the ESO5 from the proposed B1Z;
- Rezoning of the southern half of the land to the R1Z; and
- Application of a DPO to the proposed R1Z.

The last two points the Panel considers to be a longer term (perhaps many years) proposition that should be considered through an Amendment at the appropriate time.

The first three matters are more of a short term proposition. However the Panel is of the view that as they are significant changes to the scheme exhibited, they should be subject to a separate Amendment with appropriate notice. This is based on the view that the exhibited Amendment showed the Ranceby Road frontage as a *Longer term commercial development opportunity* which is quite different to a rezoning which might result in short term commercial development.

Recommendations

The Panel recommends:

Amend the exhibited Poowong Framework Plan at Clause 21.04-10 to identify the balance of the Ranceby Road frontage (not already exhibited for Business 1 Zoning) at 40 – 70 Ranceby Road as ‘Short term commercial rezoning opportunity’.

Amend the exhibited Poowong Framework Plan at Clause 21.04-10 to identify the southern half of 40 – 70 Ranceby Road (as shown on Figure 6 in this report) as ‘Longer term residential development opportunity’.

Consider rezoning the southern half of the exhibited Business 1 Zone area at 40 – 70 Ranceby Road from the Industrial 1 Zone to the Farming Zone to recognise its longer term residential, rather than industrial, future as part of this Amendment.

Apply the Environment Audit Overlay to 40 – 70 Ranceby Road in recognition of its past industrial use.

Consider a separate short term rezoning proposal to:

- **Rezone the balance of the Ranceby Road frontage at 40 – 70 Ranceby Road to the Business 1 Zone;**
- **Apply the Development Plan Overlay generally in accordance with that shown in Appendix B of this report; and**
- **Remove the Environmental Significance Overlay Schedule 5 from that part of the land to be rezoned Business 1 Zone.**

Where relevant make consequential changes to the Poowong Structure Plan to accord with the above recommendations.

(ii) Other non contested matters

The Amendment raised several other anomalies, minor rezonings and development constraint matters that were promoted by the Council or attracted no adverse submissions. All these matters are supported by the Panel. These are:

9 Ranceby Road (former CFA site)

Rezone the former CFA site at 9 Ranceby Road from the TZ to B1Z, rather than a Public Use Zone (PUZ). This is consistent with the CFA’s request to have their sites zoned in accordance with the surrounding zoning pattern and appropriately augments the commercial zoned land along the township’s main street spine.

Correct zone boundary

Correct the zone boundary between the proposed R1Z and existing Low Density Residential Zone on the land at 28A Nyora Road, Poowong (lot 101 PS314647) in accordance with the Submitter's attached map dated 30 June 2012. Council acknowledged that:

... a drafting error occurred in the preparation of the Poowong rezoning map. It is now proposed to create a straight zone boundary between the proposed R1Z and the existing LDRZ on the land at 28A Nyora Road, Poowong (lot 101 PS314647). The error is minor and limited to the angle of the zone boundary heading west from the end of White Birch Close. The submitter and Council agree that the zone boundary should be consistent with the map drafted by Council dated 30 January 2012, which is provided in the submitter's attachment.

Rezone roadway entry to Poowong Recreation Reserve

Rezone the roadway entry (Crown land) to the Poowong Recreation Reserve from the TZ to the Public Park and Recreation Zone as per the DSE recommendation in their letter of 3 April 2012.

Relocate Township Boundary

Relocate the Township Boundary to the outside boundary of the 'Residential 1 Zone Expansion Area' east of Brisbane Street. The new boundary alignment should exclude the 'Longer Term Residential 1 Zone Expansion Area'.

Maintain amenity buffers on Framework Plan map

The Panel supports the inclusion of the amenity buffers for the Abattoir and the Dairy in the Poowong Framework Land Use Plan map. As Council explains in their submission:

The buffers are drawn from the provisions of Clause 52.10 'Uses with adverse amenity potential'. The primary purpose of the buffer provisions of Clause 52.10 is to consider amenity impacts when a new industry is established that may affect a sensitive land use. Their purpose is not to discourage the intrusion of sensitive land uses in close proximity of amenity detrimental industry. While this is the case, numerous Panel and VCAT cases have used the provisions to discourage the establishment of new sensitive uses close to a source of amenity concern. On this basis the buffer lines have been included in the map. The outer edge of the Abattoir buffer extends over existing Township Zone land proposed to be rezoned Residential 1. Existing housing on Ranceby Road falls within the inner area of the Dairy buffer. Given the above discussed primary purpose of the buffer provisions, the residential land in the buffer (developed and undeveloped) is appropriate for application of the Residential 1 Zone.

These buffers are included on the Poowong Framework Plan at Clause 21.04-10 and in the Structure Plan.

Recommendations

The Panel recommends:

Rezone the former CFA site at 9 Ranceby Road from the Township Zone to Business 1 Zone.

Correct the zone boundary between the proposed Residential 1 Zone and existing Low Density Residential Zone on the land at 28A Nyora Road, Poowong (lot 101 PS314647) in accordance with the Submitter's map dated 30 June 2012.

Rezone the road way entry (Crown land) to the Poowong Recreation Reserve from the Township Zone to the Public Park and Recreation Zone.

Amend the Poowong Framework Plan at Clause 21.04-10 to relocate the Township Boundary to the outside boundary of the 'Residential 1 Zone Expansion Area' east of Brisbane Street consistent with the Poowong Land Use Framework plan in the Structure Plan.

Where relevant make consequential changes to the Poowong Structure Plan to accord with the above recommendations.

6 Meeniyán township

6.1 Background

Meeniyán is a small township with a population of 454 situated between Leongatha and Foster, some 150 km south east of Melbourne. Its commercial spine sits along both sides of the South Gippsland Highway, known as Whitelaw Street in the township. The township's residential development sits mainly to the south of the highway and densities decrease away from the main street and as the landform becomes steeper.

Meeniyán acts as a service centre for local agricultural communities and tourism is an increasingly important industry.

From a land use planning perspective most of the township is included in the Township Zone with small parcels of Public Park and Recreation and Public Use zones and a large area of Rural Living Zone south of the highway, at the periphery of the township.

A number of opportunities and constraints have been identified that will influence future development in and around the township:

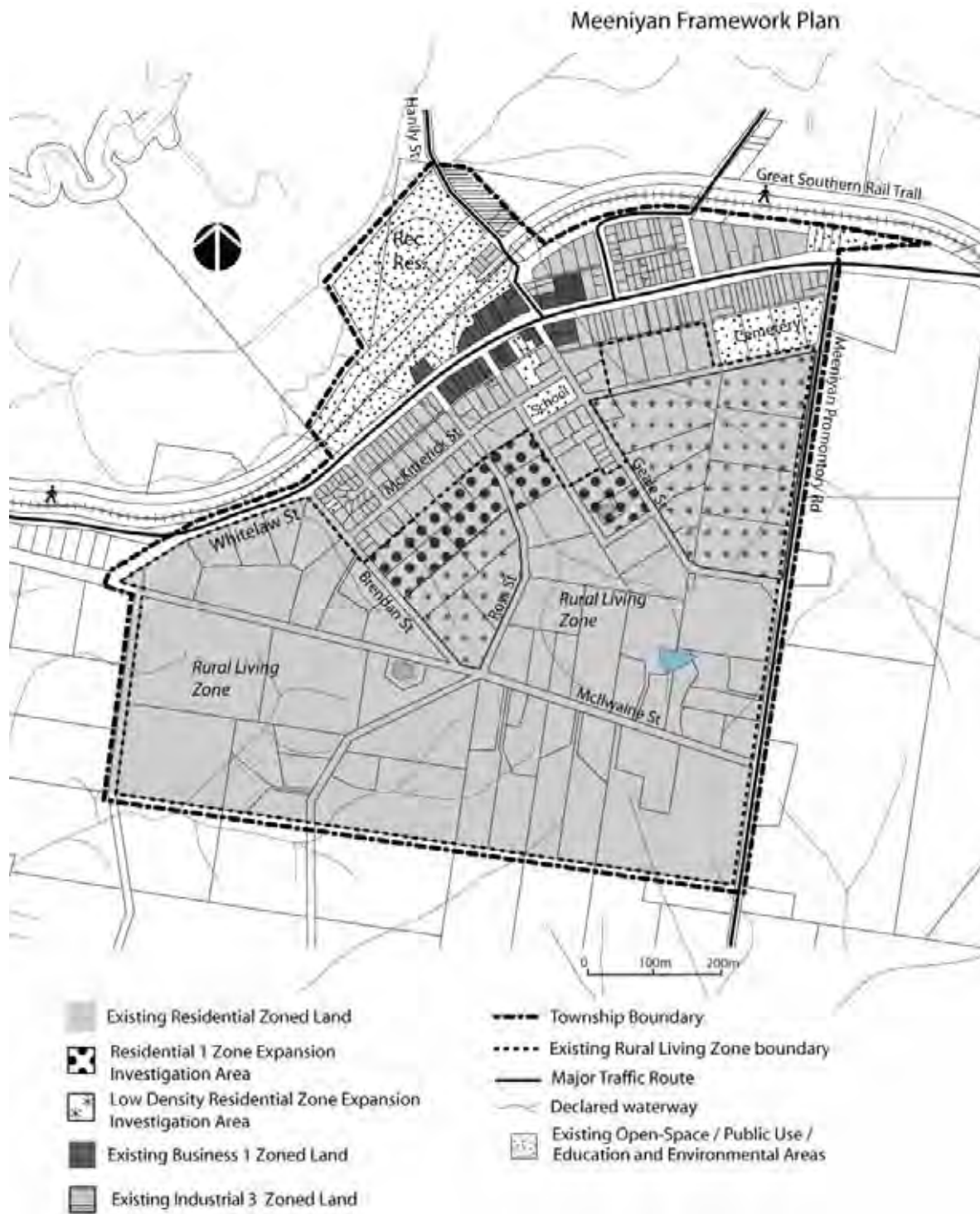
- A reticulated sewerage system has recently been constructed, primarily to deal with water contamination issues. This will potentially enable greater residential densities through for re-subdivisions of larger lots;
- There is some evidence of demand for new housing at urban densities in Meeniyán as well as ongoing demand for rural residential development around the town;
- It is considered that the Meeniyán township and adjoining rural residential living offers a potential 'lifestyle change' location with its range of small-town services including cultural and entertainment activities and reasonable proximity to higher order services at Leongatha; and
- If the township is to grow more extensively the need for accompanying infrastructure and community services will also occur.

It is suggested that the inherent qualities of Meeniyán may generate greater demand for residential development beyond the State population projections. It is considered that Meeniyán will continue its recent growth rate of 1.8% per year so by 2030 there will be 210 more residents, requiring 122 more dwellings. Land suitable for residential development to meet this demand will be a challenge.

In response to the exhibition of Amendment C72 there were four written submissions received in relation to Meeniyán, including one that was an annotated map with no additional written detail.

The Meeniyán Framework Plan is shown in Figure 7.

Figure 7 Exhibited Meeniyán Framework Plan



6.2 The Meeniyán Structure Plan and implementation in the planning scheme

There is no structure plan in place covering the Meeniyán township. The township is currently covered by a Township Zone (TZ) which is a zone often applied to rural towns with limited growth potential. Amendment C72 seeks to introduce a structure plan into the Planning Scheme to govern future development of the Meeniyán township through making changes to the Municipal Strategic Statement by including an Overview statement, Objectives, Strategies, Actions for implementation and a Framework Plan map, as well as zone changes.

The Council advises that their expert consultant's demographic analysis estimates that in the medium term, around 10 years, demand for residential land in Meeniyán requires approximately 100 dwellings to be developed on urban lots. Conversion of the existing Township zone to the proposed Residential 1 Zone (R1Z) through the effect of this Amendment will likely yield only some 25 additional lots.

However, as Council indicates in their submission to the Panel:

...given the existing environmental constraints to further expansion of the township, any additional residential land release would need to be subject to further geotechnical, hydrological and arboricultural analysis to demonstrate that intensification of development on the subject land would adequately address the environmental objectives of the Environmental Significance Overlay.

Two areas are identified on the Land Use Framework Map for consideration for potential future residential (Residential 1 Zone) development (including a 'long term residential area') subject to this additional analysis and detailed site assessment.

The Council highlighted the challenges of intensifying residential development in established low density residential areas that is under multiple ownership. They state that the focus for higher density development should remain on the inner areas of the township. To this end the Structure Plan identifies *Residential intensification investigations areas* in current Rural Living Zones as they adjoin the proposed Residential 1 Zone (the current Township Zone) around Ross, Wellsford and Geale Streets. An extension to one of these areas is identified as a *Long term residential intensification investigation area* bounded by Brendan and Ross Streets.

The only other opportunity for the expansion of residential urban lots is:

...a candidate Low Density Residential Zone (LDRZ) Investigation Area east of Geale Street, adjoining Meeniyán Promontory Road. Currently in the Rural Living Zone, this land has characteristics likely to be suitable to application of the LDRZ and could provide a lot size alternative for those people seeking land parcels larger than a township lot but smaller than a Rural Living lot.

The residential directions in the Meeniyán Structure Plan also identified a need for retirement living opportunities and household downsizing. However as will be explained

below, the nominated DSE owned site to achieve this increase in the range of housing types is not available for residential development.

Retail and commercial land uses are to be focused along both sides of the South Gippsland Highway between Ross and Geale Streets and the Structure Plan proposes a Business 1 Zone (B1Z) to replace the existing Township Zone (TZ). An Industrial 3 Zone (IN3Z) is provided to support industrial service industries.

The planning policy context for the Meeniyah Structure Plan is provided in Chapter 2 of this report.

6.3 Proposed rezonings as part of the Amendment

(i) 81 – 87 Whitelaw Street, Meeniyah

What is the issue?

The site owner wishes to have his property zoned Residential 1 Zone (R1Z) however the Council prefer a B1Z because of the location of the site at one end of the commercial precinct.

Evidence and submissions

The owner of the subject site objected by letter in response to the exhibited Amendment to the application of the B1Z to his land. The subject site is a 2,140m² vacant lot in the existing TZ that allows both residential and commercial uses. The submission requests the land be rezoned R1Z to allow the owner to build a dwelling. He states that in buying the site in August 2011 he was unaware of the proposal to place a business zoning rather than residential zoning in the translation of the TZ to more specific zonings under the structure plan. As the site is vacant he notes that he does not have 'existing use rights' to construct a dwelling.

The land adjoins the eastern boundary of the existing commercial extent of the township and has frontage to Whitelaw Street (the South Gippsland Highway). The Council maintains that the land has commercial development advantages and wish it to be zoned B1Z as per the exhibition documentation.

The Council notes that the land is encumbered by a waterway which traverses its eastern boundary and would add a degree of complexity to any development of the land. The current landowner only recently took possession of the land and was unaware of the Meeniyah Structure Plan. The land was purchased with the intention of building a dwelling.

Council prefers the land be retained in the proposed B1Z. The lot size, configuration and prominent location adjoining the highway make the site an ideal candidate for commercial development. While noting that demand for commercial land in Meeniyah is low, if development is to occur, this site provides advantages not shared by other sites immediately adjoining the Town Centre.

The Council goes on to note that the:

Application of the B1Z does not prohibit the use of the land for a dwelling and the potential could exist to either build a dwelling in the rear half of the land (retaining the frontage for a future commercial development) or building a

dwelling in combination with a commercial space. The land size and site advantages, combined with the zone discretion provided, support the retention of the B1Z on this land.

The owner elected not to make further representations to the Panel.

The Panel viewed the site and its urban context as part of their site inspections prior to the Hearing.

Discussion

The Panel supports the Council's designation of B1Z for the subject site. Upon inspection, the Panel agrees that the site is well located at the eastern end of the business area of the township and provides one of a limited number of opportunities to expand the business area of the town so it can meet its sub-regional role in the Shire.

The Panel notes the Council's comments regarding the owner's ability to develop a dwelling on the site in a B1Z and agrees that this can still be achieved under the provisions of the B1Z. On the alternative scenario, as put by the Council, that a dwelling can be constructed on the rear half of the land while retaining the frontage for a future commercial development the Panel makes no comment on whether this is possible under the B1Z. It makes the general observation that if the Council wishes to preserve the owner's ability to develop a family home on the subject site this would appear to be incompatible with its stated desire to encourage a commercial development on the site. Other strategies to achieve both objectives may extend to allowing a subdivision of what is a relatively large site, and separating the two subsequent titles into a B1Z on the road frontage and a R1Z on a rear part of the site. Equally, such an outcome would need to be carefully considered in the context of the site constraints. While the Panel has sympathy with the concerns of the owner regarding limits to his previous development plans it makes its recommendation in support of the B1Z for the subject site on the basis of broader preferred land use planning outcomes for the Meeniyan township.

Recommendation

The Panel recommends:

Rezone the land at 81 – 87 Whitelaw Street, Meeniyan to Business 1 Zone as per the exhibited Amendment.

(ii) Other matters

The Amendment raised several other matters raised in submissions and the addressing of anomalies and minor rezonings. All these matters as proposed by Council through the Amendment are supported by the Panel as shown below.

Rezone land at 144 Whitelaw Street, Meeniyan (CFA site)

Rezone the CFA land at 144 Whitelaw Street, Meeniyan from the Township Zone to the Public Park and Recreation Zone (PPRZ). In the exhibited Amendment the Council proposed the Public Use Zone 1 (Service and Utility). The CFA submission regarding all their properties affected by the Amendment seeks zonings that conform to the adjoining applicable zone. In submissions Council's position was ambivalent indicating that the *Panel's views are*

welcomed but also observing that the CFA's requested zoning in accordance with the surrounding zone patterns has the potential to trigger applications for planning permits that would not be necessary under a Public Use Zone, creating a minor burden for both the CFA and Council. In this case in Meeniyah, the subject site is adjoined on one side by a commercial use, a garage/service station on a single title, which is proposed for a B1Z in the Amendment and on the other side and at the rear by a Public Park and Recreation Zone PPRZ. The Panel notes that the PPRZ is clearly the dominant zone on this side of the road and the single B1Z is somewhat isolated. The Panel supports the rezoning of this site to PPRZ in accordance with the CFA's request. This position by the Panel takes into account the Planning Practice Note 2 and discussion as set out earlier in this report under Section 3.2 (v) and in so doing acknowledges that the CFA, as the public land manager, in its submission does not require *flexibility, protection or exemption different from the surrounding zone provision* that a Public Use Zone would confer.

Rezone 1 and 3 Geale Street, Meeniyah to R1Z

Rezone 1 and 3 Geale Street, Meeniyah from the Township Zone to the R1Z. The exhibited Amendment proposed to include two sites at 1 and 3 Geale Street in the B1Z however the owner of the site objected. The Council has subsequently agreed to support the designation of these two sites as R1Z. The Panel agrees that this appears an appropriate designation given the focus of commercial uses is in Whitelaw Street.

Rezone Crown land, Meeniyah to PCRZ

Rezone the unreserved Crown land on the corner of the South Gippsland Highway and Greaves Street (1-15 Whitelaw Street, Meeniyah comprising 6 lots) from the TZ to the Public Conservation and Resource Zone (PCRZ). Council's exhibited documents propose the subject site as R1Z, which DSE indicate in their written response as clearly not appropriate for this parcel of unreserved Crown land. Post exhibition and in consultation with DSE, the PCRZ was considered the preferred zone and preferable to the PPRZ because of the density and quality of the vegetation on the land. The Panel is supportive of this zoning outcome.

Rezone 139 Whitelaw Street, Meeniyah (Police Station)

Rezone 139 Whitelaw Street, Meeniyah (Police Station) from the TZ to the Public Use Zone 7 (Other Public Use) (PUZ7). The letter from DSE states that the exhibited documents inappropriately proposes a R1Z for the site, which is not the preferred zone for this use. Post exhibition, the Council, in consultation with the Department of Treasury and Finance, now propose this site to be PUZ7. The Panel supports this zoning.

Rezone 4 Scholers Street, Meeniyah

Rezone 4 Scholers Street (CA10 Sec1), Meeniyah from the TZ to the PPRZ as per the DSE recommendation. This site was indicated on the exhibited map as designated for residential use. Also this site or an adjoining site was the subject of a submission from the Meeniyah Progress Association Inc which sought a rezoning to residential to allow the development of a retirement village *and/or land suitable for units or accommodation for couples or single people*. DSE in their response were clear that the subject land was required for the Great

Southern Rail Trail so is unavailable for other uses. The Panel supports this zoning as it reinforces the use of the land for the rail trail.

Rezone 96 Whitelaw Street, Meeniyan

Rezone 96 Whitelaw Street, Meeniyan (CA14 Sec1) from the TZ to the PPRZ as per the DSE recommendation. The exhibited documents show this site as B1Z however this land is currently used as a town park. The Panel supports this zoning as the site is a DSE owned park.

Further submission

One further submission was received in respect of Meeniyan in this Amendment, which took the form of an annotated map. A lack of clarity around some of the issues raised on the map was attempted to be clarified by the Council with the submitter but no response was received. In relation to those issues that were able to be properly discerned, the Council did not support the extension of a B1Z to link the main street business zone with the IN3Z area as the affected sites are residential in nature. The Panel supports this position taken by Council. The submitter also supported the two properties at 1 and 3 Geale Street to be zoned B1Z as originally proposed in the exhibited Amendment. However, as noted above this property is now resolved to be zoned R1Z in accordance with the owner's request.

Recommendations

The Panel recommends:

Rezone 144 Whitelaw Street, Meeniyan (CFA site) from the Township Zone to the Public Park and Recreation Zone as opposed to the exhibited Public Use 1 Zone.

Rezone 1 and 3 Geale Street, Meeniyan from the Township Zone to the Residential 1 Zone as opposed to the exhibited Business 1 Zone.

Rezone the unreserved Crown land at 1-15 Whitelaw Street, Meeniyan (6 lots) from the Township Zone to the Public Conservation and Resource Zone as opposed to the exhibited Residential 1 Zone.

Rezone 139 Whitelaw Street, Meeniyan (police station) from the Township Zone to the Public Use Zone 7 (Other Public Uses).

Rezone 4 Scholers Street, Meeniyan (CA10 Sec1) from the Township Zone to the Public Park and Recreation Zone as opposed to the exhibited Residential 1 Zone.

Rezone 96 Whitelaw Street, Meeniyan (CA14 Sec1) from the Township Zone to the Public Park and Recreation Zone as opposed to the exhibited Business 1 Zone.

7 Summary of Recommendations

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

1. **General recommendations**
 - a. **Adopt Amendment C72 to the South Gippsland Planning Scheme as exhibited subject to the further recommendations set out in this report.**
 - b. **Amend the Structure Plans (reference documents) in accordance with the recommendations in this report.**
2. **Loch recommendations**
 - a. **Amend the Loch Framework Plan in Clause 21.04-9 to identify 11 Roy Street, Loch as 'Potential Residential 1 Zone Expansion Area – subject to further investigation.'**
 - b. **Retain 11 Roy Street, Loch within the Township Zone.**
 - c. **Prepare a Design and Development Overlay to determine appropriate built form outcomes, particularly in the south-west corner of the Loch township.**
 - d. **Amend the Loch Structure Plan March 2011 to identify 11 Roy Street, Loch as 'Potential Residential 1 Zone Expansion Area – subject to further investigation.'**
 - e. **Amend the Loch Framework Plan at Clause 21.04-9 to identify the land at 3-23 Victoria Road, Loch to be 'Commercial expansion - Mixed Use Zone.'**
 - f. **Amend Map 4 to include land at 3-23 Victoria Road, Loch in the Mixed Use Zone.**
 - g. **Retain land at 12 – 24 Victoria Road, Loch within the proposed Residential 1 Zone as exhibited.**
 - h. **Amend Map 4 to include the former Church building on the western corner of Clarence and Victoria Roads, Loch, in the Business 1 Zone.**
 - i. **Amend the Loch Structure Plan March 2011 to identify the land at 3-23 Victoria Road, Loch to be 'Commercial expansion - Mixed Use Zone.'**
 - j. **Retain the property on the south-eastern corner of Mary Street and Victoria Road, Loch within the Residential 1 Zone as exhibited.**
 - k. **Amend the Loch Framework Plan to identify the six allotments at the southern end of Smith Street Loch as 'Low Density Residential Development.'**
 - l. **Retain the six allotments at the southern end of Smith Street, Loch within the Low Density Residential Zone as exhibited.**

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- m. Amend the Loch Structure Plan 2011 to identify the six allotments at the southern end of Smith Street Loch as 'Low Density Residential Development.'
 - n. Amend Map 4 to include the existing Country Fire Authority site on Victoria Road, Loch, within the Residential 1 Zone.
 - o. Retain the Loch Police Station within the Public Use Zone 1 – Service and Utility as exhibited.
 - p. Retain 9 Smith Street, Loch within the proposed Business 1 Zone as exhibited.
 - q. Retain Lot 1 TP405466 Rawlings Lane and Lot 1 TP584314 Catholic Church rear lot Loch within the Farming Zone as exhibited.
 - r. Retain Lot 6 Victoria Road, Loch in the Farming Zone.
 - s. Amend the Loch Framework Plan in Clause 21.04-9 to continue the township boundary along the eastern boundary of sites fronting Mary Street, removing Lot 6 Victoria Road, Loch from the township.
 - t. Amend the Loch Structure Plan March 2011 to continue the township boundary along the eastern boundary of sites fronting Mary Street, removing Lot 6 Victoria Road, Loch from the township.

3. Nyora recommendations

- a. Amend the Nyora Framework Plan contained in Clause 21.04-8 to:
 - identify preferred short to medium (0 – 1000m) and long term (beyond 1000m) residential investigation areas within the exhibited township boundary. These should be based on distance from the town centre and should generally reflect the concentric rings as indicated on the 'Land Use Framework Plan' contained within the NPS;
 - amend the legend in the Nyora Framework Plan to alter 'Residential 1 Zone Expansion Area' to read 'Residential 1 Zone – Investigation Area'. Include land identified as 'Residential 1 Expansion Area' and located outside the short to medium term investigation area (as discussed above) within a new classification 'Longer term Potential Residential 1– Investigation Area'); and
 - retain the township boundary as exhibited with the exception of including all land in the Farming Zone within the short to medium term residential investigation area (as discussed above) within the township boundary and identifying it as 'Residential 1 Zone – Investigation Area'.
- b. Amend Objective (dot point 2) of Clause 21.04-8 to read 'To support staged residential growth commensurate to the need for additional residential land and the improvement of development and community infrastructure in the township.'

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- c. **Amend Objective (dot point 4) of Clause 21.04-8 to delete reference to 'support' and to replace it with 'encourage'.**
 - d. **Amend Strategy (dot point 2) of Clause 21.08-4 to read 'Ensure that any subdivision in the Residential 1 Zone – Investigation Areas and the Long term potential Residential 1 Zone – Investigation Areas identified in the Nyora Framework Plan does not occur until the following prerequisites have been met:....'**
 - e. **Include an additional prerequisite (a new first secondary dot point) to Strategy (dot point 2) of Clause 21.04-8 which reads 'There is an identified need for additional residential land within the township.'**
 - f. **Amend the Nyora Structure Plan March 2011 to reflect the changes described above.**
 - g. **Add the following to Clause 21.04-8 in 'Actions for implementation' after the 'Prepare a Master Plan.....' dot point: 'Prepare a town centre strategy to provide greater direction for commercial development in the Mitchell Street area and to determine whether the Business 1 Zoned land is adequate in location and extent to provide for future commercial growth in Nyora.'**
 - h. **Add an additional objective in Clause 21.04-8 which reads 'To develop the town centre in the vicinity of Mitchell and Davis Streets which is the focus for all business, community and tourist services and facilities.'**
 - i. **Amend the Nyora Structure Plan Land Use Framework on Page 18 to remove the Industrial 3 Zone Expansion Area and remove reference in the text to this area on Page 12 of the Structure Plan.**
 - j. **Amend the Nyora Framework Plan in Clause 21.04-8 to remove the Industrial 3 Expansion Area from the plan.**
 - k. **Investigate the need for additional Industrial 3 Zoned land in Nyora or on a regional basis to ensure there is adequate supply.**
 - l. **Delete the seventh major dot point in the exhibited Clause 21.04-8 under 'Strategies' which commences with 'Support development of the Rural Living Zone Expansion Areas....'.**
 - m. **Remove the reference to 'See Nyora Map 3 – Proposed Rural Living Area' and the associated arrow on the exhibited Nyora Framework Plan (Map 1 in clause 21.04-8).**
 - n. **Delete the Nyora Framework Plan (Map 3) from exhibited clause 21.04-8.**
 - o. **Remove the text and plan referring to 675 Yannathan Road as an investigation area for rural living from page 14 of the exhibited Nyora Structure Plan.**

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- p. Add an additional Objective in Clause 21.04-8 Nyora to read ‘To ensure development contributes to provision of community services and facilities.’
- q. Delete the seventh major dot point in the exhibited clause 21.04-8 under ‘Strategies’ which commences with ‘Support development of the Rural Living Zone Expansion Areas....’.
- r. Remove the reference to ‘See Nyora Map 2 – Proposed Rural Living Area’ and the associated arrow on the exhibited Nyora Framework Plan (Map 1 in clause 21.04-8).
- s. Delete the Nyora Framework Plan (Map 2) from exhibited clause 21.04-8.
- t. Remove the text and plan that refer to Henrys Road as an investigation area for rural living from page 14 of the exhibited Nyora Structure Plan.
- u. Remove the Development Plan Overlay from 18 Walters Road, Nyora.
- v. Rezone 34 Mitchell Street to the Residential 1 Zone as part of Amendment C72.
- w. Delete the title of ‘Agreement’ and the following paragraph from clause 1.0 of the exhibited Development Plan Overlay Schedule 8.
4. Poowong recommendations
- a. Amend the exhibited Poowong Framework Plan at Clause 21.04-10 to identify the balance of the Ranceby Road frontage (not already exhibited for Business 1 Zoning) at 40 – 70 Ranceby Road as ‘Short term commercial rezoning opportunity’.
- a. Amend the exhibited Poowong Framework Plan at Clause 21.04-10 to identify the southern half of 40 – 70 Ranceby Road (as shown on Figure 6 in this report) as ‘Longer term residential development opportunity’.
- b. Consider rezoning the southern half of the exhibited Business 1 Zone area at 40 – 70 Ranceby Road from the Industrial 1 Zone to the Farming Zone to recognise its longer term residential, rather than industrial, future as part of this Amendment.
- c. Apply the Environment Audit Overlay to 40 – 70 Ranceby Road in recognition of its past industrial use.
- d. Consider a separate short term rezoning proposal to:
- Rezone the balance of the Ranceby Road frontage at 40 – 70 Ranceby Road to the Business 1 Zone;
 - Apply the Development Plan Overlay generally in accordance with that shown in Appendix B of this report; and
 - Remove the Environmental Significance Overlay Schedule 5 from that part of the land to be rezoned Business 1 Zone.

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- e. **Rezone the former CFA site at 9 Ranceby Road from the Township Zone to Business 1 Zone.**
 - f. **Correct the zone boundary between the proposed Residential 1 Zone and existing Low Density Residential Zone on the land at 28A Nyora Road, Poowong (lot 101 PS314647) in accordance with the Submitter's map dated 30 June 2012.**
 - g. **Rezone the road way entry (Crown land) to the Poowong Recreation Reserve from the Township Zone to the Public Park and Recreation Zone.**
 - h. **Amend the Poowong Framework Plan at Clause 21.04-10 to relocate the Township Boundary to the outside boundary of the 'Residential 1 Zone Expansion Area' east of Brisbane Street consistent with the Poowong Land Use Framework plan in the Structure Plan.**
 - i. **Where relevant make consequential changes to the Poowong Structure Plan to accord with the above recommendations.**

5. Meeniyan recommendations

- a. **Rezone the land at 81 – 87 Whitelaw Street, Meeniyan to Business 1 Zone as per the exhibited Amendment.**
- b. **Rezone 144 Whitelaw Street, Meeniyan (CFA site) from the Township Zone to the Public Park and Recreation Zone as opposed to the exhibited Public Use 1 Zone.**
- c. **Rezone 1 and 3 Geale Street, Meeniyan from the Township Zone to the Residential 1 Zone as opposed to the exhibited Business 1 Zone.**
- d. **Rezone the unreserved Crown land at 1-15 Whitelaw Street, Meeniyan (6 lots) from the Township Zone to the Public Conservation and Resource Zone as opposed to the exhibited Residential 1 Zone.**
- e. **Rezone 139 Whitelaw Street, Meeniyan (police station) from the Township Zone to the Public Use Zone 7 (Other Public Uses).**
- f. **Rezone 4 Scholers Street, Meeniyan (CA10 Sec1) from the Township Zone to the Public Park and Recreation Zone as opposed to the exhibited Residential 1 Zone.**
- g. **Rezone 96 Whitelaw Street, Meeniyan (CA14 Sec1) from the Township Zone to the Public Park and Recreation Zone as opposed to the exhibited Business 1 Zone.**

Appendix A List of Submitters

No.	Submitter
1	G G Smith
2	Dimitriadis Family
3	Steve and Carol Hickmott (LCDA)
4	R and B Humphrey
5	Howard J Booth
6	Richard A Ryan
7	Faye and Terry Oakley
8	K and C Reid
9	James Smart
10	Peter McEwan
11	D and L Hinkley
12	Melinda Davies
13	Loch Community Development Association (second submission)
14	Loch Community Development Association
15	R and A Philpott
16	Owen R Browne
17	A G Goldsmith
18	Meeniy Progress Association
19	Shaun Nicholls
20	Luke Jones
21	Hana and Wayne Biggs
22	Paul and Dianne Jones
23	Lloyd Hunter
24	Wesley Webb
25	Graham Richards
26	Michael and Glenda Buckingham
27	V and T Ferrone
28	John and Tricia Fleming
29	Graeme Vines
30	Robert Hicks
31	Maguire Rural Holdings
32	Ms Mabelle Crichton

33	Keith White
34	Helen and Don Lyon-Jones
35	Hume Family Landholding
36	Lindsay Love
37	Wallis Watson (Nyora) Pty Ltd
38	Richard and Fleur Johnson
39	Margaret Lockhart
40	David Rasmus and Mary-Ann van Ballekom
41	Natalie and Kevin Francis
42	Restlee Estate
43	Mal Wildes
44	Debbie Wildes
45	Bernadette Hance
46	Chris Lancey
47	Shona and Blair Lynch
48	Georgina Alomes
49	Katrina Glover
50	Murray Goulburn Co-Op
51	Malcolm and Russell Wildes
52	Jack and Sandra Verlaat
53	G Glover
54	R Purvis
55	R G and E A Maguire
56	A Mclean and C Bisset
57	Yannathan Road Development Group
58	Bill and Anna Quaife
59	P and A Hubbard
60	Luckton P/L
61	VicTrack
62	D and S Young
63	Rachel Breen
64	Massimo Cellanti
66	M and D Bardwell
67	Margaret Murphy
68	Sandy Cape P/L

69	Environmental Protection Authority
70	South Gippsland Water
71	CFA - Gippsland Region Headquarters
72	Melbourne Water
73	West Gippsland Catchment Management Authority
74	Department of Sustainability and Environment
75	Department of Treasury and Finance
76	Cardinia Shire Council

Appendix B Draft DPO Schedule - Poowong

SCHEDULE [NUMBER] TO THE DEVELOPMENT PLAN OVERLAY

Shown on the planning scheme map as **DPO [number]**.

Former Poowong Butter Factory Site at 40-70 Ranceby Road, Poowong.

1.0 Requirement before a permit is granted

A permit may be granted before a development plan has been prepared to the satisfaction of the responsible authority for the following:

- Agriculture and any buildings or works associated with the use of the land for agricultural purposes.
- A fence.
- Minor drainage works
- Minor earthworks.
- To remove, destroy or lop vegetation.

2.0 Requirements for development plan

Purpose

The purpose of the Development Plan is to provide a framework for the approval of future development of the site.

The Development Plan will address relevant planning and environmental issues to the satisfaction of the South Gippsland Shire Council, relevant agencies, and the local community.

Requirements

Any development plan prepared under the provisions of this overlay must be prepared to the satisfaction of the responsible authority.

Any approved Development Plan may be amended to the satisfaction of the responsible authority.

A Development Plan is to be a combination of a report and a diagram and must include the following where relevant:

- A detailed description of the existing site and proposed extended site area including existing topography, vegetation, drainage lines, buildings and works.
- A buffer of at least 20 metres in width along the eastern and southern boundaries that is to be used solely for landscaping and minor delivery access.
- Landscaping plans including the landscaping of buffers along the eastern and southern boundaries of the land showing substantial screening measures to ensure views from the adjoining properties on the subject site are retained as predominantly rural.
- The basis of the proposed development including details of:
 - vegetation to be retained or removed, and new landscape planting proposals
 - major site infrastructure proposals, including drainage works
 - vehicle access and any improvements to the external roads proposed
 - points of access to the site from the Ranceby Road showing that adequate sight distance can be achieved.
 - vehicle manoeuvring and access ways within the site
 - car parking and truck parking areas
 - the use of buildings and works and other parts of the site

- Assessment of the effects of the development, by the various development stages, in relation to:
 - contaminated soil which may be re-used or removed, effects on ground water quality, and management approaches
 - the built heritage of the site and proposals for any removal of, or alterations, to any buildings or works of heritage significance
 - any increased traffic due to commercial or private vehicles, and traffic management on external roads abutting the site
 - any increased parking demands on external roads
 - appearance of buildings and works
 - the amenity of residential properties adjacent to the site, with regard to traffic, noise, lighting, visual amenity, and any emissions, and an Environment Improvement Plan to address such.

Decision Guidelines

In assessing a Development Plan or amendment to a Development Plan, the responsible authority must consider, in addition to the decision guidelines in Clause 65, the following:

- The management of flooding on parts of the site resulting from modification of existing land forms
- Proposed arrangements to manage soil contaminants and to protect groundwater quality
- Proposed measures to retain and enhance buildings and works of heritage significance
- The need for any new or modified access to, or external road works in Ranceby Road and the views of VicRoads in relation to such matters
- Arrangements for commercial and private vehicles internal vehicle circulation within the site, and the adequacy of such
- Car and truck parking within the site, and the adequacy of such
- Vehicle loading and unloading areas
- Built form and landscaping proposals, and streetscape character
- The amenity of the interface with residential properties in regard to potential noise from rooftop plant and equipment and other emissions to air.
- Lighting for security and safety purposes
- Stormwater and waste water discharge

3.0 Conditions and requirements for permits

A planning permit must include the following conditions, as appropriate:

- Any conditions identified in the development plan.
- A condition requiring the preparation of an Environment Management Plan (EMP) for both the construction and operational phases prior to the commencement of works.
- A condition requiring the preparation of a Landscape Plan that shows the location, size and species of existing vegetation, vegetation to be retained, removed or lopped and new planting on road reserves and open space areas.
- A condition requiring the preparation and approval of a Construction Management Plan (CMP) prior to the commencement of any works.
- A condition requiring detailed civil construction plans for drainage, vehicle and pedestrian access and car parking.
- A condition requiring all electricity supplies for the development to be provided underground.

- A condition requiring the preparation and approval of detailed civil construction plans for drainage, vehicle and pedestrian access and car parking.

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