



**AGENDA APPENDIX**  
**Council Meeting**  
**Wednesday 26 June 2013**

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

THE ITEM IS ACCESSIBLE VIA THE COUNCIL WEBSITE OR BY CONTACTING COUNCIL ON 03 5662 9200.

**E.22 - KORUMBURRA PLANNING SCHEME AMENDMENT C66**

Appendix 2 - Panel Report - South Gippsland Planning Scheme Amendments C52, C66, C70 and C71.



*Planning and Environment Act 1987*

## **Panel Report**

South Gippsland Planning Scheme  
Amendments C52, C66, C70 and C71

**8 November 2012**

*Planning and Environment Act 1987*

Panel Report pursuant to Sections 153 and 155 of the Act  
South Gippsland Amendments C52, C66, C70 and C71

A handwritten signature in dark ink, appearing to read 'Trevor', with a long, sweeping horizontal flourish extending to the right.

Trevor McCullough, Chair

A handwritten signature in dark ink, appearing to read 'Jodi Kennedy', written in a cursive style.

Jodi Kennedy, Member



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## List of Abbreviations

B1Z	Business 1 Zone
DCP	Development Contributions Plan
DPCD	Department of Planning and Community Development
DPO	Development Plan Overlay
EPA	Environment Protection Authority
ESO5	Environmental Significance Overlay 5
FZ	Farming Zone
IN1Z	Industrial 1 Zone
IN3Z	Industrial 3 Zone
KCP	Korumburra Centre Project
KSP	Korumburra Structure Plan
LDRZ	Low Density Residential Zone
LPPF	Local Planning Policy Framework
MSS	Municipal Strategic Statement
MUZ	Mixed Use Zone
ODP	Outline Development Plan
PDP	Priority Development Plan
PUZ	Public Use Zone
R1Z	Residential 1 Zone
RD1Z	Road Zone Category 1
RLZ	Rural Living Zone
SPPF	State Planning Policy Framework
TCFP	Town Centre Framework Plan
VPP	Victoria Planning Provisions

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# Executive Summary

## Summary

Amendment C70 to the South Gippsland Planning Scheme proposes to introduce new Korumburra Township planning provisions. The Amendment:

- Defines the retail core and the geographic extent of the Korumburra Town Centre;
- Provides policy direction regarding where new development should locate;
- Proposes a new Framework Plan for Korumburra that identifies future urban and rural residential growth; and
- Identifies new strategies and principles to guide land release and development within the *Korumburra Framework Plan*.

Amendments C71, C52, and C66 propose to rezone land identified within the *Korumburra Framework Plan*. Council requested that all four Amendments be considered concurrently as Amendment C70 sets the framework for the other Amendments, and the Amendments consider a range of similar issues.

Amendment C71 proposes to rezone land at 155-165 Commercial Street Korumburra that currently comprises the Korumburra Library, Art Gallery, Historical Society and community meeting hub, from Public Use Zone 7 (Other Public Use) to Business 1 Zone.

Amendments C52 and C66 propose to rezone two separate parcels of land on the southern and western edges of the Korumburra Township from the Farming Zone to the Residential 1 Zone, apply a Development Plan Overlay and remove the Environmental Significance Overlay that currently applies to the land.

Amendments C70, C71 and C66 were exhibited between February and March 2012. Amendment C52 was initially exhibited in March 2010 and then re-exhibited between June and July 2012. Eight submissions were received in response to Amendment C70, ten in response to C71, 27 in response to C52 and 12 in response to C66. Council was unable to resolve all the submissions in relation to each Amendment and requested the Minister for Planning appoint an independent panel to consider submissions and make recommendations in respect to the Amendments. The Panel consisted of Trevor McCullough (Chair) and Jodi Kennedy.

The Panel conducted Public Hearings on 5, 6 and 7 September 2012 at Korumburra.

The key issues in relation to Amendment C70 were:

- The most appropriate definition of the town centre and core retail area;
- Buffers to existing industrial sites including the Burra Foods factory;
- Residential land supply and demand; and
- Defining the new growth areas for residential, commercial and industrial development within Korumburra.

The Panel concluded that the Amendment should be supported subject to a number of changes to some of the detail in the proposed Municipal Strategic Statement clause in relation to defining the town centre and retail core, and the interface between existing industrial uses and proposed residential uses.

The key issues in relation to Amendment C71 were:

- 
- The most appropriate zone for the site in the context of the *Korumburra Structure Plan*; and
  - The future location of the library and community facilities is not yet determined.

The Panel concluded that Amendment C71 should be supported as exhibited and the land rezoned B1Z, but suggests that Council progress future planning for community facilities ahead of redeveloping the site.

The key issues in relation to Amendment C52 were:

- The strategic justification for rezoning the land to R1Z;
- The impact of development on adjoining LDRZ land;
- Road access and traffic issues; and
- The detail of the controls in the proposed DPO.

The Panel supports Amendment C52, but subject to including some substantial changes to the proposed DPO.

The key issues in relation to Amendment C66 were:

- The strategic justification for rezoning the land to R1Z;
- Interface issues relating to adjoining industrially zoned land; and
- The detail of the controls in the proposed DPO.

The Panel supports Amendment C66 with changes to the DPO.

## **Recommendations**

**Based on the reasons set out in this Report, the Panel makes the following recommendations:**

- 1. The Panel recommends that Amendment C70 to the South Gippsland Planning Scheme be adopted as exhibited subject to the following changes:**
  - **Adopt the changes to the exhibited Clause 21.04-5 as shown in the Panel preferred version attached as Appendix B.**
  - **Correction of any minor mapping errors.**
- 2. The Panel recommends that Amendment C71 to the South Gippsland Planning Scheme be adopted as exhibited.**
- 3. The Panel recommends that Amendment C52 to the South Gippsland Planning Scheme be adopted as exhibited subject to the following changes:**
  - **Adopt the changes to the exhibited DPO4 as shown in the Panel preferred version attached as Appendix C.**
  - **Include the land at 111 and 113 Jumbunna Road in the area of the proposed DPO4.**
  - **Rezone the small area of land adjoining CP106150 from the Farming Zone to Residential 1 Zone, as proposed by Council post-exhibition.**
  - **Correction of any minor mapping errors.**
- 4. The Panel recommends that Amendment C66 to the South Gippsland Planning Scheme be adopted as exhibited subject to the following changes:**
  - **Adopt the changes to the exhibited DPO6 as shown in the Panel preferred version attached as Appendix D.**



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# 1 Background

## 1.1 The Amendments

**Amendment C70** to the South Gippsland Planning Scheme, proposes to incorporate new local planning policy provisions to assist in the future development of the Korumburra Township. As exhibited, the Amendment proposes to:

- Introduces into the Municipal Strategic Statement (MSS), at Clause 21.04-5, new Korumburra Township planning provisions. The new provisions implement the key recommendations of the *Korumburra Structure Plan* (July 2010) and the Priority Development Panel Report (May 2010).

The three remaining Amendments considered by this Panel propose to implement the key recommendations of the *Korumburra Structure Plan* through a number of rezonings.

**Amendment C71** to the South Gippsland Planning Scheme, as exhibited, proposes to rezone land at 155-165 Commercial Street Korumburra that currently comprises the Korumburra Library, Art Gallery, Historical Society and community meeting hub, from Public Use Zone 7 (Other Public Use) to Business 1 Zone.

**Amendment C52** to the South Gippsland Planning Scheme, as exhibited, proposes to:

- Rezone the subject land from the Farming Zone (FZ) to the Residential 1 Zone (R1Z);
- Delete the Environmental Significance Overlay Schedule 5 (Areas Susceptible to Erosion) which applies to the land; and
- Introduce a new Development Plan Overlay Schedule 4 (DPO4) to incorporate specific guidelines to facilitate future residential development of the subject land. The Overlay however is not being applied to 111 and 113 Jumbunna Road Korumburra (Note – this was changed post-exhibition).

Amendment C52 also proposes to make the following minor mapping corrections:

- Rezone Lot 1 TP868143 from the Farming Zone to the Public Use Zone 2 (PUZ2) – Education in recognition of the current use of this land as part of the Korumburra Secondary College; and
- Rezone part of Jumbunna Road (Road Reserve) adjoining CP107150 from the Farming Zone to the Road Zone Category 1 (RDZ1) in recognition that the land forms part of the VicRoads road reserve (Note – this was changed post-exhibition).

**Amendment C66** to the South Gippsland Planning Scheme, as exhibited, proposes to:

- Rezone the subject land from Farming Zone to Residential 1 Zone;
- Apply a revised Development Plan Overlay (DPO) Schedule 6 to all land to be rezoned to Residential 1 Zone; and
- Delete the Environmental Significance Overlay Schedule 5 (Areas Susceptible to Erosion) that applies to the land.

The planning authority is South Gippsland Shire Council and the proponents for each of the Amendments are:

- Mr A Winterhalter and Kufner Textiles (Australia) P/L for Amendment C52;

- 
- Rossi Group Pty Limited, on both their own and other landowners behalf for Amendment C66; and
  - South Gippsland Shire Council for Amendment C70 and C71.

Initially the Amendments were going to be considered by two separate Panels, with Council requesting that C70, C52 and C66 be considered together. However, given that Amendment C70 also provides the overarching policy objectives that Amendment C71 is proposing to implement, it was considered appropriate to hear all four Amendments together. This provides the opportunity for continuity when considering policy and implementation mechanisms collectively.

## **1.2 Exhibition**

The four Amendments were exhibited separately.

The exhibition of each of the Amendments is detailed below:

- Amendment C70 was exhibited for a month with the closing date being 19 March 2012. Notices were placed in the local newspapers, and the Government Gazette and a notice was displayed in the Korumburra Newsagency. All landowners and occupiers in the Korumburra Town Centre commercial area, as well as those landowners and occupiers adjoining areas where land use changes were identified, were notified by post. A total of eight submissions were received with four submissions requesting changes to the provisions of Amendment C70.
- Amendment C71 was exhibited between 1 March and 9 April 2012. Notices were placed in the local newspapers, and the Government Gazette. All adjoining landowners and occupiers were notified by post. A total of ten submissions were received (three being late submissions). Of these, two were considered to be objections to the Amendment, with one objection being withdrawn following mediation.
- Amendment C52 was exhibited for a month with the closing date being 29 March 2010. Notices were placed in the local newspapers and the Government Gazette. All adjoining landowners and occupiers were notified by post. Following exhibition there was extensive delay in referring the Amendment to an independent planning panel due to a number of issues Council was considering, including revised DPO provisions. Consequently, Council provided additional notice dated 27 June 2012 to submitters to the Amendment as well as all landowners/occupiers adjoining the subject land informing them the Amendment was still active and had been referred to a Panel. This process resulted in additional submissions being received by Council that were formally presented to Council at its July 2012 meeting, and subsequently referred to the Panel. A total of 27 submissions were received to Amendment C52.
- Amendment C66 was exhibited between 21 February 2012 and 26 March 2012. Notices were placed in the local newspapers, and the Government Gazette. All adjoining landowners and occupiers, as well as those in the broader surrounding area considered to have an interest in the proposal, were notified by post. A total of 12 submissions were received. Of these, four were considered to be objections to the Amendment.

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### 1.3 The Panel Process

This Panel was appointed under delegation on 27 June 2012 pursuant to Sections 153 and 155 of the *Planning and Environment Act 1987* to hear and consider submissions in respect of the Amendments.

The Panel consisted of:

- Trevor McCullough (Chair); and
- Jodi Kennedy (Member).

#### (i) Hearings and inspections

A Directions Hearing was held on 31 July 2012 at South Gippsland Council Chambers, Leongatha. The Panel Hearings were held on 5, 6 and 7 September 2012 at Coal Creek Heritage Park, South Gippsland Highway, Korumburra.

The Panel inspected the sites and surrounding areas, making unaccompanied visits that included land affected by Amendments C52, C66, C70 and C71.

#### (ii) Submissions

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

The Panel heard from the parties listed in Table 1.

Submitter	Represented by	Amend.
South Gippsland Shire Council	Mr Ken Griffiths, Strategic Planning Officer Mr Craig Lyon, Strategic Planning Co-Ordinator Ms Fiona Mottram, Strategic Planning Officer	C52 & C70 C66 C71
Burra Foods Pty Ltd	Mr Grant Crothers, CEO/Managing Director	C70
Ms Mary-Anne and Aiden Hall	Mr Alan McDonald	C71
Mr Lorenz	Ms Rebecca Tompkins of the firm DLA Piper who called the following expert witness: <ul style="list-style-type: none"><li>• Mr Angus Witherby, Economic Property Matters, from Wakefield Planning</li></ul>	C70 C71
Ms Cowling		C71
Mr and Mrs Scollo	Mr Peter Scollo (son of Mr & Mrs Scollo)	C52
Allan Winterhalter & Kufner Textiles Pty Ltd	Mr Gary Chisholm, of Beveridge Williams	C52
VicRoads	Mr Stuart Fenech	C52
Mr Steele		C52
Ms McCartney		C52
Mr Osboldstone		C52
Fava Family	Ms Lowry	C52

Ms Balment		C52
Mr Scholz	Ms Huppatz	C52
Mr & Mrs Huppatz	Mr Huppatz	C52
Rossi Group Pty Ltd, Mr Tumino and Others	Mr Pippo of Taylors	C66
Mr Collyer		C66
Mr Rodriguez and Ms McKillop	Mr Rodriguez	C66

**Table 1 Parties to the Panel Hearing**

A list of all submitters to each of the Amendments is included in Appendix A.

### Further directions

At the close of hearings on 7 September 2012 the Panel made the following further directions in relation to further information requirements for Amendments C52, C66, C70 and C71 to the South Gippsland Planning Scheme:

*DLA Piper are requested to provide their preferred wording for Clause 21.04-5 to the Panel and Council by close of business on 13 September 2012. Council are requested to provide comments on the proposed changes to the Panel by COB 20 September 2012.*

*Council are to provide the Panel with any suggested revised wording to Clause 21.04-5 to address the approach to buffer issues around the Burra Foods site. By COB 20 September 2012.*

*In relation to the proposed DPO - Council will prepare a revised version of the DPOs split into two DPOs - DPO4 relating to the C52 site and DPO6 relating to the C66 site.*

*The revised versions should consider:*

- *The proposed response to the interface between the industrial land and the C66 land;*
- *Whether site coverage provisions in the Land Use and Subdivision section should also refer to impermeable surface coverage, and whether this provision should only apply to sloping land;*
- *The impact of the reference to the buffer around the bus depot (at the last paragraph of Section 2 - Conditions and requirements for permits - of the Council proposed DPO5) on the subdivision permit process for the Winterhalter land;*
- *The most appropriate approach to managing off-site infrastructure contributions given the comments made by submitters;*
- *Appropriate reference to proposed consultation with the community on components of the Development Plan; and*
- *Council's response to any other matters raised in submissions, or in the Hearing, that Council wishes to address.*

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*Council is requested to prepare the revised drafts of the DPOs and liaise directly with the representatives of the proponents in order to forward Councils preferred marked up versions to the Panel by COB 20 September 2012. Taylors and Beveridge Williams are requested to provide comments (on the proposed revised Council versions of the DPOs) along with there own marked up suggested changes (as required) to the Panel by COB on 21 September 2012.*

These further directions were complied with and the Panel received all further information requested.

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## 2 The Amendments

### 2.1 Details of the Amendments

The details of each of the Amendments are set out at the start of each Chapter relating to that Amendment.

### 2.2 The Panel's approach

The four Amendments need to be considered in an integrated manner. Whilst they deal with different land parcels, Amendments C71, C52 and C66 all implement the key policy objectives that Amendment C70 is proposing to implement.

As stated above, Amendment C70 proposes to introduce into the MSS, at Clause 21.04-5, new Korumburra Township planning provisions. The Panel considers that it is important that the strategic policy setting be considered first (Amendment C70) prior to the consideration of any proposed rezonings.

Amendment C70 proposes to define the retail core and the geographic extent of the Korumburra Town Centre. It provides policy direction regarding where new development should locate and has a key objective of revitalising the Korumburra Town Centre.

In addition, Amendment C70 proposes a new Framework Plan for Korumburra that identifies future urban and rural residential growth and, importantly, identifies new strategies and principles to guide land release and development within the Framework Plan.

Amendments C71, C52, and C66 propose to rezone land identified within the *Korumburra Framework Plan*. The matter for consideration by the Panel is whether these Amendments are consistent with the objectives of the State Planning Policy Framework, the MSS and the Local Planning Policy Framework, and finally Amendment C70.

To assist the Panel in its consideration of these matters, the Hearing Timetable was scheduled to hear submitters regarding Amendment C70 prior to hearing from submitters affected by the other three Amendments.

The Panel has structured this report to consider each of the Amendments separately. To provide the strategic justification for all four Amendments the report is structured to consider the overall Strategic Planning context first (Chapter 3) followed by Amendment C70 (Chapter 4), and then Amendments C71, C52, and C66.

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## 3 Strategic planning context

Council provided a response to the Strategic Assessment Guidelines as part of the Explanatory Reports for each Amendment.

The Panel has reviewed the overall policy context of the Amendments and made a brief appraisal of the relevant zone and overlay controls, and other relevant planning strategies.

### 3.1 Policy framework

#### (i) State Planning Policy Framework (SPPF)

Council submitted that Amendments C70, C71, C52 and C66 are supported by the objectives of the SPPF. Council provided a detailed analysis of the SPPF. The most relevant clauses are set out below.

#### Clause 11 – Settlement

The Amendment responds to *Clause 11 Settlement* by providing for sufficient land zoned and serviced (15 years) for residential, commercial, retail, industrial, recreational, institutional and other community uses. The Amendments propose a number of rezonings that would address the issue of residential, commercial and retail land supply within Korumburra. Consistent with Clause 11.02-3 Structure Planning, Amendment C70 provides '*effective planning and management of land use and development*' through the incorporation of the *Korumburra Structure Plan* into the South Gippsland Planning Scheme.

The objective of Clause 11.05-4 – Regional planning strategies and principles, is '*to develop regions and settlements which have a strong identity, are prosperous and are environmentally sustainable*'. The *Korumburra Structure Plan* provides the basis for further work that is looking to strengthen, develop and support the retail/commercial centre of Korumburra.

#### Clause 13 – Environmental Risk

Korumburra has a steep, undulating landscape that is known to be at risk of landslips and erosion. The requirements of the proposed DPOs for both C52 and C66 provide direction regarding how land with slope should be managed through the development process.

#### Clause 14 Agriculture

The Amendments respond to this clause by providing clear direction where residential development should be located. In doing so, it will protect the productive agricultural land that surrounds the Township of Korumburra. The Amendments provide the opportunity for efficient residential development that adjoins the existing Township.

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## **Clause 16 Housing**

Amendments C52 and C66 respond to this clause by encouraging a range of lot sizes, provision of infrastructure and open space, all connected through safe road and pedestrian networks within the identified growth areas.

## **Clause 17 Economic Development**

The key objective of this clause, relevant to this Amendment, is:

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

The intent of Amendment C70 meets the objectives of this clause. Amendment C70 and C71 promote and encourage new retail and commercial development to locate within the Town Centre Retail Core to strengthen and develop the town centre in order to contribute to the viability and sustainability of Korumburra.

## **Clause 18 Transport**

Amendments C52 and C66 respond to this clause by promoting cycle and pedestrian friendly subdivision design and ensuring new development provides for transport connectivity to existing Town Centre. The Korumburra Town Centre is located on the South Gippsland Highway, which has been considered in the development of the relevant planning provisions to implement the Korumburra Framework Plan and Korumburra Town Centre Framework Plan.

## **Clause 19 Infrastructure**

The Amendments have taken into consideration the need to plan for Korumburra's growth to ensure that both social and physical infrastructure has been planned *'in a way that is efficient, equitable, accessible and timely.'*

### **(ii) Local Planning Policy Framework (LPPF)**

Council submitted that Amendment C70 provides the opportunity to provide greater strategic direction within the LPPF for the future development of Korumburra. The Panel considers Amendments C70, C71, C52 and C66 are supported by the objectives of the LPPF. The most relevant clauses are set out below.

#### **Clause 21.03 Vision**

The *Korumburra Structure Plan* is consistent with the vision statements below:

- *Encourage investment and development to facilitate population growth and employment.*
- *Capitalise on the Shire's proximity to Melbourne.*

Amendment C70 introduces the *Korumburra Framework Plan* that identifies new residential, commercial and industrial opportunities. It also acknowledges that the town's proximity to



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Melbourne will continue to see a growing demand for residential land, which is being addressed by Amendments C52 and C66.

### **Clause 21.04-2 Economy**

The key policy objective within this clause can be found in *Element 3 – Processing and manufacturing* where it states the following objective:

- *To encourage the location of industries within existing industrial precincts.*

The *Korumburra Structure Plan* seeks to promote the existing industrial precincts for new industrial development.

Element 7 of this clause has the following objectives that are relevant, in particular to Amendment C70 and C71:

- *To strengthen existing town centres by encouraging commercial development within identified precincts.*
- *To support commercial development that enhances the amenity of the towns, and is safe and functional in its layout.*

The Amendments seek to identify the Town Centre for Korumburra and encourage new retail and office activities to locate in the Korumburra Town Centre Retail Core.

### **Clause 21.04-3 Settlement**

The Amendments seek to address the following objectives of this clause through the identification of new residential areas for Korumburra, as well as addressing housing diversity through the proposed development plan overlays:

- *To encourage diversity in housing types to meet the changing needs of the population.*
- *To promote new housing that provides for the retention and development of sustainable communities throughout the Shire.*
- *To encourage consolidated residential development adjacent to central activity districts of towns to achieve a more efficient use of urban infrastructure.*

## **3.2 Planning scheme provisions**

### **(i) Zones**

The proposed Amendments look to implement the Residential 1 Zone and the Business 1 Zone. Where relevant, the zones are discussed in more detail in this report.

### **(ii) Overlays**

Key overlay provisions for consideration by the Panel include the Development Plan Overlay (DPO) and whether the Environmental Significance Overlay (ESO) is still relevant.

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### **(iii) Particular provisions**

Clause 52.10 - *Uses with adverse amenity potential* - is discussed in section 4.4 of this report in relation to the need for adequate buffer provisions for existing industrial zones, in particular land that is currently used by Burra Foods for milk product manufacturing.

### **(iv) General provisions**

The Amendments are considered to be consistent with the general provisions within the south Gippsland Planning Scheme.

## **3.3 Other planning strategies**

The Amendments seek to implement key recommendations of the following strategies:

- *Korumburra Structure Plan* – July 2010; and
- Priority Development Panel Report – May 2010.

## **3.4 Ministerial Directions and Practice Notes**

The Panel has considered the Amendments in relation to the following Ministerial Directions, Guidelines and Practice Notes:

- Ministerial Direction No. 1 – Potentially Contaminated Land;
- Ministerial Direction No. 11 – Strategic Assessment of Amendments;
- Development Contributions Guidelines – Amended (2007); and
- Practice Note – ‘Applying the Incorporated Plan and Development Plan Overlays’.

Where relevant, these have been discussed in more detail in this report

## **3.5 Strategic Assessment**

The Panel considers that Amendments C70, C71, C52 and C66 are consistent with State and Local planning policy. In addition, the Panel considers the Council has undertaken a significant amount of strategic work and assessment to prepare these Amendments, and has also informed the Panel of the additional work Council is currently or about to undertake that will further strengthen the intent of Amendments C70, C71, C52 and C66.

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## 4 Amendment C70

### 4.1 Background

#### (i) Korumburra Structure Plan Process

The *Korumburra Structure Plan* (KSP) has taken Council considerable time to develop and has been subject to a number of reviews and extensive community input. This process commenced in 2007 when Council prepared Township structure plans for Korumburra, Leongatha and Foster.

Council formally adopted the Leongatha and Foster Township Structure plans in June 2008, however Council did not accept the officer recommendations in relation to the former Korumburra Saleyards site and consequently did not adopt the KSP at this time.

As part of the consultation process, the owners of the Saleyards site in Korumburra were pursuing the possibility of the KSP identifying this site for the use and development of a full line supermarket. Council officers considered this site more suitable for industrial use and bulky goods retailing due to the site's highway frontage and location on the edge of the Korumburra Township. The officers were concerned that the location of a full line supermarket on the Saleyards Site would *'fragment the Town Centre and undermine its economic viability'* (this will be discussed in more detail in Section 4.3 below).

In addition, the initial KSP also included a bypass route around the southern boundary of the Township, which became a very contentious issue within the community.

On 1 October 2008 the Council adopted an amended version of the KSP that supported retail development at the Saleyards site and also included the indicative by-pass route. At the time this structure plan was being prepared Council received a request for a planning scheme amendment to rezone the Saleyards site from its current zoning to a Business 1 Zone and introduce a Development Plan Overlay to facilitate the development of a supermarket based shopping centre, consistent with the adopted *Korumburra Structure Plan*. Council resolved on 21 January 2009 to seek authorisation to prepare the requested planning scheme amendment, however the Minister for Planning refused the request in April 2009. The refusal was based on concerns that the proposed rezoning would have a detrimental impact on the viability of the existing Town Centre.

The Minister, however, did recommend that Council seek advice/assistance from the Priority Development Panel (PDP). The Council took up this opportunity and a PDP was appointed. The PDP prepared a report that reviewed all the existing information and undertook consultation with key stakeholders. Council's submission to the Panel has summarised the PDP recommendations as follows:

- *That Council undertake a detailed Town Centre Framework Plan to improve the function and retail offer of the Town Centre. The Framework Plan should investigate the provision of a full line supermarket in the established Town Centre Area.*
- *The Saleyards be rezoned Industrial 3 in combination with a Design and Development Overlay.*

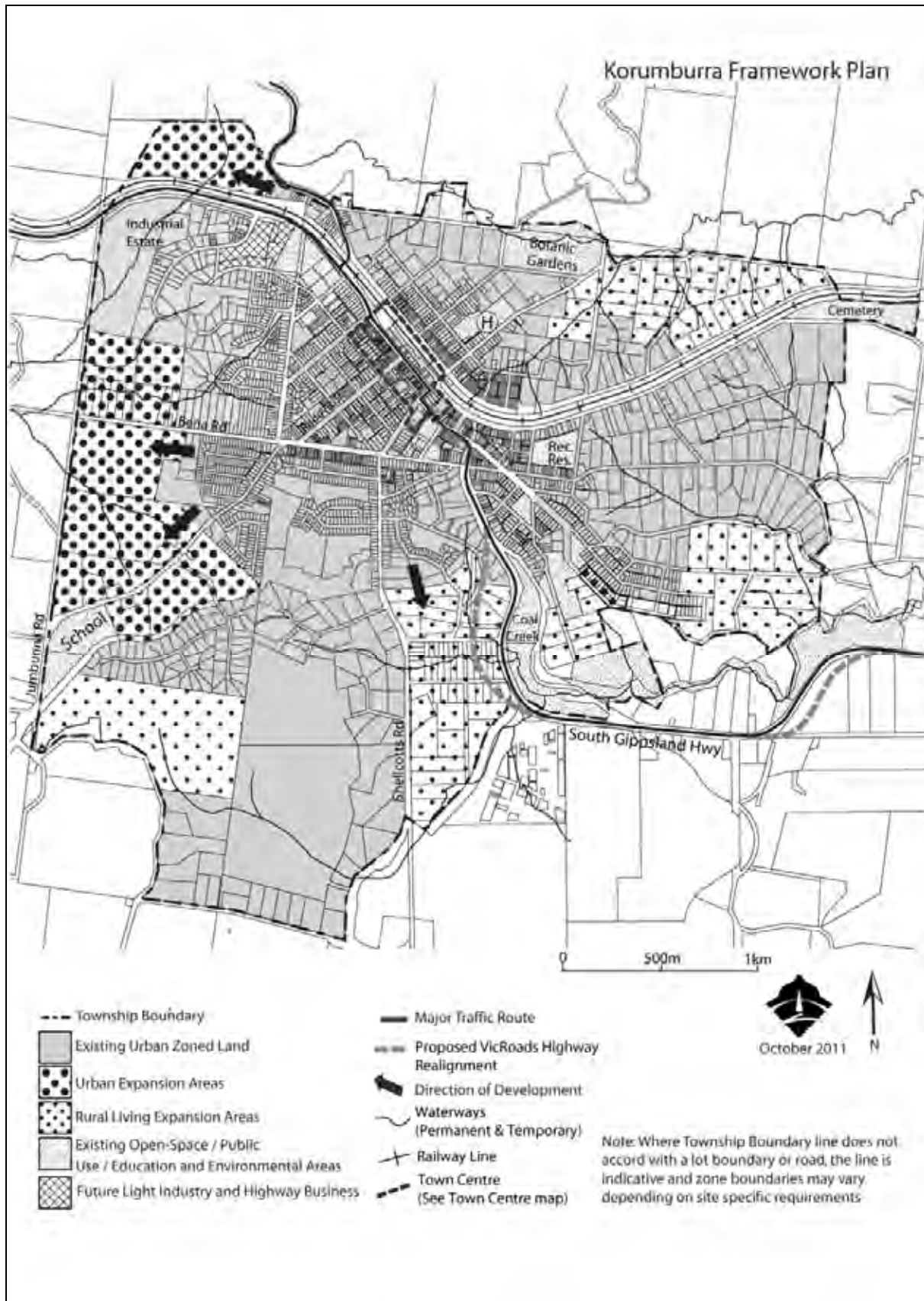
- 
- *The bypass route be removed from the Structure Plan map, however, retain reference in the KSP to the long-term desirability of a bypass.*

It should be noted that these are a summary of the key recommendations relevant to the KSP. A number of other recommendations were made by the PDP.

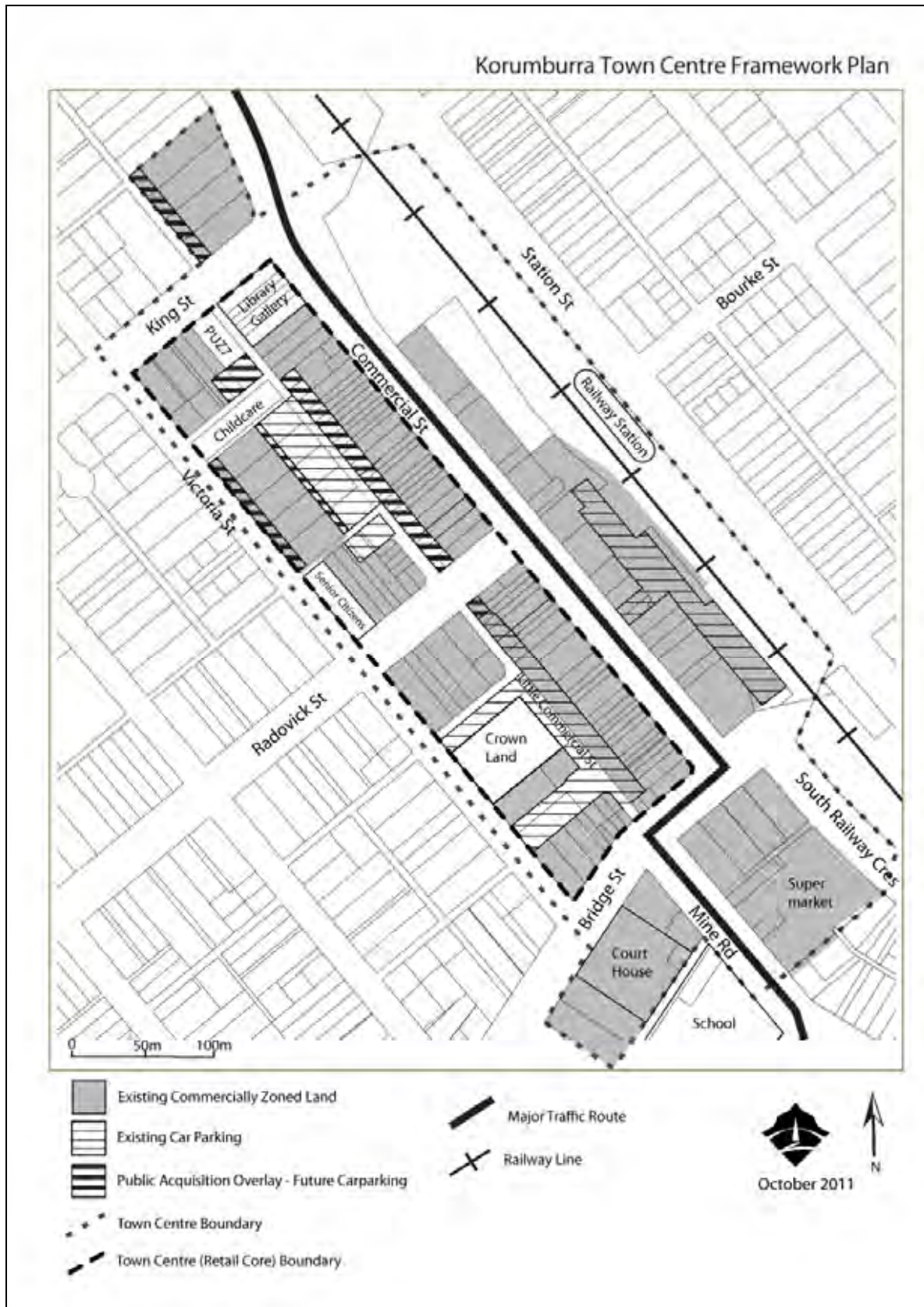
Following receipt of the PDP report, Council and DPCD held discussions regarding how best to implement the full suite of recommendations identified in the PDP report and the appropriate timing for completion of this work. At the time, Council was unsure of its ability to commit to the funding within its own budgetary constraints.

Whilst this matter was being resolved between DPCD and Council, DPCD authorised a request to rezone the Saleyards site to Industrial 3 Zone in combination with a Design and Development Overlay. This was authorised as Amendment C60, went through normal planning processes and was approved on 15 December 2011.

Discussion continued between DPCD and Council for some time until it was agreed that DPCD would authorise a planning scheme amendment to implement the KSP into the South Gippsland Planning Scheme provided Council retained a commitment to fulfil the balance of the PDP's recommendations. This commitment resulted in the preparation of Amendment C70 that details the most recent version of the *Korumburra Structure Plan* (July 2010). It includes the *Korumburra Framework Plan* and the *Korumburra Town Centre Framework Plan* detailed in Figures 1 and 2 respectively.



**Figure 1** Korumburra Framework Plan as exhibited



**Figure 2 Korumburra Town Centre Framework Plan**

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At the Panel Hearing Council informed the Panel of the various other studies that are currently underway, or about to commence. These studies are the result of Council's commitment to the implementation of the PDP recommendations and are summarised as follows:

### **Korumburra Town Centre Framework Plan (TCFP)**

Council has secured funding to undertake the TCFP and it is scheduled to be completed by mid 2013. The intent of this piece of work is to address key parts of the PDP recommendations that are not already included in both Amendment C70 and C71. The purpose of the TCFP is to:

- Enable improvements to the South Gippsland Highway in and around the town centre;
- Facilitate a large site for retail development;
- Facilitate a community hub offering for the area; and
- Reduce economic leakage outside of the town and district.

### **Korumburra Central Project (KCP)**

The Objective of the KCP is to *'Improve the retail experience in Korumburra and encourage development of a new major supermarket'*. Council has already commenced this project. It has commenced an Expression of Interest process for the land subject to Amendment C71 in order to test the level of interest by developers in the site for a retail development. This process is continuing whilst the Panel considers both Amendment C70 and C71.

### **Korumburra Social and Community Infrastructure Plan**

Council has recently appointed a Social Planning Officer to implement this project. The purpose of this project is *'To identify the social and service needs of the Korumburra community for the next 20 years based on the expected population growth'*. The Panel was informed that a discussion paper for the project is currently being prepared for public consultation and that the findings of this project will inform Council's development contributions planning.

At the same time as undertaking the Korumburra Social and Community Infrastructure Plan, Council is in the process of planning for an integrated childcare hub, incorporating childcare, kindergarten, child health and early intervention services. The childcare hub is to be located on Mair Street, Korumburra near the Primary School and Council is currently seeking funding for the project.

### **Korumburra Traffic and Drainage Study**

Council is undertaking traffic and drainage studies for the Council's main growth areas – Leongatha, Korumburra and Nyora. Council informed the Panel that the *project is required in recognition that the anticipated growth of the three townships is going to have traffic and drainage implications that spread beyond the footprint of new developments*.

Further, Council will use this project to assist in preparation of development contribution plans for new development areas within Korumburra. Council considers the findings of this study will inform and input into the Development Plans that will be required to be prepared

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for land affected by Amendments C52 and C66. This will be discussed in more detail in Chapters 6 and 7 of this report.

## **(ii) Korumburra Framework Plan Proposal**

Amendment C70 proposes to replace existing provisions within the South Gippsland Planning Scheme with a new Clause 21.04-5. The existing provisions are considered dated, and do not provide sufficient direction and clarity regarding the future planning of Korumburra.

Council submitted that the proposed new Clause 21.04-5 provides greater clarity regarding the objectives of the KSP in order to address key planning issues facing the town. In addition, the new provisions also introduce new strategies that build on the principles and overall objectives of the KSP and are considered to be consistent with the SPPF.

At the Hearing, Council advised the Panel of the following map corrections:

- The undeveloped 420 sqm land parcel in Little Commercial Street (Lot 1 PS321369) adjoining the south east boundary of the Kindergarten site is affected by the Public Acquisition Overlay (PAO). The exhibited '*Korumburra Town Centre Framework Plan*' did not identify this land as being affected by a PAO. The landowner has been informed of the error and Council intends to rectify this in a revised map.
- Some areas of PAO that are already owned by Council, and currently used for car parking, have been mapped as '*Existing Car Parking*' without identification of the redundant PAO. Council intends to remove the redundant PAO's in the near future.

## **4.2 Issues raised in submissions**

The key issues raised in the submissions of the various parties are briefly summarised as follows:

Council made the following submissions regarding Amendment C70:

- The Amendment is based on a significant amount of strategic work undertaken by Council and the PDP;
- The defined Town Centre boundary is based on work undertaken to-date, and Council also informed the Panel of various other studies underway or about to commence that will add to the existing strategic work;
- The Amendment provides clear direction regarding future development within the Korumburra Town Centre;
- The Amendment responds to the existing and projected demand for more residentially zoned land;
- The Amendment clearly defines the new growth areas for residential, commercial and industrial development within Korumburra;
- The potential impact of the proposed zone reforms; and
- Need for map correction.

Submitters raised the following issues regarding Amendment C70:

- Definition of Town Centre boundary and retail core;
- Buffers to existing industrial uses;



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- The loss of farming land;
  - Sequencing of development;
  - Provision of services and infrastructure; and
  - Economic viability of the Town.

### 4.3 Definition of the town centre and core retail area

#### (i) Submissions

Ms Tompkins, on behalf of her client Mr Lorenz (Submission 8), informed that Panel that, whilst they were generally supportive of the overall intent of both Amendment C70 and C71, they have the following concerns:

- The impact the Amendments will have on existing retail (including Supermarket) within the Korumburra Town Centre;
- The location and extent of the proposed 'Retail Core'; and
- The impact on provision and location of community services/facilities within Korumburra.

Ms Tompkins' client owns the existing IGA supermarket that is located on the south-eastern end of the Business 1 Zone (B1Z) but has not been included within the proposed Town Centre Retail Core. Ms Tompkins submitted that the proposed new provisions within the MSS '*discourage the development of any retail or commercial use outside of the Town Centre Retail Core*'. The Town Centre Retail Core is identified in Amendment C70 as being the blocks bounded by Commercial Street, King Street, Victoria Street and Bridge Street (refer Figure 2).

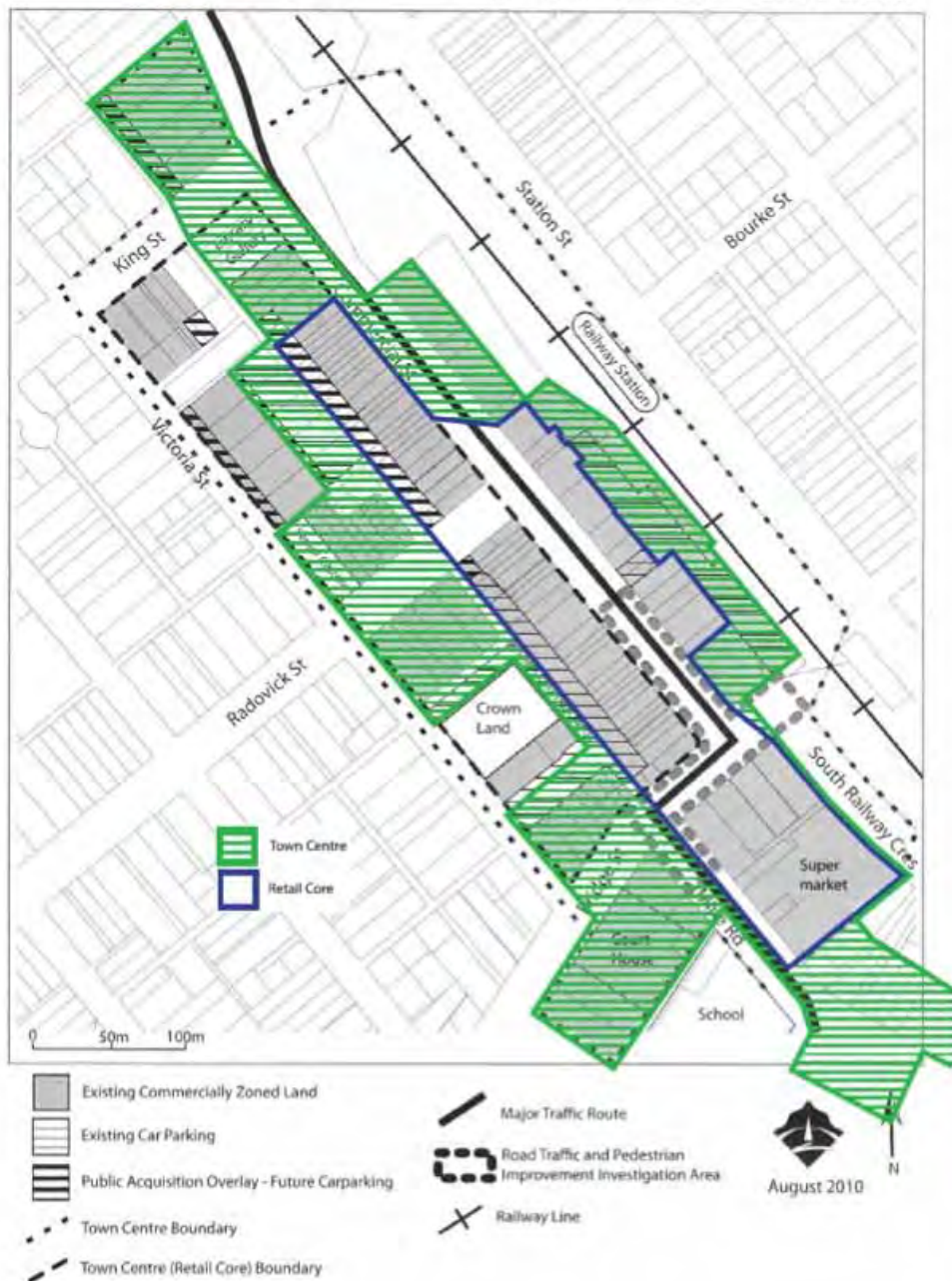
Ms Tompkins further submitted that being located outside the Town Centre Retail Core (yet in the B1Z), coupled with the new provisions in the MSS, would mean that her client and many other existing businesses would be faced with the prospect that '*any future expansion or development...will be challenging if not impossible from a planning approvals perspective*'. The impact of this is considered contrary to the objective within the *Korumburra Structure Plan* to improve the retail offer in Korumburra.

Mr Angus Witherby was called by Ms Tompkins to provide expert evidence regarding whether there was a need for additional business zoning in Korumburra and whether there is a need for a major supermarket on land identified as 155-156 Commercial Street, Korumburra (Amendment C71 land).

Mr Witherby noted in his evidence that Korumburra retail centre functions can be defined as a neighbourhood centre. Korumburra functions as a typical 'Main Street' town centre with South Gippsland Highway running through the town centre creating an elongated centre. Mr Witherby submitted that based on retail census data the town can be logically divided into two areas – retail core and supporting commercial areas.

The proposed Korumburra Town Centre Framework Plan does provide for this division, however Mr Witherby submitted that based on his fieldwork and an assessment of the current town centre he recommends that the core retail area and town centre boundary would be more appropriately delineated as shown below in Figure 3.

Korumburra Town Centre Framework Plan



**Figure 3** Mr Witherby's proposed revised retail core and town centre boundary.

Figure 3 has included the existing IGA supermarket site within the Town Centre Retail Core, as well as some land north of the South Gippsland Highway, however it has reduced the length of the Town Centre Retail Core.

In his evidence, Mr Witherby stated:

*Normally, the retail core would not have extended south of Bridge Street. This extension has been undertaken specifically to include the existing supermarket as functionally it operates as part of the retail core, although somewhat detached from the main retail 'strip'. In this regard I would describe the current supermarket as an 'edge of centre' development.*

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Mr Witherby noted that the current site of the existing supermarket is not desirable from a town centre perspective. This led Mr Witherby to discuss whether the land identified in Amendment C71 is a suitable site for a supermarket. In his evidence, Mr Witherby noted that the most suitable location for a future supermarket site would ideally be located south of the South Gippsland Highway between Radwick and Bridge Streets and that Council's site (Amendment C71) has similar issues to the current IGA supermarket. That is, it is located at the edge of the town centre and could potentially lead to the centre splitting into two instead of creating a more coherent, compact and viable town centre.

Representatives of Mr Lorenz informed the Panel that Mr Lorenz would prefer to relocate to a more centralised and larger site, however it was not economically viable based on existing land prices and construction costs.

Mr Witherby submitted in his evidence that, based on current trade data, it appears there is only room for one large supermarket in Korumburra and subsequently the rezoning proposed by Amendment C71 is not justified. Further, there is insufficient justification for additional B1Z land within Korumburra and he referred to the rezoning as a 'spot zoning'.

In relation to the proposed new provisions of Clause 21.04-5 Mr Witherby suggested the following amendments (additions shown in underline, deletions shown in ~~Strikethrough~~).

#### *Strategies*

*Actively encourage major retail, office and community developments to concentrate in the core of the Town Centre, ~~comprising the blocks bounded by Commercial Street, King Street, Victoria Street and Bridge Street~~ as shown on the town centre framework plan.*

*Strongly discourage the development of retail uses outside or on the periphery of the Town Centre where such uses may weaken the principal role of the Town Centre.*

Council submitted that the Amendment provisions are based on sound strategic planning principles and have been developed through an extensive community consultation process. Further, the 'Town Centre Framework Plan map, Objectives and Strategies clearly demonstrate Council's commitment to improving the overall function of the Town Centre'.

In addition, Council submitted that Amendment C70 implements the key recommendations of the PDP. The identification of the 'Retail Core' is to ensure new commercial/retail development contributes to the economic viability of the town centre, its function and appearance, and proposed pedestrian connectivity within the Town Centre. However Council did indicate that the intent of the new provisions at clause 21.04-5 are not intended to limit/preclude existing businesses in the Town Centre from further redevelopment/expansion and would be comfortable with the policy being refined to ensure this intent is clear.

Following the Panel Hearing, Council provided the Panel with a marked up version of Clause 21.04-5 and provided explanatory comment regarding the changes. The Council was supportive of making this change in order to remove the 'potential uncertainty regarding Council's support of the Current IGA supermarket operation and its potential future expansion.'

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Council did not, however, agree with Mr Witherby regarding his proposed changes to the Town Centre Retail Core, on the grounds that they consider the recommendations of the PDP to be *'sound and should be fully replicated in the Clause 21.04-5 provisions'*. The Council informed the Panel that the PDP had recommended a two stage process in which the *Town Centre Framework Plan* is based on the information/evidence collected to date. As detailed in Section 4.1 of the report a significant amount of further work is still required to build on this framework plan.

In terms of adequate B1Z land, Council submitted that the *Korumburra Structure Plan 2010* identifies that by 2026 the increased population will create demand for additional land for retail/commercial facilities. At page 13 the report states:

*The economic analysis indicated that Korumburra will require an additional 1,900sqm of retail floor space for the period 2006 to 2011 and a further 1,700sqm in order to meet its floor space requirements for 2011 through 2021. Taking into consideration associated car parking demand for this additional retail area, a total of some 8,000sqm will be required by 2021....*

It is considered by Council that Amendment C71 facilitates the provision of suitable land within the Town Centre for retail/commercial and associated uses.

Council submitted that it considers the B1Z to be the most suitable zone for this land given its current community use (which is supported in the B1Z) whilst providing flexibility for the site to be redeveloped in the future. It is noted that the site is currently surrounded by B1Z land. This matter will be discussed in more detail in Section 5 of this report.

Council also addressed the proposed new zone provisions currently being considered by the State Government and this is discussed in Section 4.9 of this report.

## **(ii) Discussion**

The *Korumburra Town Centre Framework Plan* has been developed over a significant period of time and is based on the recommendations of the PDP.

The Panel notes the comments made regarding the identification of the Town Centre and the Town Centre Retail Core. The Panel is not convinced that the Town Centre Retail Core needs to be amended to include the existing IGA Supermarket site. In fact the Panel considers this to be a poor planning outcome and would further entrench an already less than desirable outcome.

The Panel accepts the view by Mr Witherby that there may be an opportunity to include the land located to the north of the South Gippsland Highway within the Town Centre Retail Core. However the Panel agrees with Council that this should only be considered for inclusion following completion of the Town Centre Framework Plan that is due in mid 2013. The Town Centre Framework Plan will, amongst other things, be making recommendations regarding improvements to the South Gippsland Highway in and around the Town Centre. This will provide the opportunity to further investigate the potential to extend the Town Centre Retail core to the northern side of the South Gippsland Highway.

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The Panel supports the proposed changes to Clause 21.04-5 to ensure existing businesses can continue to operate and expand at their current locations, whilst encouraging new businesses to locate within the Town Centre Retail Core.

In relation to C71, the Panel notes that the site is located in the Town Centre Framework Plan, and is surrounded by B1Z land. The Panel has not been convinced that the rezoning will be detrimental to the development of the Town Centre. The Panel accepts Council's position that the B1Z will allow the existing uses to continue and potentially expand on the subject site. Further, the proposed rezoning strengthens the sites location within the Town Centre Retail Core. This matter will be discussed in more detail in Section 5 of this report.

### **(iii) Conclusion**

The Panel concludes that:

- The Korumburra Town Centre Framework Plan should be adopted as exhibited, on the basis that it is consistent with the recommendations of the Priority Development Panel and it is noted that further studies are still to be completed;
- Clause 21.04-5 should be amended as suggested by Council to provide clarity that existing businesses can continue to operate and even expand at their existing locations, however new retail/commercial business will be encouraged to establish in the Town Centre Retail Core; and
- Amendment C71 will not be detrimental to implementation of the Korumburra Town Centre Structure Plan.

## **4.4 Buffers to existing Burra Foods Site**

### **(i) Submissions**

Burra Foods Pty Ltd (Submission 6) is a well-established dairy manufacturing business, and the largest employer in the Township of Korumburra. It is located at 147 Station Street Korumburra and is currently zoned Industrial 1 (IN1Z). Burra Foods, represented by Mr Crothers, raised concerns regarding the identification of land immediately to the east of its site for 'Future Urban Residential' as identified in the *Korumburra Framework Plan*. The key issue raised in Mr Crothers' submission is that if the land to the east is rezoned to Residential 1 Zone (R1Z), facilitating intensification of sensitive uses in close proximity to their operations it will escalate amenity issues and community inconvenience. It will also be difficult to control sensitive uses, as a dwelling is an as-of-right use within the R1Z, limiting the opportunity to control the built form.

Mr Crothers informed the Panel that even when meeting the EPA licence requirements, issues such as odour cannot be constrained to the point where off-site impacts are completely excluded. This was referred to in the submission from Gonwil Jega Pty Ltd (Submission 11 to Amendment C66) who were concerned with the offensive odour discharge from the Burra Foods site, and submit that, although the frequency of this occurring is reducing, they believe it will never be stopped/reduced completely and that new residents should be informed of this when purchasing land.

Mr Crothers submitted that there should be a buffer between Burra Foods operations and any land proposed for more intense residential development. Mr Crothers would like the

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existing zone controls, Low Density Residential (LDRZ), to remain in place on land immediately to its east in order to form a buffer to any future R1Z land.

Submitters A & C Ball (Submission 7) also raised concerns regarding existing operation of the Burra Foods factory, including odour, noise and traffic movements. They consider any rezoning of sensitive uses on land adjoining the Burra Foods site should consider the amenity impacts of Burra Foods operations.

In response to buffer concerns raised by Burra Foods, Council proposed the inclusion of a new strategy into Clause 21.04-5. This new strategy was circulated to adjoining owners and occupiers of the LDRZ and FZ land surrounding the Burra Foods sites. It received one submission from Mr and Mrs O'Neill (Submission 4). The new strategy as detailed below was adopted at the 23 May 2012 Ordinary Council meeting:

*Consider the potential adverse amenity impacts of the milk manufacturing operations in the Station Street Industrial Area on rezoning proposals that allow, or intensify, the establishment of sensitive land uses in the immediate area (minimum 300m radius) surrounding the manufacturing operations.*

In response to Council's proposed changes, Burra Foods advised they did not consider the changes were strong enough, in particular they wanted the word 'immediate' removed as well as the minimum 300m radius. Burra Foods wants to ensure their business is protected from any future residential development that would result from a rezoning of land in close proximity to their operations to the R1Z.

MGH Planning and Development submitted, on behalf of Mr and Mrs O'Neill, that given their land is located over 300 metres from the Burra Foods car park, it should not be impacted by the proposed amended provisions of Clause 21.04-5, which include a new strategy to deal with interface issues with the Burra Foods operations.

Further MGH Planning and Development suggested the term '*land adjoining the factory*' should be defined in more detail to avoid confusion and misinterpretation.

In its submission to the Hearing, Council informed the Panel that it considered the proposed new strategy is justified and will assist Council when considering any rezoning proposals relating to the LDRZ or FZ land surrounding the Burra Foods site. In developing the strategy, Council considered what would be the most appropriate mechanism to use and considered the 300m buffer prescribed at Clause 52.10 – '*Uses with adverse amenity potential*' would be appropriate. Reference was also given the EPA Publication '*Recommended buffer distances for industrial residual air emissions – July 1990*' in relation to using Clause 52.10 as a preferred amenity buffer. The publication states that:

*It is necessary to consider the effect that the surroundings will have on the proposed development as well as the effect that the new proposal will have on its surrounds.*

Following the Panel Hearing, Council provided further advice to the Panel stating that it considers it appropriate to remove the reference to the 300m radius from the new Burra Food Strategy on the basis that '*52.10 provisions are intended for use in relation to the impact of proposed new amenity impacting uses on sensitive land uses and not the reverse*'.

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Council submitted that the Burra Foods and the Station Street area should be identified as an industrial precinct, however the exhibited Framework Plan map does not identify the Station Street industrial area as an industrial precinct, but in fact includes it within the generic '*Existing Urban Zoned Land*' annotation. The Council supports the existing two industrial areas in Korumburra being identified as industrial precincts in the Framework Plan map.

Council has also included a new '*Action for implementation*' in Clause 21.04-5 that identifies the need for a more detailed planning policy to deal with the long-term management of the interface with Burra Foods factory. This would need to go through a consultative process with the community.

## **(ii) Discussion**

The Panel accepts that the proposed changes to Clause 21.04-5 which introduce a new strategy to address interface issues with the Burra Foods site as well as the inclusion of an '*Action for implementation*' are adequate. However the Panel agrees with MGH that a more defined definition regarding the land that is affected by the strategy and Action Plan is required. The Panel considers that by undertaking the Action Plan, it will assist in defining the area/s that may impact on the operations of the Burra Foods factory and will determine the most suitable future zoning for this land.

The Panel considers the identification and inclusion of the two existing industrial areas on the *Korumburra Framework Plan* addresses an oversight of the exhibited Framework Map. The identification of these industrial sites will inform future planning of surrounding areas, particularly if they are proposed to be developed for a sensitive use.

## **(iii) Conclusions**

The Panel concludes that:

- Clause 21.04-5 should be amended to include the Burra Food Strategy without reference to the 300m radius and the new *Action of Implementation* as proposed by Council.
- The Framework Plan map and the Map Key are updated to identify '*Existing industrial zoned land*' and remove the current words '*industrial estate*'.

## **4.5 Buffers to existing industrial land**

### **(i) Evidence and submissions**

The *Korumburra Framework Plan* identifies land surrounding the existing Industrial Estate to the north-east of the Township, as future Urban Expansion Areas. Amendment C66 (refer Section 7 of this report), proposes to rezone land to the south of the existing Industrial estate to the Residential 1 Zone (R1Z).

The EPA (Submission 1) noted that the land which forms part of Amendment C66 would allow for residential houses to be established sharing a boundary with existing Industrial 1 and Industrial 3 zoned land. The EPA would like to see a buffer area located between any residential area and the Industrial 1 Zoned land.

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Mr Pippo of Taylors representing Rossi Group Pty Ltd, Frank Cerri, George Tumino and Others (Submission 12 to C66) raised concerns with the initial DPO proposed for Amendment C66 that required:

*An interface management plan is to be produced which specifies a design response and specific building and lot controls, where required, section 173 Controls to address amenity concerns related to noise, odour, vibration and lighting arising from legally occurring industrial activities within the Industrial 1 and Industrial 3 Zones.*

At the Panel hearing there was considerable discussion regarding the proposed DPO's. Following the Hearing the Panel directed that Council prepare a revised version of the DPO's and that it address 'the proposed response to the interface between the industrial land and the C66 land'.

Council submitted that the proposed DPO5 adopted by Council at a Special Council Meeting on the 29 August 2012 would provide adequate consideration of interface treatments to adjoining industrial zoned land. The provisions require the Responsible Authority to consider as appropriate:

*The interface between proposed and existing nearby developments, to reduce the chance of conflicting developments, especially in relation to the industrial zoned land north of Bena Road.*

Further Council informed the Panel that the land located in the south of the Industrial Estate that would be adjoining the land identified for future urban expansion, is highly constrained land, with significant slope and waterways limiting future development potential of the site. This area does however have an approved Development Plan (5 December 2011) for a 13-stage development incorporating 44 industrial lots.

Following circulation of the revised DPO, Mr Pippo did not raise any concerns with the amended DPO provisions relating to interface issues between the C66 land and the adjoining Industrial zoned land to the north.

## **(ii) Discussion**

The Panel notes that all parties were supportive of the need to have suitable controls included within the proposed DPO to manage interface issues between land identified for future urban expansion and land already zoned Industrial 1. The issue before the Panel therefore is the consideration of suitable words in the DPO to manage the interface with existing industrial zoned land. This is discussed in Chapter 7.

## **(iii) Conclusions**

The Panel concludes that:

- The interface between existing industrial land and adjoining residentially zoned land can be adequately dealt with via a DPO on the adjoining land.



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## 4.6 Residential land supply and demand

### (i) Evidence and submissions

A significant number of submitters including Mr and Mrs Osboldstone (Submission 19 to Amendment C52), Gonwil Jega Pty Ltd and Ms Elizabeth Fowles (Submission 18 to Amendment C52) indicated that whilst they supported the need for more residential land to support growth in Korumburra, they were either concerned with, or opposed, the type of residential development that could occur. In general they are concerned that Korumburra is known and liked for its rural setting and they do not want residential development at densities consistent with suburbs in Melbourne.

A number of submitters, including Mr Chisholm (Submission 28 to C52) and Mr Pippo, referred to the work undertaken by Essential Economics titled *'South Gippsland Township Study – Economic Assessment of Future Requirements for Residential, Industrial, and Commercial Zoned Land'* when discussing the supply and demand for residential land in Korumburra.

This work identified that by 2016 (14 years from date of report) an additional 33 hectares of Residential 1 zoned land will be required to meet residential demand and a further 12 hectares is required to satisfy Low Density Residential demand.

Council has undertaken a review of take up of lots since 2007 there are only 179 vacant residential lots remaining in Korumburra and of these 80 have already been sold, leaving a total of 99 residential lots. Council also informed the Panel that over the last 10 years the average number of new dwellings being built in Korumburra per year is 40.

Council informed the Panel that it engaged Forecast ID to analyse the 2011 Census data at a Township level. Korumburra has a current population of 4,333 persons. Forecast ID has estimated that Korumburra will have a population of 6,628 by 2031. That is a growth of 2,295 persons equating to 120 people per year and an average growth rate of 2.5%. At an average household size of 2.4 persons per dwelling this equates to approximately 50 new dwellings per year.

As stated by Mr Pippo (Submission 12 to C66), based on the work undertaken by Essential Economics and Forecast ID: *'Korumburra has experienced a population surge since 2006, increasing beyond that previously projected and anticipated rates of growth'*.

If you apply an average of 10 dwellings per hectare, the demand for residential land supply is approximately 5 hectares per year.

Further, Mr Pippo identifies that based on the take up rates projected, current zoned residential land supply will be depleted within the next 5-7 years. Given it takes at least 2 years to get a development stage released following rezoning, it is evident that Korumburra is experiencing a significant shortage of residential land.

Based on this information, Mr Pippo summarised the situation in his presentation to the Panel as follows: *'put simply, demand has outgrown supply, thereby placing greater importance on this rezoning to facilitate future growth as envisaged by the Responsible Authority.'*

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The implementation of the *Korumburra Structure Plan* through Amendments C52 and C66 would see a total of 92 hectares rezoned for residential purposes, which based on growth scenarios suggested by both Essential Economics and Forecast ID equates to approximately 20 to 25 years supply of land zoned for residential purposes.

The SPPF at Clause 11.02-1 requires Councils to plan for at least a 15-year supply on a municipal basis. Council however submitted that the amount of land proposed to be rezoned is not excessive given the site constraints for each site that include, but are not limited to, geographic constraints including slope, waterways, giant earthworm habitat, setbacks/buffers to surrounding uses as well as the requirement for the provision of open space within any proposed development.

## **(ii) Discussion**

The Panel considers that the work done by Essential Economics and Forecast ID in preparing the basis of Amendment C70 clearly demonstrates the need for additional land to be rezoned for residential purposes within the Korumburra Township. In addition, the Panel considers that whilst the amount of land considered for rezoning through Amendments C52 and C66 is significant, it will not be detrimental in terms of creating an oversupply of available land and thereby distorting the residential land market in Korumburra.

The Panel notes that the need for supply of residential land was not contested by submitters.

The Panel understands the concerns raised by a number of submitters regarding the type and density of development that may occur within the R1Z. However, based on the proposed DPOs for Amendments C52 and C66 (discussed in Chapters 6 & 7), the Panel considers that this has largely been addressed through the mechanisms put in place to manage the interface with the adjoining low density residential developments.

The Panel accepts the position of Council that it is unlikely that both C52 and C66 will have significant area of land available for residential development at the same time. The two Amendments have significant matters to be resolved as part of the Development Plan process and this will lead to land being released in a staged manner.

## **(iii) Conclusions**

The Panel Concludes:

- Amendment C70 provides strategic justification for the consideration of a significant amount of land to be rezoned for residential purposes;
- Amendment C70 provides clear direction regarding the matters that need to be considered and addressed prior to any land being developed for residential purposes; and
- The implementation of Amendment C70 through Amendments C52 and C66 addresses interface issues with the adjoining LDRZ land through the application of DPOs.

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## 4.7 Loss of farming land

### (i) Evidence and submissions

A number of submitters including Terence Steele and Linda Marshall (Submission 15, C52) submitted that land identified in the *Korumburra Structure Plan* identified as future Urban Expansion Areas, and forming part of either Amendment C52 and C66 has been extensively farmed over an extended period of time and rezoning the land for residential use would not be in keeping with the rural open character of the area.

Gonwil Jega Pty Ltd raised concerns that Council needs to protect its excellent agricultural land, which is a viable resource for the community.

Mr Pippo submitted that section 3.6.1 of the draft South Gippsland Shire Rural Land Use Strategy identifies *'Korumburra is part of an area that is characterised by steep slopes and land of very low to moderate agricultural quality.'* Therefore the rezoning of this land for residential purposes will protect more viable agricultural land from residential development.

Mr Chisholm of Beveridge Williams submitted on behalf of Mr A Winterhalter and Kufner Textiles (Australia) P/L that Amendment C 70 *'represents an appropriate and responsible expansion of the Korumburra residential area. It does not leap frog other parcels of land and allows for the integrated provision of services.'*

Council submitted that, in planning for the future development of the Korumburra Township, it has had to balance a number of competing objectives. Council considers that land identified for future Urban Expansion Areas is the best land for residential development, given Korumburra has limited residential development expansion opportunities.

### (ii) Discussion

The Panels accepts the concerns raised by submitters regarding the loss of farming land. In particular the Panel is mindful the in rural townships it is important to contain growth to ensure it does not impact on valuable agricultural land, which local economies rely on.

However, the Panel agrees with Council that, given the constraints of the Korumburra Township, the land identified in Amendment C70 is the most suitable land to accommodate future residential development. The Panel notes the land adjoins the existing urban boundary, can be readily serviced, and given the topography of Korumburra, is considered the most suitable land for residential development.

### (iii) Conclusions

The Panel concludes that:

- Land identified as Urban Expansion Areas within the Korumburra Framework Plan is suitable for residential development and minimises the impact of residential development on viable agricultural land.

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## 4.8 Sequencing of development

### (i) Evidence and submissions

The relevant servicing authorities were all notified, with the EPA, DSE and SGW making submissions that they had no objection to the Amendment.

Council submitted that land in Amendment C70, in particular land affected by Amendment C52 and C66, can be serviced by sewer and potable water, and that any infrastructure upgrades required will be the responsibility of the developer.

Council submitted that, whilst the *Korumburra Structure Plan* did not specify exact parcels of land and their timing for development, it does state on page 10:

*Ensure that the staging of future residential subdivision proceeds in an efficient and logical manner. Rezoning and subdivision proposals have regard to the location and relative proximity to, and linkages with, the Town Centre and its capacity to integrated with existing services, facilities and established residential areas, road infrastructure services, pedestrian and cycle access ways.*

### (ii) Discussion

The Panel accepts that the land can be developed in a sequential manner. It does however note that issues pertaining to staging and required infrastructure upgrades, in particular roads and transport connections, will be identified and resolved at the development planning stage of the planning process.

### (iii) Conclusion

The Panel concludes that:

- Land identified in the *Korumburra Structure Plan* can be developed in a sequential manner through the application of appropriate controls.

## 4.9 Impact of proposed zone reforms

### (i) Evidence and submissions

At the Directions Hearing the Panel requested Council to advise of any implications the proposed State Government Zone Reforms could have on the Amendments before it.

In relation to the proposed residential zones, Council submitted that it considers the impact of the proposed changes to be neutral. Council suggested that in their current form the proposed General Residential Zone would be suitable for the Amendments C52 and C66 as it closely reflects the existing Residential 1 Zone. The Council commented that *'further consideration of this matter will be required when the new zones are finalised and the transition provisions are known.'*

Council submitted that whilst the proposed new zoning provisions do not impact directly on Amendment C70, the broader implications and therefore effect on the Korumburra Town Centre are concerning. The key concern for Council is the impact these proposed zone reforms will have on the Saleyards site. As stated earlier in this report, there was

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considerable discussion regarding whether the former Saleyards site should be developed for retail purposes.

The PDP recommended that the Council amend the *Korumburra Structure Plan* map to identify the former Saleyards for 'Future light industry and Highway business'. The PDP further stated that any future development of the Saleyards site should respect '*the primacy of the Town Centre through excluding most retailing and office functions*'.

In response, Council exhibited Amendment C60 that proposed to rezone the former saleyards site to the Industrial 3 Zone (IN3Z) to ensure the site could not be developed for a supermarket. The amendment went through the normal amendment process and was approved on 15 December 2011.

The current proposed changes to the IN3Z would allow some retail to occur on the former Saleyards site. Council submits that this would undermine the intent of Amendment C70, and would be detrimental to the work Council has undertaken to transform the Korumburra Town Centre into a viable, active and compact retail centre.

The proposed changes to the IN3Z as stated on the Department of Planning and Community Development (DPCD) Fact Sheet: Reformed Zones for Victoria, Improved Industrial Zones will:

*Allow a small-scale supermarket of up to 2000 square metres with supporting shops in the Industrial 3 Zone to facilitate commercial opportunities and competition.*

Council has requested the Panel to provide advice regarding what planning measures such as alternative zoning the Council should consider in response to the proposed changes to the Industrial 3 Zone.

Council also informed the Panel that it is concerned with the extent of existing Mixed Use Zoned (MUZ) land to the south of the town centre that could also be detrimental to the implementation of the *Korumburra Structure Plan*. Council has identified this as a separate piece of work to review the role and extent of the MUZ within Korumburra.

## **(ii) Discussion**

The Panel is sympathetic to the Council's concerns regarding the proposed zoning changes, in particular changes proposed to the IN3Z. As the current review of zones is still underway, it is difficult for the Panel to advise Council with any great certainty.

The Panel does, however, suggest that Council continue to make submissions and input in to the review process where it can. Further the Panel suggests that if the proposed changes to the Industrial 3 Zone are implemented, Council could consider the option of rezoning the site to another zone such as a Special Use Zone that could promote the site for Bulky Goods development.

## **(iii) Conclusions**

The Panel concludes:

- Council continue to input into the State Governments current Zone Reform process; and

- 
- Council undertake a review of the extent and impact the current supply of MUZ is having on the performance of the Korumburra Town Centre.

## 4.10 Additional work

### (i) Evidence and submissions

The Panel acknowledges that considerable work has gone into the preparation of Amendment C70. However it notes that, as submitted by Council, there are a number of further studies and actions (some outside the planning system) that will build on and complement the provisions of Amendment C70.

In its submission Council identified the following additional studies to be completed as summarised in section 4.1 of this report:

- *Korumburra Town Centre Framework Plan;*
- *Korumburra Central Project;*
- *Korumburra Social and Community Infrastructure Plan;* and
- *Korumburra Traffic and Drainage Study.*

The PDP Report identified a number of actions (that fall outside the planning system) that would assist in the implementation of the *Korumburra Structure Plan 2010*. These actions focused on making Korumburra Town Centre a compact, convenient and sustainable retail hub and are as follows:

- *The Shire consider supporting and partnering with business groups toward a marketing and identity package for promotion of Korumburra, both to its local and hinterland market and potentially to a wider audience.*
- *The Shire encourages and facilitates Korumburra Business Association (or other groups) in 'self-help' efforts in presentation and promotions (considering the application of 'main street' principles, as suggested within the Structure Plan).*
- *The Shire work with VicRoads to plan for traffic management, calming, and pedestrian convenience and safety along South Gippsland Highway and Radovick Street within the Town Centre.*
- *The Shire considers a program of streetscape enhancement works, which should be integrated with any traffic management works and be coordinated by the Town Centre Framework plan.*
- *Town entry and signage: refresh or remove the faded welcome sign at the east entry, encourage adjacent landowners to present attractive frontages to South Gippsland Highway.*
- *Improve layout and functionality of existing car parks and Council-owned land holdings in pursuing objectives for Town Centre.*

### (ii) Discussion

The Panel acknowledges that a number of the projects are outside the scope of Amendment C70. However they have been discussed during the Hearings and the Panel considers some of this work should be undertaken in an expedient manner, to ensure the *Korumburra Structure Plan* achieves its objectives.

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In particular, the Panel can see merit in the *Korumburra Town Centre Framework Plan* being completed and its findings implemented as soon as practical. This is an important piece of work that the Panel considers is currently missing, and will assist in implementing the *Korumburra Structure Plan*. In particular the Panel considers the work relating to the development of a traffic management plan for the South Gippsland Highway through the Town Centre is critical to the Town Centre being able to function at its full potential.

This also highlights the need for work to commence on the route planning for a town bypass route. The Panel acknowledges that the implementation of such a bypass may take years to occur on the ground; however the planning for such a bypass needs to be considered before any further planning for future residential expansion of the Korumburra Township.

### **(iii) Conclusions**

The Panel concludes that:

- Council should complete and implement the findings of the Korumburra Town Centre Framework Plan as soon as practical;
- Council should implement the recommendations of the PDP report that will enhance the objectives of Amendment C70; and
- Council should work with VicRoads to progress route planning for the South Gippsland Highway Bypass of the Korumburra Town Centre.

## **4.11 Recommendations**

- 1. The Panel recommends that Amendment C70 to the South Gippsland Planning Scheme be adopted as exhibited subject to the following changes:**
  - **Adopt the changes to the exhibited Clause 21.04-5 as shown in the Panel preferred version attached as Appendix B.**
  - **Correction of any minor mapping errors.**

## 5 Amendment C71

### 5.1 Background

#### (i) The Subject site

The Subject site for Amendment C71 is known as 155-156 Commercial Street (South Gippsland Highway), Korumburra and comprises approximately 2,023 sqm. It is currently zoned Public Use Zone 7 (PUZ7) (other Public Use).

The site is located on the south-east corner of King Street and Commercial Street, has a southerly aspect and like many locations in Korumburra is a sloping site. It was the former Korumburra Shire Offices prior to Council amalgamations and has been converted into a complex that houses a number of community uses including, the Korumburra Library, Korumburra Art Gallery and meeting rooms. It is also used by a number of community groups such as the Korumburra Historical Society.

Amendment C71 proposes to rezone the site to the B1Z.

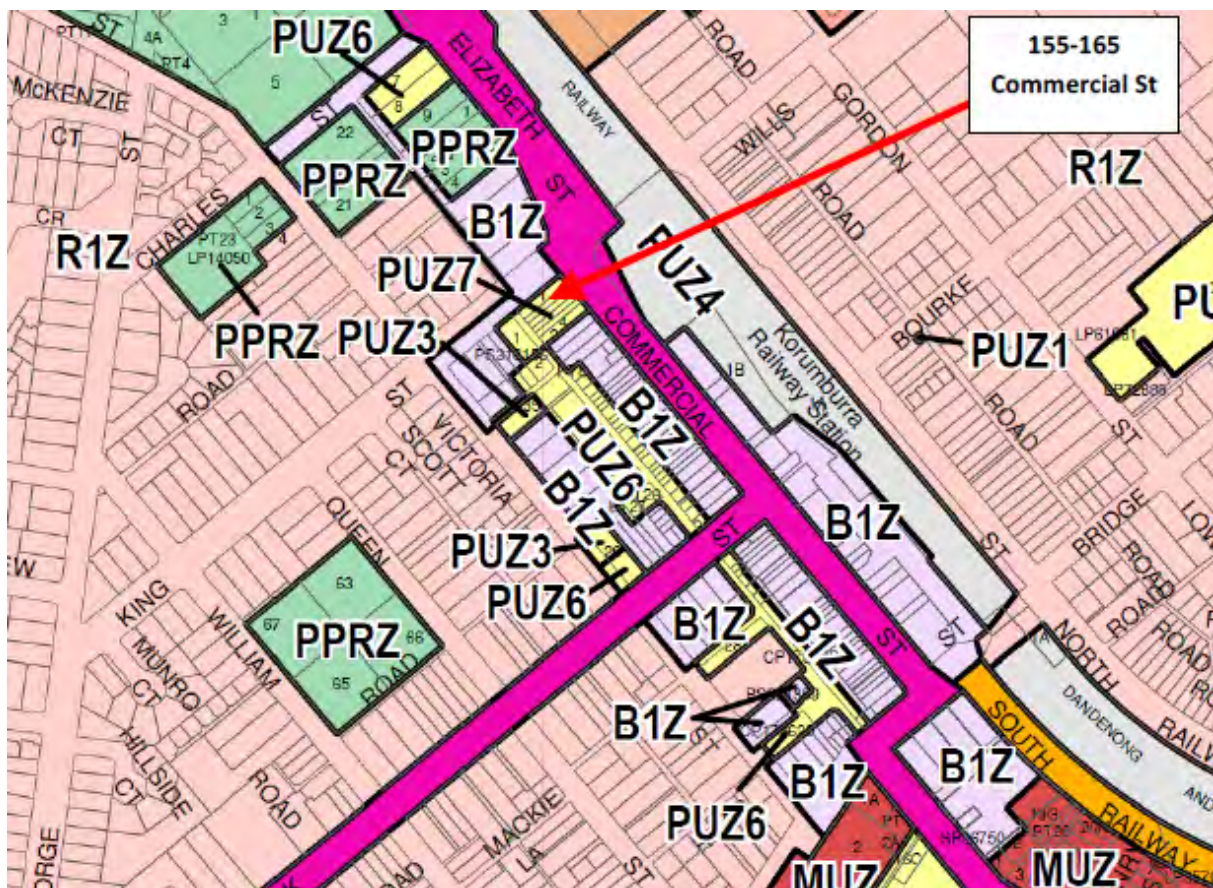


Figure 4 Subject land Amendment C71 – Zoning Map





Figure 5 Subject land Amendment C71 - Aerial photograph

## (ii) Background to the proposal

The purpose of Amendment C71 is to implement the recommendations of the *Korumburra Structure Plan*, July 2010, the PDP Report dated May 2010 and the policy objectives of Amendment C70 that are detailed in Chapter 4 of this report.

The *Korumburra Structure Plan* and PDP Report seek to achieve a strong retail/commercial profile for the Korumburra Town Centre, and specifically focus on the containment of retail and commercial uses within the defined Town Centre boundary.

Amendment C70 proposes to introduce a new Clause 21.04-5 into the South Gippsland Planning Scheme that provides strategic direction regarding the future development of the Korumburra, including the Korumburra Town Centre. Amendment C70 identified the need to consolidate retail and commercial development within the Town Centre.

Council submitted that the intent of Amendment C71 is to strengthen the Korumburra Town Centre by rezoning a parcel of land within the Korumburra Town Centre retail Core as defined in Amendment C70 from PUZ7 to B1Z.

As part of the rezoning process significant emphasis has been placed on whether the site should be redeveloped for a supermarket with associated retail and potential community uses (such as the Library).

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## 5.2 Issues raised in submissions

Council submitted that:

- The proposed rezoning completes an 'infill' area of B1Z and provides opportunities for future development without compromising existing uses;
- There is a demonstrated need for further business zoned land to meet future growth of the town;
- The site is ideally located within the core retail area; and
- Council has committed to retaining or relocating community facilities.

The key issues raised by submitters are briefly summarised as follows:

- Rezoning the site to B1Z does not fit the objectives of the *Korumburra Structure Plan*;
- The future location of the library and community facilities is not yet determined and valuable community facilities may be lost;
- It is premature to rezone the land until its future use is clear;
- There is no commercial justification for additional B1Z land;
- The site is on the periphery of the town centre and will not achieve the *Korumburra Structure Plan* objective of consolidating activities to the centre of the retail area; and
- The site is an inappropriate location for a supermarket and will present a poor interface to adjoining residential uses.

A total of 10 submissions were received, and these are listed in Appendix A.

## 5.3 The most appropriate zone for the site

### (i) Strategic context

The Korumburra Town Centre and the preferred location for the retail core have been discussed in Section 4.3 of this report. The subject site is located in the exhibited Korumburra Town Centre Retail Core.

The *Korumburra Structure Plan 2010* identified a need for additional retail floor space to meet the projected demand requirements for 2011 through to 2021. The Plan suggested that there was the opportunity to accommodate such development within the Town Centre. Amendment C71 proposes to rezone land within the Town Centre to the B1Z on the basis that it will strengthen and contribute to the viability of the Korumburra Town Centre.

### (ii) Evidence and submissions

A number of submitters including Ms Cowling (Submission 8), Ms Hall and Aidan Hall (Submission 5) all raised concerns regarding the future use and development of the subject site.

Ms Cowling submitted that whilst she accepted Council's position that Korumburra required additional B1Z land it should not be at the detriment of the existing facilities and services. Ms Cowling would like some form of assurance and commitment from Council that prior to any sale or redevelopment of the site the existing services including the Library, Art Gallery

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and meeting spaces for community groups are replaced either elsewhere in the Town Centre or incorporated into the site's redevelopment.

Ms Hall and Aidan Hall submitted that the existing building should be retained due to its historical importance. Further they raised concerns regarding how any new development in particular a new supermarket would integrate into the existing streetscape. Further they were concerned with the loss of vegetation, environmental considerations and traffic management issues.

Mr Alan McDonald, who was supporting Ms Hall at the Panel Hearing, submitted that the rezoning of the subject site is premature based on the fact that there is not a proposal before the Panel to inform the need for a rezoning. Mr McDonald raised concerns that Council's clear intentions to have the site redeveloped, potentially for a supermarket, is pre-empting the findings of the Korumburra Town Centre Framework Plan which is not expected to be completed until May 2013.

Mr McDonald also noted in his presentation that Council has not identified a new site or made any funding commitments to the relocation of the existing facilities that are currently located at the subject site. Further the current site is suitable for a community building. However if the building were to be rezoned Mr McDonald suggested that Council should consider some form of control such as a section 173 agreement or a Covenant on Title to ensure any development of the site incorporated the existing building and uses in any redevelopment of the site.

Ms Tompkins submitted to the Panel that the proposed rezoning of the community facilities was premature. Further, it was considered contrary to the provisions of Clause 21.04-5 which has the objective of *'to maintain the primacy of the Town Centre as the retail and service hub of the town'*.

Ms Tompkins considered Amendment C71 would be detrimental to the provision of community facilities within Korumburra. As stated by Ms Tompkins in her submission to the Panel:

*The rezoning of the existing community facilities in the Korumburra Town Centre, to facilitate the ultimate removal of these facilities to make way for a large supermarket, is clearly contrary to the objectives and strategies of the Planning Scheme.*

Ms Tompkins emphasised that her Client's concern is that the rezoning should not be considered in isolation. The future locations and process for relocation should be considered as part of the rezoning.

In its submission, Council referenced the number of projects it currently has underway or about to commence that all build on the *Korumburra Structure Plan*. In particular Council referenced the Korumburra Central Project, the purpose of which is to *'improve the retail experience in Korumburra and encourage development of a new major supermarket'*.

Council informed the Panel that it is currently undertaking a number of key projects including an Expression of Interest (EOI) process for the potential redevelopment of the subject site for a supermarket and other uses, to address the recommendations of the PDP.

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Council submitted that the proposed rezoning implements the objectives of Clause 21.04-5 and provides the opportunity to encourage and facilitate retail activity within the Town Centre Retail Core.

The Council's submission further discussed a number of hypothetical development scenarios for the site that emanated from the 'Korumburra Central – Site Assembly Plan' January 2012 Report, undertaken by MGS Architects. Council informed the Panel that as the site was in Council ownership (as well as some adjoining car park land to the south) it provided an opportunity for Council to facilitate development outcomes that would achieve the objectives of the *Korumburra Structure Plan* identified in the PDP Report. In particular Council's submission focussed on the site being redeveloped for a supermarket.

Council submitted that the rezoning of the site does not mean it will automatically be redeveloped. Council submitted that it does, however, provide an opportunity for a greater range of uses consistent with those suitable for a Town Centre location to be considered if and when a future proposal for redevelopment is considered.

The Council advised the Panel that the rezoning does not preclude the existing community uses on site from being able to continue, expand or redevelop, as they would be a Section 2 Use within the B1Z. Further if the B1Z is translated to the proposed reform zone of Commercial 1 Zone, the existing community uses would remain as Section 2 Uses.

### **(iii) Discussion**

The Panel notes that the rezoning of the subject site would not preclude the existing uses from continuing to operate and provide the potential to be further expanded in the future. Further, the rezoning will reinforce the role of the Korumburra Town Centre Retail Core as the location for retail, commercial and community uses. The Panel concludes that the rezoning of the subject site to the B1Z will assist in the implementation of the *Korumburra Structure Plan*.

The Panel observes that the site is not currently within a Heritage Overlay or been identified in a heritage study as being of historical importance.

The Panel notes the concerns raised in the submissions regarding the potential loss of community facilities and uses as a result of any redevelopment of the subject site.

Whilst the Panel commends the Council for undertaking a significant amount of strategic work for the preparation of these Amendments, the Panel is concerned that the timing of some of this work has led to confusion. Further, due to Council undertaking the EOI process for the site, there has been a significant amount of focus placed on a hypothetical proposal for a supermarket development on the site. No such proposal is before the Panel for consideration.

In terms of making recommendations regarding the proposed rezoning, a development proposal is not required. The Panel will base its recommendations on the strategic justification for such a rezoning. The issue of the most appropriate zone for the land is also discussed in Chapter 4, and the Panel concludes that B1Z is the most appropriate zone for the subject site.

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The Panel does, however, agree that the future of the existing community uses on site should be considered and resolved by Council prior to any redevelopment of the site taking place.

**(iv) Conclusions**

The Panel Concludes that:

- The proposed rezoning of the site to a B1Z is strategically justified and implements the objectives of the *Korumburra Structure Plan*;
- The B1Z is the most suitable zone for the subject site and can be considered an infill rezoning; and
- Council provide a commitment to ensure existing community uses on site are relocated or incorporated into any future development of the site.

**5.4 Recommendations**

- 2. The Panel recommends that Amendment C71 to the South Gippsland Planning Scheme be adopted as exhibited.**

## 6 Amendment C52

### 6.1 Background

#### (i) The subject land

The subject land for Amendment C52 comprises 20 Hectares of land on the southern side of Jumbunna Road, Korumburra and is primarily in the Farming Zone (FZ).

Portions of the land on either side of Sommers Crescent are quite steep, with grades in excess of 20%. The land is cleared land currently used for grazing, and also contains a bus depot and three houses fronting on to Jumbunna Road.

The land to the north east of Sommers Crescent is known as the Winterhalter land, and the land to the south west of Sommers Crescent (excluding 111 and 113 Jumbunna Road) is known as the Kufner Textiles land.

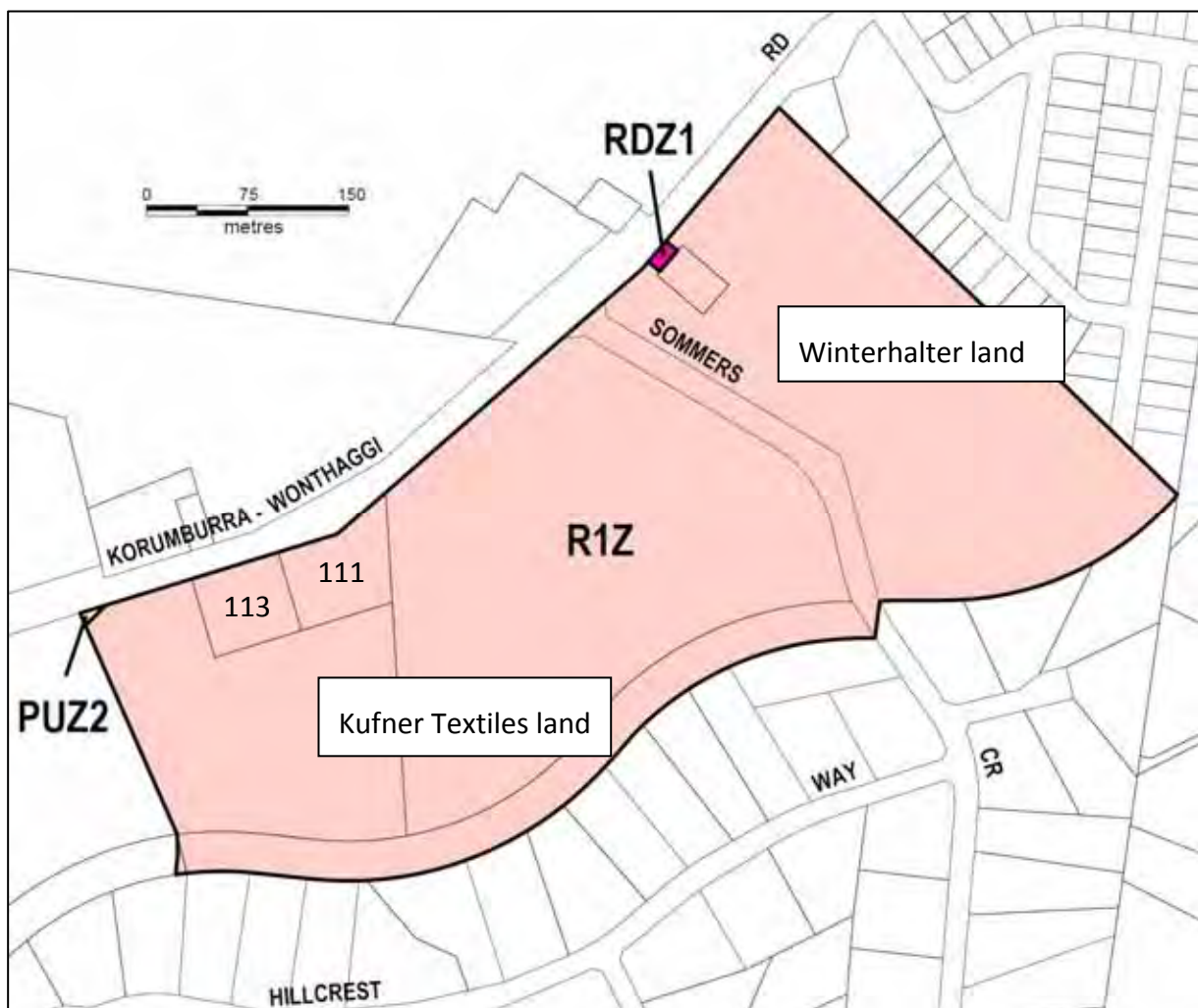


Figure 6 Subject land Amendment C52 – Proposed zoning as exhibited





**Figure 7 Subject land Amendment C52 - Aerial photograph**

## **(ii) Background to the proposal**

It is proposed to rezone the subject land from the existing FZ to Residential 1 Zone (R1Z) and apply a DPO Schedule 4 to the land.

As exhibited, the DPO was not proposed to apply to 111 and 113 Jumbunna Road as it was not expected that this land would be part of any short to medium term development. Council have subsequently requested that the DPO extend over these properties to facilitate the coordinated planning of the development of the land, particularly with regard to road access. This is now supported by the owners of 111 and 113 Jumbunna Road and was not opposed by any other submitters.

The proposed Amendment also removes the ESO5 (Areas susceptible to erosion) from the land. Council submitted that the DPO can be used to implement more site appropriate controls on the steeper areas of the land. This aspect of the Amendment was generally not challenged by submitters, although some stressed the need to retain controls in some form.

The Amendment also addresses two minor zoning anomalies:

- Rezone a small area owned by the adjoining Secondary College (Lot 1 TP8681453) from the FZ to the PUZ2 (Education) to correct an anomaly; and
- Rezone part of Jumbunna Road (Road reserve) adjoining CP106150 from the FZ to the Road Zone Category 1 (RDZ1) in recognition of the land being owned by VicRoads and forming part of the road reserve.

With regard to the zoning anomalies:

- No submissions were received in relation to the Secondary College land; and
- Council advised that the ownership of the area of road reserve adjoining CP106150 has now been reviewed and it is confirmed that it is owned by Mr Winterhalter, not

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VicRoads. It is consequently now proposed to include this in the land to be rezoned R1Z. Council advised that VicRoads do not object.

Following the Hearing Council advised that it had detected a minor mapping error with the deleted ESO map. The deleted ESO map erroneously shows the ESO remaining on a portion of the former railway alignment rather than right to the boundary of the existing LDRZ land.

During the course of the Hearing, Council proposed a revised DPO schedule (DPO5) be applied to the land which included a number of substantial changes to the exhibited DPO4, and was proposed to apply over both the Amendment C52 and Amendment C66 land. The proposed changes are discussed further in the following sections.

## **6.2 Issues raised in submissions**

Council made the following submissions regarding Amendment C52:

- The Amendment should be supported on the basis that there is a clear demand for residential land in Korumburra; and
- The revised DPO Schedule 5 is proposed in order to address a number of issues not included in the exhibited draft, including: development contributions via a section 173 agreement; reference to further background work required; and introduction of additional setback and other subdivision design requirements aimed at addressing interface amenity issues with the adjoining LDRZ land.

The proponents made the following submissions:

- There is a high demand for additional housing in Korumburra;
- There is a strong level of strategic support for the Amendment;
- The proposed revised DPO5 is not supported. The proponents generally prefer the exhibited DPO4, separate to the DPO for the Amendment C66 land;
- In particular, the introduction of section 173 agreements into the revised DPO to require developer contributions to community infrastructure is not supported;
- The proposed subdivision design requirements in the revised DPO are not fully supported; and
- The proposed restrictions on subdivision in the vicinity of the existing bus depot are not practical.

The proponent offered their own preferred version of the DPO for consideration by the Panel.

Submitters raised the following issues:

- The lower density LDRZ zone is more appropriate than R1Z;
- Concerns about drainage impacts of new development;
- Concerns about the amenity impacts on adjoining residential properties;
- Traffic issues in local streets and in relation to access to Jumbunna Road;
- Lack of public open space; and
- Heritage issues in relation to the disused rail line.

A total of 27 submissions were received, and these are listed in Appendix A.



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## 6.3 Strategic Issues

### (i) Submissions

Council submitted that there is a strong, demonstrated need for additional residential land in Korumburra. This issue, and other strategic justification for Amendment C52, is discussed in Chapters 3 and 4 of this report. Council made the following further submissions specifically relating to the Amendment C52 land:

- The subject land is identified in the Korumburra Framework Plan at Clause 21.04-5 of the planning scheme as 'preferred future residential'. This designation has been in place, in one form or another, since 1999;
- Whilst this designation does not distinguish between R1Z and LDRZ, Council submitted that, given the shortage of suitable residential land at 'normal township densities', sites such as the Amendment C52 land are of greater importance. Council submitted that this is because the land is well located close to the centre of the town and there are relatively few constraints on the land that would reduce the lot yield; and
- Council submitted that the DPO could be used to ensure appropriate design outcomes that respond to site constraints and this is a better approach than the 'blunt instrument' of applying a lower density zone.

Council submitted that the land is well placed to provide all service infrastructure and noted the requirement in the DPO to prepare an integrated stormwater management plan and provide for other service infrastructure.

Council advised that it had originally planned to prepare an Outline Development Plan (ODP) for the Western Korumburra area that would set the strategic framework for development, including for the Amendment C52 and Amendment C66 areas. Council submitted that it had elected not to prepare an ODP, but rather rely on the Korumburra Framework Plan for strategic guidance and prepare a more comprehensive DPO to guide development.

### (ii) Discussion and conclusions

The Panel agrees that there is strong strategic support for the creation of new residential land in Korumburra and agrees that the rezoning of the subject land to a residential zone is supported. The Panel agrees that, given the location and topography of the site, R1Z is the most appropriate zone, subject to appropriate site controls via a DPO.

The Panel thinks that it may have been preferable to prepare an ODP or Precinct Structure Plan for the Western Korumburra area to ensure that issues such as traffic, area wide drainage and flooding issues, and appropriate staging of development could have been more carefully planned. The Panel accepts, however, that the preparation of DPOs for the major development areas will provide adequate strategic development planning for the area, and given the short supply of residential land, the approach of going straight to a DPO is justified. Some adjustment of the wording of the DPOs may be required to ensure that some matters (such as drainage and traffic) are considered on a wider area basis.

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## 6.4 Impact on adjoining LDRZ properties

### (i) Submissions

Ms McCartney (Submission 17), Mr and Mrs Osboldstone (Submission 19) and Ms Flenley (Submission 16) submitted that the Amendment would allow development at higher densities in close proximity to existing low density semi-rural style developments. Council accepted that this is an issue that warrants attention and have proposed a number of siting and design requirements for inclusion in the DPO to address these interface issues. The specific requirements are discussed under Section 6.6 below.

Mr and Mrs Huppatz (Submission 22) were also concerned about the possible removal of existing vegetation on the Winterhalter site. Council responded that if the vegetation in question was native vegetation, and required to be removed, the appropriate native vegetation management offset would be required in accordance with the DPO.

Ms McCartney, Mr and Mrs Osboldstone and others, raised the possible heritage significance of the former Jumbunna - Outtrim rail line, submitting that it should be protected and used as a buffer to the new development.

Council responded that the rail alignment is not listed as a heritage site in the *South Gippsland Heritage Study 2004*, and has no heritage overlay applying to the site. Council added that the railway embankment had been significantly altered, both on the Amendment C52 site and on adjoining developed land. Significant sections of the former railway earthworks remain outside the Township.

### (ii) Discussion and Conclusions

The development plan response to the LDRZ interface issues are discussed in Section 6.6 below.

The Panel notes the comments made regarding existing vegetation on the Winterhalter site and agrees that whilst it may be preferable to retain existing vegetation, it is not essential, and the appropriate references to flora and fauna are made in the final proposed form of the DPO. The Panel believes that specific reference to 'native vegetation offsets, if required' should be included in the DPO, and has added this to its preferred version of the DPO.

The Panel has not been provided with any compelling evidence that the former rail embankment has any specific heritage values that are required to be preserved. It is noted that other sections of the former rail line within the town have been built over. The Panel agrees with Council that no specific reference needs to be made to the former rail line in the DPO. The argument for a physical 'buffer' between the existing LDRZ residential properties and the new development is discussed below. Some of the proposed buffer area overlaps with the former rail line embankment.

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## **6.5 Road access and traffic Issues**

### **(i) Submissions**

VicRoads (Submission 3) submitted that they have no objection to the Amendment subject to no direct individual access points being provided to Jumbunna Road and no road intersections with Jumbunna Road other than the existing Sommers Crescent intersection.

VicRoads also requested that a detailed traffic impact assessment be carried out to VicRoads' satisfaction as part of the Development Plan. This was not opposed by Council or the proponents.

The proponents presented a traffic report prepared by the Traffix Group, which concluded that future development is likely to generate 1,890 trips per day and, subject to including appropriate turn lanes on Jumbunna Road at the intersection of Sommers Crescent, the proposed road network would comfortably cope with the projected traffic volumes.

A number of submitters, including Ms McCartney and Mr Osboldstone, raised concerns about the likely increase in traffic volumes in Sommers Crescent. Council responded that the future traffic projections are still well within reasonable limits for that type of road.

Mr and Mrs Huppatz and Mr Scholz (Submission 25) raised concerns about the capacity of Prudence Close to act as a connector road between the new development and the existing Gippsland Park estate. They submitted that it is too narrow and that the configuration of the intersection with Lauren Way/Abby Road will be difficult to negotiate.

Council responded that Prudence Close had been designed to allow for a future through connection.

### **(ii) Discussion**

The Panel accepts VicRoads' requirement to restrict direct access to Jumbunna Road. With regard to the requirement for a detailed traffic impact assessment, the Panel prefers that one authority take ultimate responsibility for approving this and therefore prefers the wording 'to the satisfaction of the responsible authority in consultation with the Roads Corporation'.

The Panel also notes that it is likely that development of the Amendment C66 land is more likely to generate wider traffic issues than the Amendment C52 land and it is likely that VicRoads had this in mind when requesting the assessment. The requirement for a traffic impact assessment for the Amendment C52 land may be relatively modest, and Council may determine that the requirement has been substantially met with the Traffix Group work.

The Panel accepts the conclusion of the Traffix Group that the traffic impact on existing roads including Sommers Crescent would be minimal and the existing road network, with the exception of Prudence Close, will cater for the future traffic projections.

Based on the Panel's own site inspection of Prudence Close there are some concerns about the width of the road and the raised pavement treatment at the intersection with Lauren Way/Abby Road, and concerns about whether the current layout has capacity for the road to act as a local connector road.

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The detailed design of the subdivision is, however, not a matter for this Amendment. The Council must ultimately be satisfied that any road network is safe and practical and able to be linked in to neighbouring subdivisions. Whilst it can make no formal recommendations in relation to Prudence Close, as it would be outside the scope of the Amendment, the Panel suggests that Council review the suitability of this connection.

### **(iii) Conclusions**

The Panel concludes that:

- The DPO should reflect the Panel's preferred wording in relation to traffic impact assessment;
- The proposed development is not likely to create traffic capacity or safety problems on the existing arterial or collector road network;
- The requirements of the DPO in relation to addressing traffic issues is satisfactory; and
- Council should review the suitability of Prudence Close as a connector street between the proposed development and the existing Gippsland Park estate.

## **6.6 The proposed DPO**

### **(i) The issues**

Council have proposed a revised DPO5, which contains a number of significant changes from the exhibited DPO4. The proponents have indicated that they do not accept the majority of the proposed changes and submitted that the original DPO4 should be retained. The Panel has examined each of the issues raised in the DPO and drawn conclusions on the merits of each.

The main changes proposed to the DPO are as follows:

- Combining DPO4 for Amendment C52 and DPO6 for Amendment C66 into one DPO5;
- The scope of permits that may be issued prior to the Development Plan approval has been expanded;
- Addition of a requirement for development contributions;
- Identification of a 50m buffer around the bus depot while it remains operational to minimise amenity impacts on new subdivision;
- Additional siting and design requirements on lots on the interface with existing LDRZ areas;
- Introduced building setbacks and site coverage requirements for lots fronting main roads and collector roads;
- Additional landscaping requirements; and
- Various other wording changes aimed at improving legibility.

### **(ii) Development contributions**

#### **Background**

The exhibited form of the DPO did not contain any reference to either a Development Contributions Plan (DCP) or section 173 agreements (under the *Planning and Environment Act 1987*) requiring developers to contribute to community infrastructure.

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Council advised that it had attempted to negotiate a contribution to community infrastructure from the developer but no agreement has been reached.

Council have proposed, in the final form of the DPO submitted to the Panel following the Hearing, to include a requirement for the developer to enter into a section 173 agreement or other mechanism (DCP) to provide *'development and community infrastructure on public land (including the provision of land and/or the payment of financial levies) required as a consequence of the subdivision of the land.'*

### **Submissions**

Mr Chisholm, on behalf of the Amendment C52 proponents has strongly objected to the inclusion of this requirement on the following grounds:

- It is unfair to introduce this requirement now as the planning for the development of the Amendment C52 land is well advanced and development contributions have never been discussed;
- Any such contribution should be obtained through a DCP;
- There is no infrastructure plan in place that sets out the projects to which funds would be directed; and
- The proponents have agreed to contribute to specific works including land along Jumbunna Road for a shared path and land for a bus turning lane into the school, and any additional contribution would be 'double dipping'.

Council submitted that a community infrastructure contribution should be included to ensure consistency with other amendment requests currently under consideration. Council submitted that, whilst a DCP would be the preferred method of establishing appropriate contributions, they are difficult and time consuming to produce and that a section 173 agreement would provide a more efficient means of agreeing on contributions from the developer. Council also noted that it intended to develop a DCP and the section 173 agreements proposed were an interim step.

### **Discussion**

The Panel agrees with Council that it is desirable to have developers contribute to community infrastructure required to support new subdivisions and the growing population.

The Panel, however, has some difficulties with the process proposed by Council to obtain those contributions. Ideally, a DCP would be developed early in the planning process based on demonstrated need, alongside a precinct or outline development plan. A DCP should be based on specific infrastructure project requirements and would need to demonstrate, amongst other things, the nexus between the proposed contribution and the development against which it is levied.

Voluntary section 173 agreements can be, and often are, used as an alternative to a DCP. The proposed wording of the DPO, however, requires a section 173 agreement to be entered into before a permit for subdivision will be issued. The proponents for both the C52 and C66 Amendments object to any requirement for a section 173 agreement, with Mr Pippo, on behalf of the landowners for Amendment C66, submitting that *'such requirement has the*

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*potential to put an unlimited sum of what is asked for by the Responsible Authority, with the issue of a permit held to ransom.'*

The DPCD *Development Contributions Guidelines 2003 (Amended 2007)* state at page 5, under the heading 'Voluntary Agreements', that:

*Entering into an agreement for development contributions requires all parties to voluntarily agree to commit to their obligations, as set out in the agreement. Therefore, the establishment of a voluntary agreement cannot be a requirement of a planning scheme amendment or planning permit (Panel emphasis).*

The *Development Contributions Guidelines* go on further, at page 8 to say:

*Section 62(6) of the Act provides that the RA must not include a condition requiring a person to pay an amount for or provide services or facilities other than a condition:*

- *Required to implement an approved DCP; or*
- *Requiring services or facilities to be provided in accordance with a pre-existing agreement under section 173 of the Act.*

The *Development Contributions Guidelines* are a reference document to the planning scheme and are referred to in clause 19.03-1, which states:

*Planning must consider as relevant:*

- *Development Contributions Guidelines (Department of Sustainability and Environment, June 2003 – as amended March 2007).*

The Panel believes that this reference is highly relevant and therefore believes that this policy carries significant weight and ought to be followed, despite the Guidelines only being a reference document.

In the case of Amendment C52, there is also the issue that no reference was made to a requirement for a section 173 agreement or DCP in the exhibited version of the DPO. Inclusion now would, in the Panel's view, constitute a significant and material change to the Amendment, and would require re-exhibition.

The Panel believes that it is preferable to pursue a DCP, but accepts that it is intended to develop the Amendment C52 land in a relatively short time frame and that a DCP may not be practical. Section 173 agreements may be able to be negotiated, but these, by definition, should be voluntary and not as part of any requirement of a planning scheme amendment.

In the case of Amendment C52, the Panel believes that there could be a reference to a possible section 173 agreement in the permit conditions, as long as it recognises that this is not a requirement but is the implementation of a voluntary agreement. This issue is discussed in the next chapter in relation to the C66 Amendment. Whilst the Panel has not included a paragraph relating to section 173 agreements in its preferred version of DPO4, it would have no objection if Council included the same wording as the Panel proposes for DPO6. Given that it is a relatively benign reference, it is unlikely that the proponents would object.

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## Conclusion

The Panel concludes that:

- The entire paragraph under the heading '*Off site Infrastructure Provision/Development Contributions Agreement*' should be removed from DPO4.

### (iii) Other studies

The proponent has submitted a traffic study for the area and has completed a survey of the land for the Giant Gippsland Earthworm. The Earthworm was not detected on the Amendment C52 land.

Council, in its submission to the Panel Hearing, advised that there was no requirement in the exhibited DPO4 for a Cultural Heritage Management Plan (CHMP) as the subject land is not in an area of cultural heritage sensitivity as defined by the *Aboriginal Heritage Regulations 2007*.

Council also advised that a flora and fauna assessment was not required in the original exhibited DPO4 because of the absence of indigenous vegetation on the land and its extended history of modified grazing.

The exhibited DPO4 also did not include any reference to managing potential land contamination on the bus depot site. The EPA submission raised the need to consider potential contamination of land on the bus depot site.

Council has included requirements for the following studies in the final post-Hearing version of the DPO:

- Flora and fauna survey;
- Native vegetation assessment;
- Cultural heritage assessment; and
- Land contamination investigation.

The proponent has accepted the inclusion of these items in their preferred DPO provided after the Hearing, although notes that some of the work, including the CHMP, may not be required. (See also the reference to the specific requirements for a site audit for the bus depot site below.)

The Panel agrees that there should be reference to these requirements in the DPO and accepts that the extent of work required in each case is a matter to be discussed between the developer and the Council, and ultimately must be to the satisfaction of the Responsible Authority.

### (iv) Setbacks and buffers

#### Submissions

Council have proposed a number of responses to concerns about interface issues with the LDRZ land. Council propose a minimum 18m rear boundary (and minimum average of 20m) requirement on all lots adjoining LDRZ land in order to avoid (where possible) the creation of more than two new lots directly adjoining an existing LDRZ lot. Buildings are proposed to be set back by 7m from the boundary with LDRZ lots. The Panel notes that the proponent,

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whilst indicating some opposition to this in the presentation to the Hearing, has accepted these requirements in their final preferred form of the DPO submitted after the Hearing.

Council submitted that, in addition to the proposed controls on the interface as described above, further controls were warranted on the primary access roads in order to protect the character and amenity of the area. Council has proposed that the following restrictions apply to lots with primary frontages to Jumbunna Road and Sommers Crescent:

- Minimum frontage of 18m;
- Maximum building site coverage of 40%;
- Minimum building front setback of 7m; and
- Minimum side setback of 2m.

These changes were endorsed by Council at its 29 August 2012 Special Council meeting as part of a briefing on the expected effect of the Zoning Reforms currently released for consultation by DPCD. In the version of the DPO submitted to the Panel after the Hearing, the proposed application of these site controls had been expanded to include internal Level 1 Connector Streets (as defined in the DPO).

The proponent submitted that there is no particular planning justification for the inclusion of these requirements. They submit that the requirements are *'a knee jerk reaction to submissions received and are not the result of any detailed neighbourhood character assessment.'*

The proponent submitted that Clause 56 of the planning scheme is the appropriate mechanism to apply design standards to subdivision and that the proposed lot size, setback and site coverage restrictions were not appropriate, did not apply anywhere else in the town and would do nothing to assist in retaining neighbourhood character.

Notwithstanding these comments, the proponent has included a minimum lot frontage of 18m and front building setback of 6m for lots on Jumbunna Road and Sommers Crescent in their preferred version of the DPO submitted after the Hearing.

## **Discussion**

The Panel accepts the proposed lot size and building setback requirements proposed for lots directly abutting existing LDRZ lots. The Panel believes this is a sensible response to the interface issues raised by submitters, although the Panel also agrees with the position put by the proponents that there is scope within most of the adjoining lots for owners to create their own planted buffers if they wish.

The Panel agrees with the proponent that the case presented in support of the proposed lot size, site coverage controls and setbacks on arterial and access roads is not strongly supported by neighbourhood character evidence. The rationale put by the Council in the officer report to the 29 August 2012 Special Council meeting seems to be that the new zones may allow a schedule of lot controls and therefore Council should specify those now. No supporting information was provided in support of the requirements chosen.

The Panel does not think this is a sufficiently strong argument to support the inclusion of any such controls on lots facing arterial or collector roads. The Panel expects that the inclusion of any such controls in a future zone schedule will require some level of strategic



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justification. However, on the basis that there seems to be support from the proponents to a minimum frontage of 18m and setback of 6m for Jumbunna Road and Sommers Crescent only, the Panel is prepared to support the inclusion of those parameters in the DPO.

## **Conclusion**

The Panel concludes that:

- The proposed lot size and building setback requirements on lots adjoining existing LDRZ lots should be supported; and
- Minimum frontages of 18m and front setbacks of 6m are supported for Jumbunna Road and Sommers Crescent properties.

The Panel has included its preferred wording in Appendix C.

### **(v) Fencing**

In the final form of the DPO provided by Council after the Hearing, a requirement for a 1.8m high boundary fence was included, to apply to the boundary with adjoining LDRZ land and the properties at 111 and 113 Jumbunna Road. This requirement was agreed to by the proponents. The Panel agrees that this may assist in addressing some of the interface concerns raised by submitters and has included this clause in its preferred DPO4.

### **(vi) Drainage**

A number of submitters including Ms Fowles and Mr Fraser, raised concerns about drainage from the future development of the site, highlighting issues that have arisen from other, poorly designed subdivisions in the town.

Council responded that good drainage design would be one of the key requirements of the Development Plan, and highlighted the DPO requirement for an integrated stormwater and flood management plan that incorporates water sensitive urban design techniques.

The Panel agrees that drainage is a key design issue for any development of the subject site and is a most important aspect of the DPO. The Panel is satisfied that the reference to the requirement for an integrated stormwater and flood management plan in the Development Plan is an appropriate approach to managing these issues. As noted in discussion in the Hearing, it may be necessary to have larger lots and/or reduce site coverage in some of the higher sloping areas of the site to manage stormwater and drainage issues. These issues are matters to be resolved at the detailed design stage to the satisfaction of the Responsible Authority.

### **(vii) Open space**

#### **Submissions**

Council submitted that open space will required to be provided in accordance with the *Subdivision Act* and Clause 56.05-2 of the VPP, Standard C13, and it is expected that this would trigger the need for at least one hectare of open space to be included in the subdivision design.

Mr and Mrs Balment and Mr and Mrs Huppatz, in their submissions to the Hearing, submitted that the developer should not be permitted to provide all open space within

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drainage retarding basins. They used the example of the reserve in the adjoining Gippsland Park estate, submitting that it was unusable as a reserve for much of the year as water lays in a large part of the reserve.

Council submitted that it will be ensuring that the subdivision provides usable public open space in accordance with the DPO and Clause 56.05-2.

### **Discussion and conclusions**

The Panel notes the references to open space and landscaping in the DPO and believes that this, along with the requirements in the Subdivision Act, adequately provide for open space to be properly designed into future development.

#### **(viii) Bus depot**

##### **Submissions**

In response to amenity issues raised by the EPA in relation to noise from the existing use of the bus depot site, Council have proposed a 50m buffer be retained between new residential development and the bus depot as long as the bus depot is operational.

The proponent has raised concerns regarding the proposed wording of the clause, arguing that it could be interpreted as preventing any subdivision of the Winterhalter land until the bus depot is not operational. The proponent also argues that the use of the bus depot is relatively benign, being only for the overnight storage of buses and, as such, does not warrant restrictions on neighbouring use.

Council have also proposed that an Environmental Audit Overlay (EAO) be applied to the bus depot site. The proponent has accepted that an environmental audit should be undertaken before the bus depot land is used for a more sensitive use, but has questioned whether and EAO is required to implement such a requirement.

##### **Discussion**

The Panel believes that it is appropriate to ensure that any possible amenity issues concerned with the existing use are taken into account in deciding on the use of adjoining lots. The Panel thinks it is appropriate to flag this in the DPO, but thinks that the proposed clause could be better worded to allow greater flexibility for an applicant to present a case for a permit on a lot by lot basis. Council can make decisions regarding each lot depending on the subdivision plan presented to it, and may wish to take into account siting of buildings and any proposed amelioration measures. If lot by lot discretion is provided for, the Panel does not see that it is necessary to specifically exclude lots fronting Sommers Crescent from this requirement. The Panel has included a revised clause in the Panel preferred DPO4 at Appendix B.

The Panel believes that, given the prior use of the bus depot site and the possibility of fuel and other contaminants, it is justified to include an audit requirement on the land prior to its development for any sensitive use. The Panel does not, however, think that an overlay is necessary to achieve this, especially since an overlay was not included in the exhibited amendment. The Panel believes that it is instead appropriate to include the requirement for an audit report within a clause in the DPO.

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## Conclusions

The Panel concludes that:

- Reference to controlling the use of land in close proximity to the bus depot should be included in the DPO, but provide for a lot by lot assessment; and
- A requirement for a certificate of environmental audit or an auditor's statement should be included in the DPO.

### (ix) Consultation on the Development Plan

#### Submissions

Council has committed to community consultation in the preparation of the Development Plan. A number of Submitters raised concerns about the form that this might take and whether they would get a genuine opportunity for input. The Panel asked the Council in the Hearing how they intended to conduct this consultation, noting that no requirement for public consultation had been included in the exhibited version of the Amendment.

In response, Council proposed the inclusion of the following reference in the DPO presented to the Hearing:

*The development plan should be prepared with an appropriate level of community participation as determined by the Responsible Authority.*

In the final proposed version submitted after the Hearing, Council proposed:

*The development plan should be prepared with an appropriate level of community participation which must include a community consultation period of not less than 28 days commencing at a time determined by the Responsible Authority.*

The proponent indicated in the Hearing that it generally supported a level of community consultation, but did not support the inclusion of the proposed clause in the DPO.

#### Discussion and Conclusion

The Panel believes that it is worthwhile providing some indication in the DPO of the intentions with regard to consultation on the Development Plan, particularly since there is no third party notice or review requirement once the Development Plan is approved.

The Panel does not see that it is necessary to be overly specific in setting the form that consultation should take. This should be left to be determined between proponents and the Council as appropriate.

The Panel therefore prefers the inclusion of the earlier Council version of the proposed wording presented to the Panel Hearing ie:

*The development plan should be prepared with an appropriate level of community participation as determined by the Responsible Authority.*

### (x) Panel preferred DPO4 schedule

The Panel agrees with the arguments put by the proponents for both the C52 and C66 Amendments that the DPOs for the respective areas should be kept separate as originally

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exhibited. Whilst the changes to the Amendment C66 part of the DPO are not extensive, the proposed changes to the Amendment C52 component are, and, if considered in their entirety, could be argued to constitute a transformation of the Amendment. This is particularly so as some of the proposed changes were not minor and were not in response to submissions.

The Panel has produced its preferred form of the DPO4 attached as Appendix C. The numbering of the originally exhibited DPO for the Amendment C52 area i.e. Schedule 4, has been retained.

In developing the Panel's preferred form it has used the Council's final form as submitted after the Hearing as a base, and applied changes based on the Panel's conclusions on the various issues raised by the parties. The Panel has also made some minor wording changes and, in some cases, removed what it considers unnecessary detail.

The Panel has also been mindful of the content of the originally exhibited DPO, and the need to limit changes to matters raised in submissions or agreed between the parties in order to avoid the need to re-exhibit the Amendment.

## **6.7 Removal of the ESO, minor mapping correction and correcting zone anomalies**

The Panel notes that these issues were not challenged by submitters.

The Panel agrees with Council that the DPO can provide more appropriate controls on development on sloping land, and the ESO is therefore no longer required.

The minor mapping amendment in relation to the ESO removal is a very minor correction and the Panel thinks it should be supported, along with any other minor mapping corrections that may be detected prior to approval.

The Panel agrees that the minor correction to the Public Use Zone as proposed in the exhibited form of the Amendment is appropriate.

The Panel agrees that the proposed rezoning of the small area of land adjoining CP106150 to R1Z (as amended by council post exhibition) is appropriate, particularly as the land is now in private ownership rather than VicRoads ownership, as had been previously thought.

## **6.8 Recommendations**

**3. The Panel recommends that Amendment C52 to the South Gippsland Planning Scheme be adopted as exhibited subject to the following changes:**

- **Adopt the changes to the exhibited DPO4 as shown in the Panel preferred version attached as Appendix C.**
- **Include the land at 111 and 113 Jumbunna Road in the area of the proposed DPO4.**
- **Rezone the small area of land adjoining CP106150 from the Farming Zone to Residential 1 Zone, as proposed by Council post-exhibition.**
- **Correction of any minor mapping errors.**

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## 7 Amendment C66

### 7.1 Background

#### (i) The subject land

The subject land for Amendment C66 comprises approximately 73 Hectares of land in fifteen separate titles to the west of Korumburra and is currently in the Farming Zone (FZ).

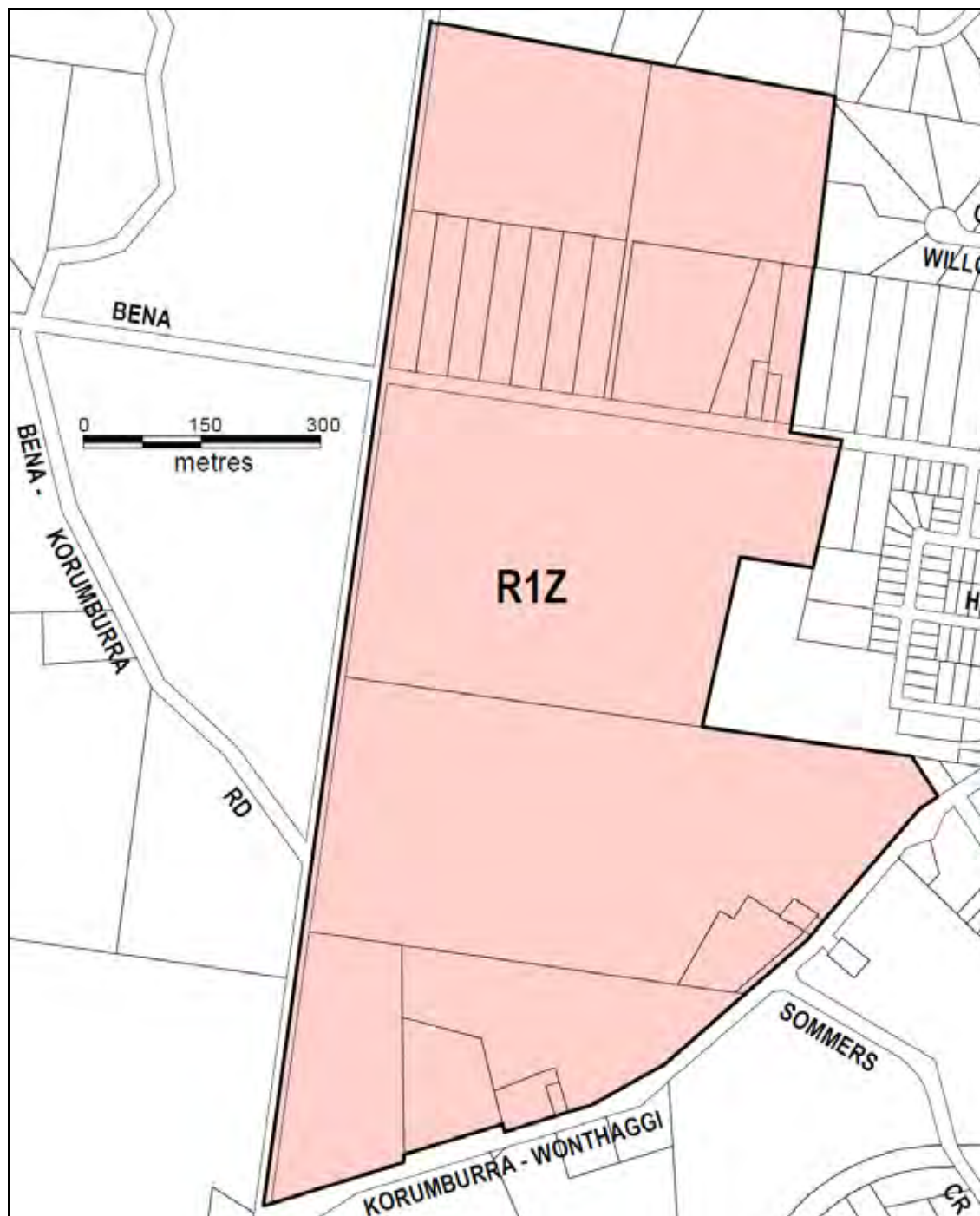


Figure 8 Subject land Amendment C66 – Proposed zoning as exhibited

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The land is bordered by industrial land to the north, farm land to the west and predominantly residential land to the east. Jumbunna Road forms the southern boundary of the land and to the south of that is the subject land for the C52 Amendment and the Korumburra Secondary College.

Portions of the land, particularly close to Fosters Creek and near the adjoining industrial land to the north, are quite steep, with grades in excess of 20%. The land is cleared land primarily used for agriculture and grazing, with ten residential dwellings.

## **(ii) Background to the proposal**

It is proposed to rezone the subject land from the existing Farming Zone to Residential 1 Zone and apply a DPO Schedule 6 to the land.

The proposed Amendment also removes the ESO5 (Areas susceptible to erosion) from the land. Council submitted that the DPO can be used to implement more site appropriate controls on the steeper areas of the land. This aspect of the Amendment was generally not challenged by submitters, although some stressed the need to retain controls in some form.

During the course of the Hearing, Council proposed a revised DPO schedule (DPO5) to be applied to the land which included a number of changes to the exhibited DPO6, and was proposed to apply over both the Amendment C52 and Amendment C66 land. The proposed changes are discussed further in the following sections.

## **7.2 Issues raised in submissions**

Council made the following submissions:

- The Amendment should be supported on the basis that there is a clear demand for residential land in Korumburra; and
- A revised DPO Schedule 5 is proposed in order to address a number of issues not included in the exhibited draft including development contributions via a section 173 agreement, and introduction of additional setback and other subdivision design requirements.

The proponents made the following submissions:

- There is a high demand for additional housing in Korumburra;
- There is a strong level of strategic support for the Amendment;
- The proposed revised DPO5 is not supported. The proponents prefer the exhibited DPO6, separate to the DPO for the C52 land;
- In particular, the introduction of section 173 agreements into the revised DPO to require developer contributions is not supported;
- The proposed subdivision design requirements in the revised DPO are not supported; and
- The proposed buffer to adjoining industrial land is supported.

Submitters raised the following issues:

- Lower density LDRZ zone is more appropriate as it better reflects the rural character of the land;
- Concerns about the impacts of new development on drainage and waterways;

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- Concerns about the amenity impacts on adjoining residential properties; and
  - Traffic issues in local streets and in relation to access to the broader road network.

A total of 12 submissions were received in response to the exhibition of the Amendment. A list of submitters is provided in Appendix A.

### **7.3 Strategic Issues**

#### **(i) Submissions**

Council submitted that there is a strong, demonstrated need for additional residential land in Korumburra. This issue, and other strategic justification for Amendment C66, is discussed in Chapters 3 and 4 of this report.

Council made the following further submissions specifically relating to the Amendment C66 land:

- The majority of the subject land (excluding 54-90 Bena Road) is identified in the existing Korumburra Framework Plan at Clause 21.04-5 of the planning scheme as ‘preferred future residential’. This designation has been in place, in one form or another, since 1999.
- The land at 54-90 Bena Road is identified as ‘preferred future residential’ in the proposed revised *Korumburra Structure Plan* in Amendment C70.
- Whilst this designation does not distinguish between R1Z and LDRZ, Council submitted that R1Z was most appropriate over the entire area, and a DPO could be used to ensure appropriate design outcomes that respond to site constraints. Council submitted that this is a better approach than the ‘blunt instrument’ of applying a lower density zone such as LDRZ or RLZ.

Council submitted that the land is well placed to provide all service infrastructure and noted the requirement in the DPO to prepare an integrated stormwater management plan and provide for other service infrastructure.

Council advised that it had originally planned to prepare an Outline Development Plan (ODP) for the Western Korumburra area that would set the strategic framework for development, including for the Amendment C52 and Amendment C66 areas. Council submitted that it had elected not to prepare an ODP, but rather rely on the Korumburra Framework Plan for strategic guidance and prepare a more comprehensive DPO to guide development.

#### **(ii) Discussion and conclusions**

The Panel agrees that there is strong strategic support for the creation of new residential land in Korumburra and agrees that the rezoning of the subject land to a residential zone is supported. The Panel agrees that, given the location and topography of the site, R1Z is the most appropriate zone, subject to appropriate site controls via a DPO.

The Panel thinks that it may have been preferable to prepare an ODP or Precinct Structure Plan for the Western Korumburra area to ensure that issues such as traffic flow, area wide drainage and flooding issues, and appropriate staging of development could have been more carefully planned. The Panel accepts, however, that the preparation of DPOs for the major

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development areas will provide adequate strategic development planning for the area, and given the short supply of residential land, the approach of going straight to a DPO is justified. Some adjustment of the wording of the DPOs may be required to ensure that some matters (such as drainage and traffic flow) are considered on a wider area basis.

The Panel believes that such a large area requires some careful thought regarding the sequencing of development to ensure that infrastructure is delivered in an efficient manner and to prevent isolation from properly developed services that sometimes arise from out of sequence development. The Panel has recommended the inclusion of a requirement for a staging plan in the DPO.

## **7.4 Traffic issues**

### **(i) Submissions**

VicRoads submitted that they have no objection to the Amendment subject to no direct individual access points being provided to Jumbunna Road.

VicRoads requested that a detailed traffic impact assessment be carried out to VicRoads satisfaction as part of the Development Plan. VicRoads, in their submission to the Hearing, emphasised that any traffic impact assessment should consider the area wide implications of development.

Council have included a requirement in the DPO for a comprehensive Traffic Impact Assessment to the satisfaction of the Responsible Authority and VicRoads. This was not opposed by Council or the land owners, with the exception that Mr Pippo submitted that VicRoads should not be included in this statement.

### **(ii) Discussion**

The Panel accepts VicRoads requirement to restrict direct access to Jumbunna Road.

With regard to the requirement for a detailed traffic impact assessment, the Panel prefers that one authority take ultimate responsibility for approving this and therefore prefers the wording 'to the satisfaction of the responsible authority in consultation with the Roads Corporation'.

### **(iii) Conclusions**

The Panel concludes that:

- The DPO should reflect the Panel's preferred wording in relation to traffic impact assessment.



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## 7.5 The proposed DPO

### (i) The issues

Council have proposed a revised DPO5, which contains a number of significant changes from the exhibited DPO6. The proponents have indicated that they do not accept the majority of the proposed changes and submitted that the original DPO6 should be retained. The Panel has examined each of the issues raised in the DPO and drawn conclusions on the merits of each.

The main changes proposed to the DPO are as follows:

- Combining DPO4 for Amendment C52 and DPO6 for Amendment C66 into one DPO5;
- The scope of permits that may be issued prior to the Development Plan approval has been expanded;
- Change to the requirement for development contributions;
- Additional siting and design requirements on lots on the interface with existing LDRZ areas;
- Introduced building setbacks and site coverage requirements for lots fronting main roads and collector roads;
- Additional landscaping requirements; and
- Various other wording changes aimed at improving legibility.

### (ii) Development contributions

#### Background

The exhibited form of the DPO contained a requirement for landowners to enter into a section 173 agreement or other mechanism (DCP) to provide *'development and community infrastructure on public land (including the provision of land and/or the payment of financial levies) required as a consequence of the subdivision of the land.'*

#### Submissions

Council submitted that a community infrastructure contribution should be included to ensure consistency with other amendment requests currently under consideration. Council submitted that, whilst a DCP would be the preferred method of establishing appropriate contributions, they are difficult and time consuming to produce and that a section 173 agreement may provide a more efficient means of agreeing on contributions. Council also noted that it intended to develop a DCP and the section 173 agreements proposed were an interim step.

Mr Pippo, on behalf of the landowners in the C66 area, vehemently opposed section 173 agreements or similar being included within DPO6 as a requirement of landowners. He submitted that the appropriate mechanism to apportion costs (onto new development) is the application of a DCP Overlay, which can formally be introduced through a separate amendment process and debated before an independent panel, if required.

He submitted that at this stage, without a quantifiable analysis and appropriate apportionment, the entering into a section 173 agreement is premature. Such requirement,

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he submitted, *'has the potential to put an unlimited sum of what is asked by the Responsible Authority, at the expense of the issuing of a planning permit.'* He added: *'Importantly, there are no review rights in the wording of this statement, as agreement is prior to issuing of permit. Therefore any review before VCAT will be a result of a Section 79 Application for Review (failure to determine), which will then hold up any application in its entirety'*. He summarized in his submission to the Hearing as follows: *'such requirement has the potential to put an unlimited sum of what is asked for by the Responsible Authority, with the issue of a permit held to ransom.'*

Mr Pippo submitted that his client would be more comfortable if review rights were appropriately maintained for any permit applicant.

He suggested the following changes to DPO6:

1. *The requirement for a section 173 agreement is removed in its entirety from "Requirement before a permit is granted".*
2. *The inclusion of a new dot point under the "Conditions and requirements for permit" section of the DPO6 which makes it a condition of permit rather than prior to the issuing of a permit.*
3. *The wording of the condition be amended as follows:*

*Prior to the issuing of a Statement of Compliance (or otherwise agreed to in writing by the Responsible Authority), the landowners must enter into an agreement with the Responsible Authority pursuant to section 173 of the Planning and Environment Act 1987 or any other mechanisms approved by Council. This agreement must make provision for contributions to be made by the owners towards the provision of development and community infrastructure on public land (including the provision of land and/or the payment of financial levies) required as a consequence of the subdivision of the land.*

Mr Pippo submitted that introducing a section 173 agreement as 'a condition of permit' allows for greater flexibility and provides the basis for appropriate negotiations to take place between permit holders and Council. Additionally, it provides the ability for the permit holder to appeal the condition to VCAT if negotiations break down or an agreement cannot be reached.

## **Discussion**

The Panel agrees with Council that it is desirable to have developers contribute to community infrastructure required to support new subdivisions and the growing population. The Panel believes that the best method of implementing this is via a DCP, developed alongside the development plan for the area. In the case of Amendment C66, which is a medium to longer term development front, there is time for proper precinct planning to occur, incorporating a DCP.

For the reasons set out in Chapter 6.6 of this report, the Panel does not support the inclusion of a reference to a section 173 agreement or DCP as a requirement before a permit

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is granted. In other words, the Panel agrees with the first of Mr Pippo's suggested changes to DPO6.

The following reference to planning permit conditions (previously quoted in Chapter 6.6) from the *Development Contributions Guidelines* is repeated:

*Section 62(6) of the Act provides that the RA must not include a condition requiring a person to pay an amount for or provide services or facilities other than a condition:*

- *Required to implement an approved DCP; or*
- *Requiring services or facilities to be provided in accordance with a pre-existing agreement under section 173 of the Act.*

The Panel believes that the wording of the proposed permit condition put forward by Mr Pippo does not comply with the *Development Contributions Guidelines* as it still says that the landowners must enter into an agreement without specifying the content of any agreement. Typically, such wording is only used in a DPO where specific infrastructure items are nominated as already agreed. A section 173 agreement (or DCP), in this context, is used only as an implementation tool for a pre-existing agreement.

In the case of Amendment C66, the Panel would accept the inclusion of a more generally worded clause that took out the 'requirement' and simply flagged the intention to enter into future agreements, either through a DCP or section 173 agreements. The Panel suggests the following wording for inclusion in DPO6, under 'Conditions and requirements for permits':

*Prior to the issuing of a Statement of Compliance (or otherwise agreed to in writing by the Responsible Authority), the landowners may enter into an agreement with the Responsible Authority pursuant to section 173 of the Planning and Environment Act 1987 or other mechanisms approved by Council. Any such agreement should make provision for contributions to be made by the owners towards the provision of development and community infrastructure on public land (including the provision of land and/or the payment of financial levies) required as a consequence of the subdivision of the land.*

The Panel acknowledges that such a clause is relatively benign but, in the absence of any work on infrastructure requirements, cannot support the more specific requirements as proposed by Council and Mr Pippo. The Panel does not believe the wording suggested by Council, or the permit condition suggested by Mr Pippo, complies with the *Development Contributions Guidelines* or section 62 of the *Planning and Environment Act 1987*.

In any case, either a DCP or planning permit conditions would set out when and how any agreements are to be executed. It is therefore somewhat superfluous to include this reference in the DPO. The Panel nevertheless thinks it does no harm to flag Council's intent.

## **Conclusion**

The Panel concludes that:

- The entire paragraph under the heading '*Off site Infrastructure Provision/Development Contributions Agreement*' should be removed from DPO6; and

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- If Council wishes to retain some reference to possible development contributions, a clause which does not create a compulsory 'requirement', such as that suggested by the Panel, could be included under 'Conditions and requirements for permits' in DPO6.

### **(iii) Other studies**

Council submitted that, whilst the land is generally cleared, there is some localised native vegetation and some localised remnant vegetation in proximity to the watercourses. No detailed vegetation studies have yet been undertaken.

Council also submitted that it is likely that the Gippsland Giant Earthworm will be found in the area and this will require assessment.

The proposed DPO includes requirements for:

- A flora and fauna survey including the Gippsland Giant Earthworm; and
- An assessment of native vegetation.

The Panel supports these requirements and, subject to adding a reference to offsets as discussed in Chapter 6.4 above, recommends their inclusion in DPO6.

### **(iv) Setbacks and buffers to adjoining residential land**

#### **Submissions**

Council have proposed a number of responses to concerns about interface issues with the adjoining LDRZ land. Council propose a minimum 18m rear boundary (and minimum average of 20m) requirement on all lots adjoining LDRZ land. Buildings are proposed to be set back by 7m from the boundary with LDRZ lots.

Mr Pippo has opposed this requirement, citing the fact that there are only two large adjoining LDRZ lots, and the treatment of this interface required a more detailed analysis of site constraints to determine the most appropriate response. He proposed the following alternative wording:

*The provision of a sensitive residential interface with adjoining residential land. Lots directly adjoining the Low Density Residential Zone (LDRZ) must include a rear setback of a minimum of 7 metres from the zone boundary to any new structure, with a minimum of a 3 metre wide landscape buffer along the zone boundary, or alternative, determined in consultation with the Responsible Authority.*

Council submitted that, in addition to the proposed controls on the interface as described above, further controls were warranted on the primary access roads in order to protect the character and amenity of the area. Council has, in the version of the DPO submitted to the Panel after the Hearing, proposed that the following restrictions apply to lots with primary frontages to Jumbunna Road, Bena Road, Whitelaws Track and Level 1 Connector Roads:

- Minimum frontage of 18m;
- Maximum building site coverage of 40%;
- Minimum building front setback of 7m; and
- Minimum side setback of 2m.

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These changes were endorsed by Council at its 29 August 2012 Special Council meeting as part of a briefing on the expected affect of the Zoning Reforms currently released for consultation by DPCD.

Mr Pippo submitted that these deviations from the ResCode requirements are provided without any justification. He proposed that the requirement be replaced with *'Allotments abutting Jumbunna Road, Bena Road and Whitelaws Track be designed to respect the character of the streetscape'*, and that lot size, site coverage and setbacks be as per ResCode.

### **Discussion**

The Panel agrees with Mr Pippo's submission that the treatment of the interface with adjoining LDRZ lots should be handled differently to that in the C52 Amendment. The Panel agrees with the proposed revised wording as put forward by Mr Pippo, with the exception that it should be determined *'to the satisfaction of the Responsible Authority'* rather than *'in consultation with'*. The Panel believes this is a sensible response to the interface issues, although the Panel also notes that there is scope within the adjoining lots for owners to create their own planted buffers if they wish.

The Panel agrees with Mr Pippo that the case presented in support of the proposed lot size, site coverage controls and setbacks on arterial and access roads is not sufficiently justified. The rationale put by the Council in the officer report to the 29 August 2012 Special Council meeting seems to be that the new zones may allow a schedule of lot controls and therefore Council should specify those now. No supporting information was provided in support of the requirements chosen.

The Panel does not think this is a sufficiently strong argument to support the inclusion of any such controls on lots facing arterial or collector roads. The Panel expects that the inclusion of any such requirements in a planning control require some level of strategic justification. The Panel believes that ResCode provides sufficient guidance on these design parameters and that there is no case that has been put to the Panel that justifies varying those controls. The Panel does not support the inclusion of the wording suggested by Mr Pippo as it unnecessarily duplicates ResCode requirements.

### **Conclusion**

The Panel concludes that:

- The modified wording in relation to proposed building setback requirements on lots adjoining existing LDRZ lots as proposed by Mr Pippo should be supported subject to the proposed buffer being determined to the satisfaction of the Responsible Authority; and
- Reference to proposed lot size, site coverage and setback requirements on arterial and access roads in the DPO have not been justified and should be removed.

The Panel has included its preferred wording in Appendix D.

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## **(v) Buffer to industrial zone**

### **Submissions**

EPA Victoria raised concerns in their submission (No. 5) regarding the proximity of the proposed residential development to the existing Industrial 1 and Industrial 3 zoned land to the north of the subject area, citing possible noise, dust and amenity impacts on future residential development from existing lawful industrial activity. EPA recommended a buffer area between any residential area and the Industrial 1 Zone.

Council, in its submission to the Hearing, acknowledged these concerns noting that there may be some physical constraints in developing the Industrial 1 land on the boundary of the Amendment C66 land given the steep slope, declared waterways and access issues. Council proposed the inclusion of reference to the Industrial Zone interface in the DPO. The landowners have not objected to this proposal.

### **Discussion**

The Panel agrees that the interface between the Industrial zoned land to the north of the subject land will require a specific design response that considers existing and possible future industrial uses amenity impacts.

### **Conclusions**

The Panel concludes that the proposed reference to the Industrial Zone interface in the version of the DPO submitted by Council after the Panel Hearing is appropriate.

## **(vi) Fencing**

In the final form of the DPO provided by Council after the Hearing, a requirement for a 1.8m high boundary fence was included, to apply to the boundary with adjoining LDRZ land. This requirement was not opposed by land owners. The Panel agrees that this may assist in addressing some of the interface concerns raised by submitters and has included this clause in its preferred DPO6.

## **(vii) Stormwater and drainage**

### **Submissions**

A number of submitters, including Mr Rodrigues and Ms McKillop (Submission 10), raised concerns about drainage from the future development of the site, submitting that erosion will increase and waterways may be degraded.

Mr Collyer (Submissions 8 and 9) gave a presentation to the Hearing on some to the existing erosion and stormwater issues on existing watercourses, particularly Foster Creek. He is concerned that the future development will further exacerbate these problems if not sensitively managed.

Council responded that good stormwater and flood management design will be one of the key requirements of the Development Plan, and highlighted the DPO requirement for an integrated stormwater and flood management plan that incorporates water sensitive urban design techniques.

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In response to submissions, Council propose to remove the requirement for a buffer zone *'which identifies the 100 year flood event'* around *'appropriate waterways'* as included in the exhibited version of the DPO. Council argued that it was better to consider each watercourse on its merits as part of the integrated stormwater and flood management plan required as part of the Development Plan.

### **Discussion and conclusion**

The Panel agrees that drainage is a key design issue for any development of the subject site and is a most important aspect of the DPO. The Panel is satisfied that the reference to the requirement for an integrated stormwater and flood management plan in the Development Plan is an appropriate approach to managing these issues. As noted in discussion in the Hearing, it may be necessary to have larger lots and/or reduce site coverage in some of the higher sloping areas of the site to manage stormwater and drainage issues. These issues are matters to be resolved at the detailed design stage to the satisfaction of the Responsible Authority. Consultation with local Landcare groups and local residents would also be appropriate in understanding how best to manage the existing watercourses.

### **(viii) Other issues**

#### **Consultation**

For the reasons discussed in Section 6.6(ix) of this report the Panel supports inclusion of a reference to consultation mechanisms in the DPO in the form as recommended in that Section.

#### **Level of prescription of the DPO**

Mr Pippo, in his comments on the proposed DPO submitted after the Hearing, objected to the word *'must'* in setting what is required of a Development Plan. The Panel does not agree that this is inappropriate or out of step with the VPP Practice Note. It is common practice for DPOs to state that *'a development plan must provide'*. Some of the detail of what must be provided has been addressed above, and the Panel has agreed in some cases that the detail was inappropriate or excessive.

#### **Reference to Infrastructure Design Manual**

Mr Pippo opposed the references to the *South Gippsland Shire Council Infrastructure Design Manual* in the DPO on the basis that the document has no status in the Planning Scheme. The Panel notes that the only context in which it has been used is to define *'Connector Street – Level 1'*. The Panel believes that the DPO does not lose anything in removing these references and referring more generally to connector or collector roads. Ultimately the Development Plan must be prepared to the satisfaction of the Responsible Authority and the definition of such terms can be discussed in the preparation phase.

In any case, the Panel has recommended the removal of design requirements for *'Connector Street – Level 1'* as it believes they are overly prescriptive for inclusion in a DPO. The Panel agrees with Mr Pippo that no case has been presented to the Panel as to why Clause 56 definitions and requirements would be varied.

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### **Other changes in response to submissions**

Council have made a number of other minor changes to the wording of the DPO in response to submissions, accepting the changes proposed by the submitter. The Panel has not commented on these separately as they are not contested, and has included the revised wording in the Panel preferred DPO.

#### **(ix) Panel preferred DPO6 schedule**

The Panel agrees with the arguments put by the proponents for both the C52 and C66 Amendments that the DPOs for the respective areas should be kept separate as originally exhibited.

The Panel has produced its preferred form of the DPO6 attached as Appendix D. The numbering of the originally exhibited DPO for the Amendment C66 area ie Schedule 6, has been retained.

In developing the Panel's preferred form it has used the Council's final form as submitted after the Hearing as a base, and applied changes based on the Panel's conclusions on the various issues raised by the parties. The Panel has also made some minor wording changes and, in some cases, removed what it considers unnecessary detail.

The Panel has also been mindful of the content of the originally exhibited DPO, and the need to limit changes to matters raised in submissions or agreed between the parties in order to avoid the need to re-exhibit the Amendment.

### **7.6 Removal of ESO**

The Panel notes that this issue was not directly challenged by submitters, although some submitters sought assurances that the DPO adequately deal with the erosion issues associated with sloping land.

The Panel agrees with Council that the DPO can provide more appropriate controls on development on sloping land, and the ESO is therefore no longer required.

### **7.7 Recommendations**

- 4. The Panel recommends that Amendment C66 to the South Gippsland Planning Scheme be adopted as exhibited subject to the following changes:**
  - **Adopt the changes to the exhibited DPO6 as shown in the Panel preferred version attached as Appendix D.**



## Appendix A List of Submitters

### Amendment C70

No.	Submitter	Represented by
1	EPA Victoria	
2	South Gippsland Water	
3	DSE	
4	Brian O'Neill	MGH Planning and Development P/L
5	K Rodriguez and G & J McKillop	
6	Burra Foods	
7	A & C Ball	
8	Michael Lorenz	DLA Piper

### Amendment C71

No.	Submitter	Represented by
1	DSE	
2	EPA	
3	South Gippsland Water	
4	West Gippsland Regional Library Corporation	
5	Mary-Anne & Aidan Hall	
6	Korumburra & District Historical Society	
7	Milpara Community House Inc.	
8	Shirley Cowling	
9	Michael Lorenz	DLA Piper
10	Agi Dobson	

## Amendment C52

No.	Submitter	Represented by
1	Country Fire Authority	
2	Department of Sustainability and Environment	
3	VicRoads Eastern Region	Stuart Fenech
4	South Gippsland Water	
5	West Gippsland Catchment Management Authority	
6	EPA Victoria	
7	Fava Family	Rose Lowry
8	Marjorie Alp	
9	John & Glenda Tunley	
10	Raybest P/L	Macpherson & Kelly Lawyers
11	Korumburra Secondary College	
12	Frank Cerri – Raybest P/L	
13	Peter Fraser	
14	Catherine Pankhurst	
15	Terence Steele & Linda Marshall	Ratio Consultants
16	Keryn Flenley	
17	Dianne McCartney	
18	Elizabeth Fowles	
19	Stephen & Julie Osboldstone	
20	M & L Scollo	
21	Jill & Stewart Spinks	
22	Kerri and Ian Huppatz	
23	K and M Pitlik	(lead petitioner)
24	Jennifer Dowel	
25	Chris Sholz	
26	Roger and Marie Balment	
27	Kevin Wyhoon	

## Amendment C66

No.	Submitter	Represented by
1	South Gippsland Water	
2	DSE	
3	CFA	
4	WGCMA	
5	EPA	
6	John & Mary Patterson	Beveridge Williams & Co P/L
7	Sue Hinton	
8	Richard Collyer	
9	Richard Collyer on behalf of Others	
10	K Rodriguez & J McKillop	
11	Gonwil Jega P/L	
12	Rossi Group Pty Ltd, Frank Cerri, George Tumino & Others	Taylors

## **Appendix B Panel preferred Clause 21.04-5**

The Panel proposes the following Clause 21.04-5 which is consistent with the proposed Clause 21.04-5 as submitted by Council following the Panel Hearing.

The Panel has used its best endeavours to draft the schedule in accordance with the relevant Practice Notes but accepts that further minor redrafting and expression changes may be required.

### Overview

Situated on the South Gippsland Highway in a picturesque landscape of rolling hills, Korumburra is the second largest town in the municipality and a key service provider to the smaller towns and communities in the Shire's western region. Ongoing improvements to the Highway and the development of the Pakenham Bypass make Korumburra increasingly accessible to metropolitan Melbourne and help underpin population and economic growth that will contribute to securing the town's growth into the future.

Challenges for Korumburra include improving the retail offer, function and appearance of the Town Centre; responding to the existing highway traffic management problems; achieving appropriate redevelopment of the former Korumburra Saleyards site; planning new residential growth areas; and, continuing to define a role and character for Korumburra that distinguishes its place in the Shire's western region.

### Objectives

- To maintain and promote Korumburra as a significant industrial, retail, service, residential and tourism centre in the Shire.
- To maintain the primacy of the Town Centre as the retail and service hub of the town.
- To actively support the establishment of new retail opportunities in the Town Centre Retail Core.
- To ensure that sufficient residential land, at a range of densities, is available to accommodate future township growth.
- To achieve sequential and staged residential development that integrates with existing infrastructure networks.
- To improve highway traffic movement through the town.
- To provide strong pedestrian and cycling connectivity to the Town Centre, key community assets and the schools.

### Strategies

- Promote the use and development of land in accordance with the strategic directions in the Korumburra Framework Plan and the Korumburra Town Centre Framework Plan.
- Maintain a compact, convenient and well connected Town Centre that is the primary activity hub of the town.
- Actively encourage major retail, office and community developments to concentrate in the ~~core~~ of the Town Centre [Retail Core](#), comprising the blocks bounded by Commercial Street, King Street, Victoria Street and Bridge Street.
- Encourage the consolidation of sites in the Town Centre [Retail Core](#) to accommodate new large floor space developments.
- Promote development in the Town Centre that improves pedestrian connectivity and the layout and operation of car parking, and enhances the amenity of the streetscape.
- Strongly discourage the development of [new](#) retail uses outside of the Town Centre [Retail Core](#) where such uses may weaken the principal role of the Town Centre.
- Monitor the availability and development of residential land and encourage the rezoning of appropriate areas identified in the Korumburra Framework Plan to maintain an estimated 15-year residential land supply.
- Promote the development of new residential estates that establish appropriate integration with existing residential areas and infrastructure; provide pedestrian and cyclist connectivity to the Town Centre and key community features; and, protect the environmental values of the land, especially the waterways.

- Promote higher density residential development and retirement living on land within the inner township residential areas that can be provided with convenient pedestrian access to the Town Centre.
- Promote site responsive residential subdivision design (supported by geotechnical reports on land exceeding ~~10%~~ 15% slope) that allow for the creation of appropriately sized and configured lots that minimise the impact of earthworks.
- Ensure a high standard of building design, layout and landscaping for all new development, and particularly at the western highway entrances to the town.
- Focus industrial development within the established industrial areas, and at the site of the former Korumburra Saleyards. Development of the saleyards land must have close regard to the amenity interface with the adjoining showgrounds and residential areas.
- Consider the potential adverse amenity impacts of the milk manufacturing operations in the Station Street Industrial Area on rezoning proposals that allow, or intensify, the establishment of sensitive land uses in the immediate area (minimum ~~300m~~ radius) surrounding the manufacturing operations.
- Discourage land uses that may compromise the proposed highway realignment at the south east entry to the town.
- Support the protection of the town's heritage buildings and streetscapes in recognition of their central role in protecting the 'rural township' character and 'sense of place' of Korumburra.
- Support tourism developments that promote Korumburra as a tourist destination and plan for the provision of services and features that support passing highway tourism traffic.
- Ensure new development and road traffic improvements do not compromise the longer-term potential return of rail services to Melbourne.

#### Actions for implementation

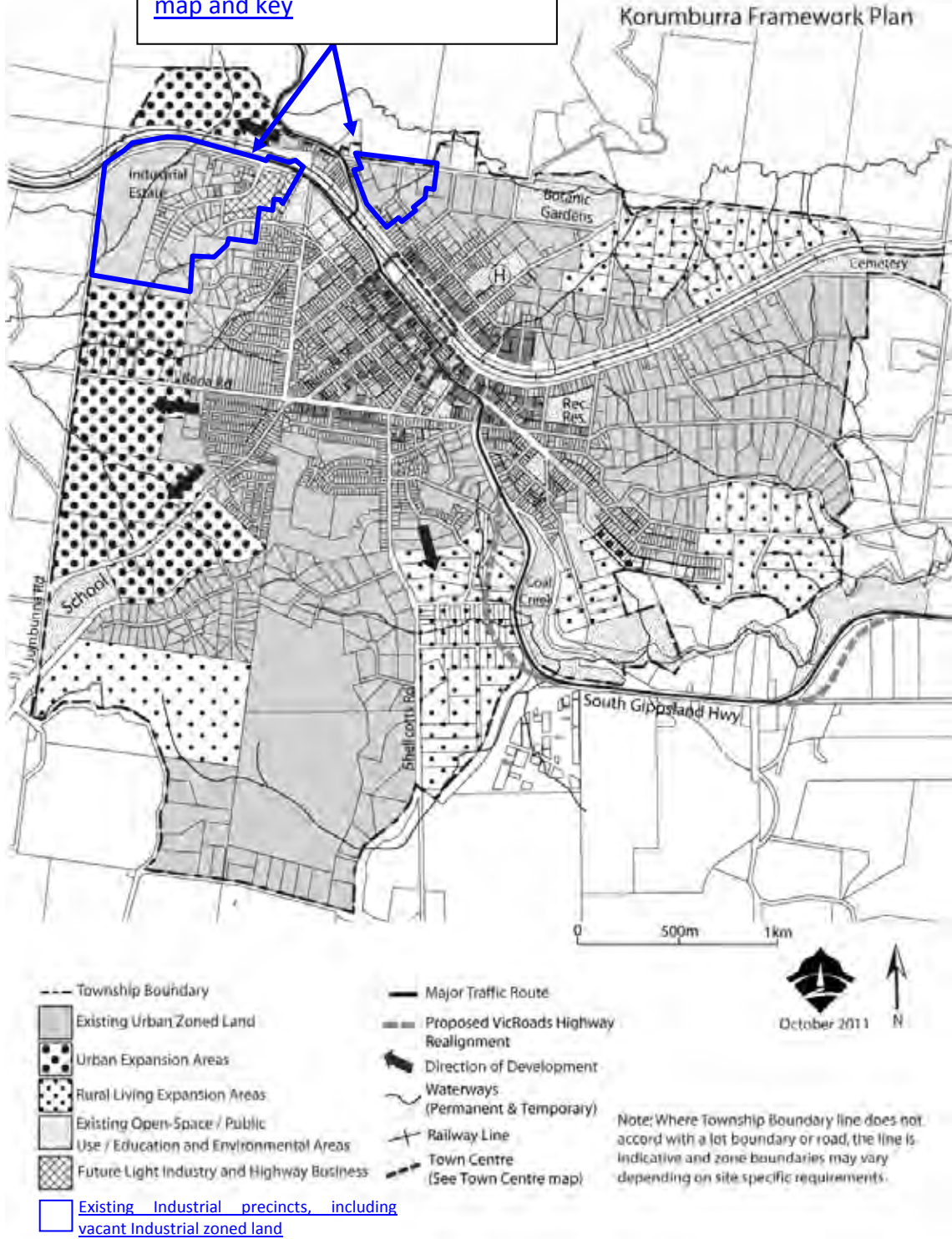
- Prepare an updated Town Centre Framework Plan to encourage major retail, office and community proposals to concentrate in the Town Centre Retail Core in accordance with the principles established in the Priority Development Panel (PDP) report May 2010.
- Investigate with VicRoads plans for traffic management, calming and pedestrian safety improvements along South Gippsland Highway and Radovick Street within the Town Centre in accordance with the PDP's recommendation.
- ~~Prepare planning policy directions such as an Outline Development Plan or Development Plan Overlay to coordinate the integrated planning for the Urban Expansion Areas on the south western boundary of the town.~~
- In consultation with affected landowners and the community, prepare Development Plans that respond to the requirements of the Development Plan Overlays for Korumburra's residential growth areas.
- Review the existing application of the Mixed Use Zone in response to the stated 'Objective' to maintain the primacy of the Town Centre for retail development.
- Investigate the implementation of a planning policy to assist long term management of the amenity interface issues between the Station Street milk manufacturing operations and surrounding residential areas.
- Investigate applying a Restructure Overlay over the old Crown Township to the south-east of the town.
- Continue implementation of the recommendations of the South Gippsland Heritage Study 2004 in consultation with affected landowners.

#### Reference Document

*Korumburra Structure Plan, July 2010 (as amended)*

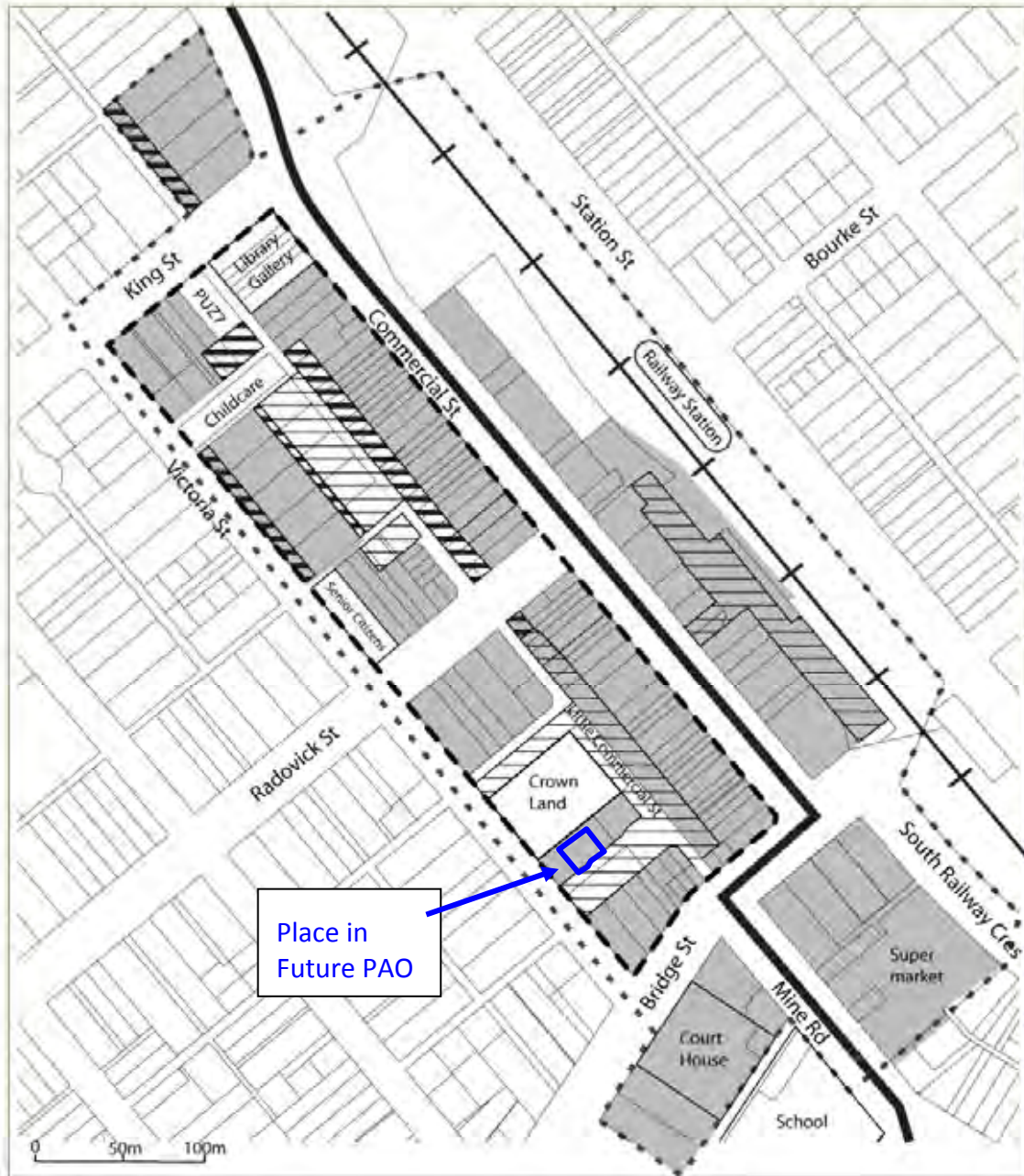
*South Gippsland Paths and Trails Strategy 2010 (as amended)*






Identify Industrial precincts in the map and key





# Korumburra Town Centre Framework Plan



-  Existing Commercially Zoned Land
-  Existing Car Parking
-  Public Acquisition Overlay - Future Carparking
-  Town Centre Boundary
-  Town Centre (Retail Core) Boundary
-  Major Traffic Route
-  Railway Line





## Appendix C Panel preferred DPO Schedule 4

The Panel proposes the following DPO4 to apply to the C52 area.

The Panel has used its best endeavours to draft the schedule in accordance with the relevant Practice Notes but accepts that further minor redrafting and expression changes may be required.

## SCHEDULE 45 TO THE DEVELOPMENT PLAN OVERLAY

Shown on the planning scheme map as DPO45

### JUMBUNNA ROAD RESIDENTIAL AREA

#### 1.0 Requirement before a permit is granted

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C52

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

- A minor extension, minor addition or minor modification to an existing development that does not prejudice the future orderly development of the general area affected by the Development Plan Overlay to the satisfaction of the Responsible Authority.
- Buildings and works associated with the Jumbunna Road bus depot provided the buildings and works are contained within the established development footprint or immediate surrounds to the satisfaction of the Responsible Authority.
- The use and development of land for agriculture provided it is minor in nature and does not prejudice the future residential use and development of the land, or the residential amenity of surrounding areas.
- The use, development & subdivision of land by a public authority or utility provider.

#### ~~▪ Off site Infrastructure Provision / Development Contributions Agreement~~

~~▪ Before a permit is issued for the residential subdivision of land the landowners must enter into an agreement with the Responsible Authority pursuant to section 173 of the Planning and Environment Act 1987 or any other mechanisms approved by Council. This agreement must make provision for contributions to be made by the owners towards the provision of development and community infrastructure on public land (including the provision of land and/or the payment of financial levies) required as a consequence of the subdivision of the land.~~

~~▪ Note: Council is undertaking detailed traffic, drainage and community infrastructure assessments for Korumburra which will inform the requirements for contributions. It is intended that Section 173 Agreements are an interim step whilst Council implements a Development Contribution Plan Planning Scheme Amendment.~~

#### 2.0 Conditions and requirements for permits

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C52

Before deciding on an application to subdivide land, construct buildings, or carry out works, the Responsible Authority must consider, as appropriate:

- Whether the development of the land is occurring in an efficient and orderly manner having regard to essential services, community facilities, open space and roads.
- The potential for future re-subdivision.
- The interface between proposed and existing nearby developments, to reduce the chance of conflicting developments, especially including in relation to the Bus Depot site.
- The need to minimise access points to Jumbunna Road.
- The design of any proposed buildings to enhance and reinforce the character of the area.
- The timing and staging of the development of the land.
- The consistency of the proposed development with the approved development plan.
- The consistency of the proposed development with the adopted Korumburra Structure Plan, where relevant.
- Any other matter, as deemed appropriate by the Responsible Authority, which the development plan should take account of based on the specific character of the land.
- The requirement for building envelopes, agreements or covenants to be registered on newly created titles to achieve the lot development restrictions set out in the development plan.

- An assessment against the requirements of Clause 56 of the South Gippsland Planning Scheme.

#### Bus Depot development requirements

~~A planning permit must not be approved which creates residential lots, or approves a sensitive land use in the DPO5 area, within 50 metres of the Jumbunna Road bus depot main building (excluding for subdivisions, the creation of one 'balance of subdivision' lot) until such time as the bus depot is no longer in operation and its existing use rights expired, or the bus depot buildings removed from the land. This does not apply to the creation of new residential lots directly adjoining Sommers Crescent, provided any lot created is under 1,000sqm and does not have a battleaxe configuration.~~

~~The above restriction on the creation of lots within the 50 metre buffer may be set aside if a section 173 Agreement (or other restriction agreed to by Council) is placed on the lots which prohibits the development or sale of the lots separate from the ownership of the land on which the bus depot is located until such time as the bus depot use is no longer in operation and its existing use rights expired.~~

Any planning permit which creates residential lots, or approves a sensitive use, in the DPO4 area within 50 metres of the Jumbunna Road bus depot site may include a condition to restrict (through an appropriate restriction on title) the use of these lots for dwellings or other sensitive use until such time as the bus depot is no longer in operation and its existing use rights are expired.

The following requirement applies to the use or development of the Jumbunna Road bus depot site:

Before a sensitive use (residential use, child care centre, pre-school centre or primary school) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, either:

- A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or
- An environmental auditor appointed under the Environment Protection Act 1979 must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.

#### Fencing requirement

A planning permit which creates residential lots adjoining land in the Low Density Residential Zone or Lot 1 LP134693 or Lot 3 LP135303 must include a condition requiring fencing along the boundary of these ~~lands~~ lots. Fencing must be a minimum 1.8m high solid fence to be provided at the developer's expense and constructed prior to the issue of Statement of Compliance for the subdivision of the land.

### **3.0 Requirements for development plan**

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C52

The development plan must be prepared to the satisfaction of the Responsible Authority.

The development plan may be approved in stages. Each development plan stage must represent a logical land development unit bounded by roads, natural features or the boundaries of the Development Plan Overlay map area.

The development plan must show / provide:

#### **Land use and subdivision layout**

- The proposed boundaries of the development area, and provide the strategic justification for those boundaries.
- The overall subdivision of the area, including where possible, the proposed size and density of allotments which provide opportunities for a diverse range of housing types.
- The provision of a sensitive residential interface with adjoining residential land and the school. Lots directly adjoining the Low Density Residential Zone (LDRZ) should have a minimum rear boundary width at the LDRZ boundary of an average of 20 metres and not less than 18 metres, and avoid (where possible) the creation of more than 2 new lots directly adjoining each established LDRZ lots. Buildings must be setback a minimum of 7m from the zone boundary.

- For lots with a primary frontage to Jumbunna Road, [and](#) Sommers Crescent, ~~Bena Road Whitelaws Track and new internal 'Connector Streets' Level 1' roads (as per SGSC IDM), (see below definition)~~ provide:
  - [Minimum lot frontage of 18m.](#)
  - ~~— Maximum building site coverage of 40%~~
  - [Minimum building front setback of 67m.](#)
  - ~~— Minimum side setback of 2m.~~
  - ~~— Minimum 6m verges consistent with the IDM 'Collector Street' standard~~
- The provisions of a 2.5m wide reserve (unencumbered by landscaping or development) adjoining the southern side of Jumbunna Road to facilitate future widening of the shared pedestrian footpath to the school.
- Street networks that:
  - Limits the creation of new road access points onto Jumbunna Road and support building frontages with two way surveillance.
- ~~▪ Provides and defines a 'Connector Street' Level 1' as a road with an indicative maximum traffic volume of between 1,001 and 3,000 vehicle movements per day. Such roads must have the following minimum dimensions and requirements unless otherwise approved by the Responsible Authority:~~
  - ~~— Road reserve width of 24m~~
  - ~~— Carriageway width of 11m~~
  - ~~— Verge width of 6m~~
  - ~~— Shared pathway on both sides~~
  - ~~— Parking provision within the carriageway.~~
- The overall pattern of development of the area, including any proposed re-zoning of land and proposed land uses.

### Earthworks and Land Form

- Where steeply sloping land exists on the site, the development plan shall detail how the proposed design responds to the topography and contours of the land, and whether significant earthworks are likely to be required for subdivisions to ensure good development design outcomes are achieved. Where land exceeds a slope of 15% a geotechnical report must be prepared by an appropriately qualified person demonstrating the suitability of the land for development.
 

The report must provide sufficient detail to ensure environmental, access and amenity issues are appropriately addressed. The report should detail whether building envelopes or other controls are likely to be required at the subdivision stage.

### Infrastructure Services

- An integrated stormwater and flood management plan that incorporates water sensitive urban design techniques which provides for the protection of natural systems, integration of stormwater treatment into the landscape, improved water quality, and reduction and mitigation of run-off and peak flows, including consideration of downstream impacts.
- A comprehensive Traffic Impact Assessment prepared to the satisfaction of the ~~Roads Corporation and the~~ Responsible Authority, [in consultation with the Roads Corporation](#), that identifies the pattern and location of the major arterial road network of the area including existing roads and the location and details of any required:
  - road widening
  - signalised/unsignalised intersections
  - access points
  - pedestrian crossings or safe refuges
  - cycle lanes

- bus lanes and stops
- The pattern and location of any internal road system based on a safe and practical hierarchy of roads including safe pedestrian and bicycle connections and crossing points in accordance with South Gippsland Paths and Trails Strategy 2010 (as amended) and South Gippsland Open Space Strategy 2007 (as amended). The internal road and pedestrian network must specifically provide for:
  - A continuous road / pedestrian link from Prudence Close, to Sommers Crescent and pedestrian connectivity through Lot 4 LP135303 to an exit point onto Jumbunna Road between the school and Lot 1 LP134693.
  - The potential for internal road connectivity to the existing dwelling lots that have potential for further subdivision.
- In consultation with relevant agencies and authorities, provision of public transport stops where appropriate within easy walking distance to residential dwellings and key destinations. Stops should also be located near active areas where possible.
- Identification of costs for infrastructure provision both onsite and offsite.

### **Open Space and Landscaping**

- The location and size of the proposed open spaces that cater for a range of user groups and provide a variety of functions that perform both an active and passive role for recreation, as appropriate.
- Public open spaces designed to provide:
  - The inclusion of pedestrian and cycle paths and play equipment, that encourage active recreational opportunities.
  - Opportunities for visual surveillance to promote safety of users, through encouraging active frontages, using buildings to frame public spaces and locating open spaces within or adjacent to activity centres where possible.
- A landscaping plan, prepared by a suitably qualified person, identifying all proposed landscaping with particular regard to the interface with surrounding residential developments, open spaces, the bus depot, roads and the school. The landscape plan must include canopy tree plantings within both the internal and external road network to soften the visual impact of new development when viewed from within and outside the development area. The landscape plan must provide a high level of detail where new development is to adjoining Jumbunna Road, Sommers Crescent and new Connector Streets—~~Level 1 roads (as per SGSC IDM)~~, especially in areas where new development is inward facing and not addressing the road.

### **Flora and Fauna**

- In consultation with the Department of Sustainability and Environment, a flora and fauna survey, prepared by a suitably qualified expert, which includes but is not limited to species surveys for Gippsland Giant Earthworm, and measures required to protect the identified species.
- An assessment of any native vegetation to be removed having regard to Victoria's Native Vegetation Management: A Framework for Action, including how it is proposed to protect and manage any appropriate native vegetation, [including the provision of any offsets if required](#).
- Regard must be had to the West Gippsland Native Vegetation Plan 2003. (as amended)

### **Cultural Heritage**

- A cultural heritage assessment including how cultural heritage values will be managed.

### **Land Contamination**

An investigation by an appropriately qualified person of the potential location and forms of land contamination resulting from previous land uses, as well as measures to address contamination in areas where sensitive land uses are proposed. The investigation must consider, but not be limited to, agricultural chemical use, informal land dumping, industrial & mining activities and former railway use.

## Process and Outcomes

The development plan should be prepared with an appropriate level of community participation as determined by the Responsible Authority. ~~which must include a community consultation period of not less than 28 days commencing at a time determined by the Responsible Authority.~~

An implementation plan must be submitted as part of the development plan, indicating the proposed staging of the development and timing of infrastructure provision.

The approved development plan may be amended to the satisfaction of the Responsible Authority.

### 4.0 Decision guidelines for development plan

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C52

Before deciding on a development plan, the Responsible Authority must be satisfied that the plan has regard to the following information:

- Victoria's Native Vegetation Management: A Framework for Action 2002.
- National Heart Foundation of Australia (Victorian Division) 2004, Healthy by Design: a planners' guide to environments for active living®, National Heart Foundation of Australia (Victorian Division) or as amended.
- South Gippsland Path and Trails Strategy 2010 (as amended).
- South Gippsland Open Space Strategy 2007 (as amended).
- Korumburra Structure Plan 2010 (as amended).

## **Appendix D Panel preferred DPO Schedule 6**

The Panel proposes the following DPO6 to apply to the C66 area.

The Panel has used its best endeavours to draft the schedule in accordance with the relevant Practice Notes but accepts that further minor redrafting and expression changes may be required.

## SCHEDULE 6 TO THE DEVELOPMENT PLAN OVERLAY

Shown on the planning scheme map as **DPO6**

### KORUMBURRA RESIDENTIAL GROWTH AREAS

#### 1.0 Requirement before a permit is granted

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

- A minor extension, minor addition or minor modification to an existing development that does not prejudice the future orderly development of the general area affected by the Development Plan Overlay to the satisfaction of the Responsible Authority.
- The use and development of land for agriculture provided it is minor in nature and does not prejudice the future residential use and development of the land, or the residential amenity of surrounding areas.
- The use, development & subdivision of land by a public authority or utility provider.
- ~~Off site Infrastructure Provision / Developer Contribution Agreement~~
- ~~Before a permit is issued for the residential subdivision of land the landowners must enter into an agreement with the Responsible Authority pursuant to section 173 of the Planning and Environment Act 1987 or any other mechanisms approved by Council. This agreement must make provision for contributions to be made by the owners towards the provision of development and community infrastructure on public land (including the provision of land and/or the payment of financial levies) required as a consequence of the subdivision of the land.~~
- ~~Note: Council is undertaking detailed Traffic, Drainage and Community Infrastructure Assessments in 2012 and 2013 for Korumburra which will inform the requirements for Contributions. It is intended that Section 173 Agreements are a interim step whilst Council implements a Development Contribution Plan – Planning Scheme Amendment.~~

#### 2.0 Conditions and requirements for permits

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Before deciding on an application to subdivide land, construct buildings, or carry out works, the Responsible Authority must consider, as appropriate:

- Whether the development of the land is occurring in an efficient and orderly manner having regard to essential services, community facilities, open space and roads.
- The potential for future re-subdivision.
- The interface between proposed and existing nearby developments, to reduce the chance of conflicting developments, especially in relation to the industrial zoned land north of Bena Road.
- The need to minimise access points to Jumbunna Road.
- The design of any proposed buildings to enhance and reinforce the character of the area.
- The timing and staging of the development of the land.
- The consistency of the proposed development with the approved development plan.
- The consistency of the proposed development with the adopted Korumburra Structure Plan, where relevant.
- Any other matter, as deemed appropriate by the Responsible Authority, which the development plan should take account of based on the specific character of the land.
- The requirement for building envelopes, agreements or covenants to be registered on newly created titles to achieve the lot development restrictions set out in the development plan.



- An assessment against the requirements of Clause 56 of the South Gippsland Planning Scheme.

#### Development and community infrastructure

Prior to the issuing of a Statement of Compliance (or otherwise agreed to in writing by the Responsible Authority), the landowners may enter into an agreement with the Responsible Authority pursuant to section 173 of the Planning and Environment Act 1987 or other mechanisms approved by Council. Any such agreement should make provision for contributions to be made by the owners towards the provision of development and community infrastructure on public land (including the provision of land and/or the payment of financial levies) required as a consequence of the subdivision of the land.

#### Fencing requirement

Fencing on sensitive interfaces (existing residential zoned land bordering DPO6) is to be a minimum 1.8m high solid fence to be provided at the developer's expense prior to the issue of Statement of Compliance on the subdivision of the land. The location and type of fencing may be varied subject to the approval of the Responsible Authority.

### 3.0

#### **Requirements for development plan**

The development plan must be prepared to the satisfaction of the Responsible Authority.

The development plan may be approved in stages. Each development plan stage must represent a logical land development unit bounded by roads, natural features or the boundaries of the Development Plan Overlay map area.

The development plan must show / provide:

#### **Land use and subdivision layout**

- The proposed boundaries of the development area, and provide the strategic justification for those boundaries.
- The overall subdivision of the area, including where possible, the proposed size and density of allotments which provide opportunities for a diverse range of housing types.
- The provision of a sensitive residential interface with adjoining residential land. Lots directly adjoining the Low Density Residential Zone (LDRZ) must include a rear setback of a minimum of 7 metres from the zone boundary to any new structure, with a minimum of a 3 metre wide landscape buffer along the zone boundary, or alternative, determined to the satisfaction of the Responsible Authority.
- ~~▪ The provision of a sensitive residential interface with adjoining residential land. Lots directly adjoining the Low Density Residential Zone (LDRZ) should have a minimum rear boundary width at the LDRZ boundary of 20m. Buildings must be setback a minimum of 7m from the zone boundary.~~
- ~~▪ For lots with a primary frontage to Jumbunna Road, Bena Road Whitelaws Track and new internal Connector Street – Level 1' roads (see below definition) provide:~~
  - ~~— Minimum lot frontage of 18m~~
  - ~~— Maximum building site coverage of 40%~~
  - ~~— Minimum building front setback of 7m~~
  - ~~— Minimum side setback of 2m~~

Street network that:

- Limits the creation of new road access points onto Jumbunna Road and support building frontages with two way surveillance.
- ~~▪ Provides and defines a 'Connector Street – Level 1' as a road with an indicative maximum traffic volume of between 1,001 & 3,000 vehicle movements per day. Such roads must have the following minimum dimensions and requirements unless otherwise approved by the Responsible Authority:~~
  - ~~— Road reserve width of 24m~~

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- ~~— Carriageway width of 11m~~
- ~~— Verge width of 6m~~
- ~~— Shared pathway on both sides~~
- ~~— Parking provision within the carriageway.~~

- The overall pattern of development of the area, including any proposed re-zoning of land and proposed land uses.
- [A staging plan that demonstrates an efficient and orderly provision of infrastructure and services.](#)
- An accessible and integrated network of walking and cycling routes for safe and convenient travel to adjoining communities (including existing and future areas included in the DPO), local destinations or points of local interest, activity centres, community hubs, open spaces and public transport.
- The provision of any commercial facilities and the extent to which these can be co-located with community and public transport facilities to provide centres with a mix of land uses and develop vibrant, active, clustered and more walkable neighbourhood destinations.

#### Industrial Zone interface

For subdivision and development north of Foster Creek an interface management plan is to be provided which specifies a design response and specific building and lot controls including, where required, controls to address amenity concerns related to noise, odour, vibration and lighting arising from legally occurring industrial activities within the Industrial 1 and Industrial 3 Zones. This may be executed via a Section 173 Agreement.

#### **Earthworks and Land Form**

- Where steeply sloping land exists on the site, the development plan shall detail how the proposed design responds to the topography and contours of the land, and whether significant earthworks are likely to be required for subdivisions to ensure good development design outcomes are achieved. Where land exceeds a slope of 15% a geotechnical report must be prepared by an appropriately qualified person demonstrating the suitability of the land for development.

The report must provide sufficient detail to ensure environmental, access and amenity issues are appropriately addressed. The report should detail whether building envelopes or other controls are likely to be required at the subdivision stage.

#### **Infrastructure Services**

- An integrated stormwater and flood management plan that incorporates water sensitive urban design techniques which provides for the protection of natural systems, integration of stormwater treatment into the landscape, improved water quality, and reduction and mitigation of run-off and peak flows, including consideration of downstream impacts.
- A comprehensive Traffic Impact Assessment prepared to the satisfaction of the Responsible Authority [in consultation with the Roads Corporation](#) that identifies existing and post development traffic generation, distribution and associated analysis and the pattern and location of the major arterial road network of the area including existing roads and the location and details of any required:
  - road widening
  - signalised/unsignalised intersections
  - access points
  - pedestrian crossings or safe refuges
  - cycle lanes
  - bus lanes and stops
- The pattern and location of any internal road system based on a safe and practical hierarchy of roads including safe pedestrian and bicycle connections and crossing points in accordance

with South Gippsland Paths and Trails Strategy 2010 (as amended) and South Gippsland Open Space Strategy 2007 (as amended). The internal road network must specifically provide for the potential for internal road connectivity to the existing dwelling lots that have potential for further subdivision.

- In consultation with relevant agencies and authorities, provision of public transport stops where appropriate within easy walking distance to residential dwellings and key destinations. Stops should also be located near active areas where possible.
- Identification of costs for infrastructure provision both onsite and offsite.

### **Open Space and Landscaping**

- The location and size of the proposed open spaces that cater for a range of user groups and provide a variety of functions that perform both an active and passive role for recreation, as appropriate.
- Public open spaces designed to provide:
  - The inclusion of pedestrian and cycle paths and play equipment, that encourage active recreational opportunities.
  - Opportunities for visual surveillance to promote safety of users, through encouraging active frontages, using buildings to frame public spaces and locating open spaces within or adjacent to activity centres where possible.
- A landscaping plan, prepared by a suitably qualified person, identifying all proposed landscaping with particular regard to the interface with surrounding residential and industrial developments, open space and roads. The landscape plan must include canopy tree plantings within both the internal and external road network to soften the visual impact of new development when viewed from within and outside the development area. The landscape plan must provide a high level of detail where new development is adjoining Jumbunna Road, Bena Road and new Connector Street – Level 1 roads (~~as above defined~~), especially in areas where new development is inward facing and not addressing the road.

### **Community Infrastructure and Meeting Places**

- Provision for accessibility and social interaction, particularly where this encourages physical activity. For example:
  - Consider the need for public amenities, including toilets and bicycle parking at key destinations in accordance with Path and Trails Strategy 2010 (as amended).
  - The pattern and location of pedestrian and bicycle paths should provide safe and practical access to and from community facilities and meeting places.
  - Spaces should be designed to accommodate community events.
  - Consider the need for onsite community facilities or where required, upgrades and contribution to offsite community infrastructure.

### **Flora and Fauna**

- In consultation with the Department of Sustainability and Environment, a flora and fauna survey, prepared by a suitably qualified expert, which includes but is not limited to species surveys for Gippsland Giant Earthworm, and measures required to protect the identified species.
- An assessment of any native vegetation to be removed having regard to Victoria's Native Vegetation Management: A Framework for Action, including how it is proposed to protect and manage any appropriate native vegetation, [including the provision of any offsets if required](#).
- Regard must be had to the West Gippsland Native Vegetation Plan 2003. (as amended)

### **Cultural Heritage**

- A cultural heritage assessment including how cultural heritage values will be managed.

## Land Contamination

An investigation by an appropriately qualified person of the potential location and forms of land contamination resulting from previous land uses, as well as measures to address contamination in areas where sensitive land uses are proposed. The investigation must consider, but not be limited to, agricultural chemical use, informal land dumping, industrial & mining activities.

## Process and Outcomes

The development plan should be prepared with an appropriate level of community participation as determined by the Responsible Authority. ~~which must include a community consultation period of not less than 28 days commencing at a time determined by the Responsible Authority.~~

An implementation plan must be submitted as part of the development plan, indicating the proposed staging of the development and timing of infrastructure provision.

The approved development plan may be amended to the satisfaction of the Responsible Authority.

## 4.0 Decision guidelines for development plan

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Before deciding on a development plan, the Responsible Authority must be satisfied that the plan has regard to the following information:

- Victoria's Native Vegetation Management: A Framework for Action 2002.
- National Heart Foundation of Australia (Victorian Division) 2004, Healthy by Design: a planners' guide to environments for active living®, National Heart Foundation of Australia (Victorian Division) or as amended.
- South Gippsland Path and Trails Strategy 2010 (as amended).
- South Gippsland Open Space Strategy 2007 (as amended).
- Korumburra Structure Plan 2010 (as amended).

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### **E.3 PLANNING SCHEME AMENDMENT C52 - JUMBUNNA ROAD RESIDENTIAL 1 REZONING PROPOSAL - REFERRAL TO INDEPENDENT PLANNING PANEL**

Sustainability Directorate

#### **EXECUTIVE SUMMARY**

Planning Scheme Amendment C52 proposes to rezone approximately 20ha of land adjoining Jumbunna Road Korumburra from the Farming Zone to the Residential 1 Zone – see **Attachment 1**. The amendment includes the application of a schedule to the Development Plan Overlay (DPO) to guide the future residential subdivision of the land (see **Attachment 2**) and the deletion of the Environmental Significance Overlay (Erosion) from the land.

In accordance with the Council Resolution of 16 December 2009 the amendment was exhibited for the standard one month period. Exhibition resulted in the receipt of 17 submissions of which 13 are considered objections. The submissions can not be resolved via negotiation and it is recommended they be referred to an Independent Planning Panel for consideration.

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

Pursuant to Section 22(1) of the *Planning and Environment Act 1987* (the *Act*) Council must consider all submissions to a planning scheme amendment request. Following consideration, any submission that remains unresolved must [pursuant to Section 23(1)(b)] be referred to an Independent Planning Panel for consideration.

#### **COUNCIL PLAN**

##### **Primary:**

- Strategic Goal: 3.0 A Strong Economy
- Outcome: 3.3 Infrastructure - Well connected and integrated systems and networks the support the economy of the South Gippsland Shire.
- Strategy No.: 3.3.4 Ensure that land use planning supports the orderly and sustainable development of land.

#### **CONSULTATION**

Exhibition of the amendment occurred via postal notification to the owners / occupiers of the land proposed to be rezoned and all properties adjoining the subject land. Public notice of the amendment was placed in the local newspapers and in the Government Gazette.

Submissions to the amendment are public documents and may be viewed at Council on request. All submissions have been provided to the Councillors for consideration prior to consideration of this report at Council.

## **REPORT**

### **Discussion**

The following is a discussion of the key issues identified in the submissions. In relation to submissions from individual landowners, many of the key issues are expressed across a number of the submissions. These matters are discussed in general terms and without specific reference to individual landowners.

#### VicRoads

VicRoads submit that *“Individual access points to the Korumburra – Wonthaggi Road (Jumbunna Road) will not be permitted. Access must be designed to incorporate service roads and or one point of access”*.

The proposed Development Plan Overlay Schedule requires the limiting of new road entry points to Jumbunna Road (which is generally consistent with the recommendation of VicRoads), however the DPO also allows for the creation of direct road access for the lots fronting Jumbunna Road. This is contrary to the requirement of VicRoads that service roads be used to access the lots fronting Jumbunna Road.

The existing developments within the subject land fronting Jumbunna Road (three dwellings and a bus depot) will make service road construction impractical and costly to achieve. If service roads are not provided, the remaining option available to fulfil VicRoads' requirements is to provide access to the lots adjoining Jumbunna Road via a road that is internal to the subdivision. Typically this will result in the dwellings being orientated to the internal road network with their backyards facing Jumbunna Road. This outcome is likely to result in a line of 2 metre high paling fencing being constructed along the Jumbunna Road frontage as residents seek to secure privacy in their back yards. This is a poor urban design and public street safety outcome.

The disadvantages of providing direct access to Jumbunna Road are that allowing vehicles to back onto a main road can present safety issues if the subdivision is not appropriately designed and it will create more crossover points for the shared pathway to the school. Planning Panels Victoria has panel members that are qualified traffic engineers. The traffic matters will be specifically identified in the panel request. The Panel process will allow the various competing issues to be considered and assessed on their merits.

Jumbunna Road has a speed limit of 80kph in the area adjoining the subject land. If dwellings are to have direct access to the road (in a manner typical of existing residential development within the township boundary) the speed limit will likely require reduction to 60kph. It is the view of Council officers that the

subject land is essentially an infill development and is already within the boundaries of the township. In this scenario, a reduction of the speed limit to 60kph is considered an acceptable outcome. Again, this matter should be tested before the Panel.

#### Environment Protection Authority

The subject land includes the Winterhalter Bus Depot. The depot is an ongoing operation and it is understood that the owners have no short or medium term plans to relocate or close the depot. The depot land (approximately 2,500sqm) has been included in the amendment for the purpose of planning clarity within the precinct.

Inspection of the land identified some operational practices that could have potentially resulted in soil contamination. In response to this the EPA comment that:

*“Council must be satisfied that all of the land is suitable for its intended use. The bus depot site should be considered as potentially contaminated and Council should request a site assessment from a suitably qualified environmental professional to determine whether an Environmental Audit of the bus depot is appropriate”.*

Contamination of residential land is a potential legal liability for Council. If Council rezones land it must be satisfied that it is safe for its intended use. As noted above, the depot use may continue for a number of years to come. This means that any contamination investigation to occur now will not address any potential contamination that could occur in the future. To address this, it is recommended that an Environmental Audit Overlay (EAO) be applied to the depot site, or alternatively, similar requirements to the EAO be incorporated in the Development Plan Overlay. Both mechanisms will secure an ongoing requirement for this matter to be addressed before the land is used for residential or other sensitive land use purposes.

The EPA also flag the issue of farming practice contamination of the grazing land and the potential amenity impacts that could result from dwelling use in proximity to an operational bus depot. Further discussions with the landowner are required to address these matters and the Panel hearing will provide the opportunity to clarify how these concerns may be addressed.

#### Department of Sustainability and Environment

The Department of Sustainability and Environment has not objected to the amendment however it has recommended that additional information be provided in relation to the potential presence of the Giant Gippsland Earthworm on the land. This request has been provided to the amendment proponent for consideration and reporting. This should be completed prior to the Panel Hearing. The earthworm is a federally protected species and disturbing its habitat requires approval. If it is likely that the species is present at the site it is preferable to identify this prior to a subdivision plan being



approved and works commencing on this site. If a worm colony is disturbed during the development of the subdivision it can require works to cease.

#### West Gippsland Catchment Management Authority

The Catchment Management Authority (CMA) has not objected to the amendment however they have provided a series of stormwater and environmental recommendations for the land. Some of the recommendations include matters that can only be fully assessed when a subdivision application is under consideration. The subject land is unaffected by declared waterways and no formal stormwater treatments are currently provided along the Jumbunna Road frontage to the land. The DPO Schedule requires the preparation of a stormwater management plan for the subject land as well as details of how water will be directed to a legal point of discharge. Stormwater that leaves the site must not exceed pre development levels and it is almost certain that stormwater retention works will be required at the low points of the subject land. While acknowledging the comments of the CMA, the currently drafted DPO Schedule provisions are considered sufficient to support the rezoning of the land.

#### Submissions from surrounding landowners

Eleven landowners from the area surrounding the subject land have objected to the amendment or requested changes to the proposal in some form. The majority of the submissions come from residents on Hillcrest Way and Rill Court - adjoining the south boundary of the subject land. The subdivisions on these roads are in the Low Density Residential Zone.

The most common theme of the submissions is the concern that application of the Residential 1 Zone is inappropriate because it will facilitate high density residential development. This is seen by some submitters as having detrimental impacts in terms of increasing traffic movements, creating visually unsightly development, dwellings that overlook private open space, the obstruction of view lines across the subject land and increased stormwater drainage runoff.

The submissions generally acknowledge that residential development of the subject land is appropriate however it is the density of development that is the key concern. Some submissions recommend application of the Low Density Residential Zone (average lot size 0.4ha) or the Rural Living Zone (minimum lot size 1ha). Other submissions recommend the use of the DPO Schedule to set a minimum lot size, or use of the schedule to specifically control the lot sizes adjoining the existing Low Density Residential Zone. It is the concern of one submitter that assessing the impact of development on the land could not be properly assessed because a subdivision development plan has not been provided, and further noted that the public will have no opportunity to participate in the assessment of the future subdivision application. It is to be acknowledged that if the DPO Schedule is included in the Planning Scheme, the public will not have the ability to object to the future subdivision of the land.



The majority of the issues raised in the submissions relate to matters that are a consequence of the interface of different land zonings. Residential zone boundaries of the nature proposed by this amendment are preferable located on roads or along natural features or physical infrastructure which provides separation to other forms or densities of development. The historic application of zones across the subject area, and the absence of a broader precinct plan (e.g. an Outline Development Plan) have created a situation where concerns of the nature now being expressed are to be expected.

The DPO Schedule has sought to address this matter with the requirement that a “sensitive residential interface with adjoining residential land and the school” be achieved in the subdivision of the land. Some submissions have recommended the use of the abandoned railway line along the southern boundary (approximately 28 metres wide) as a reserve to buffer the different development densities. This land is owned by the developer and the suggestion has not been accepted because of the amount of land that would be lost to development.

The situation created by the proposed density interface, while not preferred, is not unique and Council officers do not presently support changes to the amendment proposal given that the merits of the amendment and the submissions can now be tested before a Panel.

Other matters raised in the landowner submissions are noted and commented upon as follows.

- *Increased stormwater drainage onto adjoining land.* This is a commonly expressed concern in the submissions. As noted above, stormwater plans must be provided as part of the development plan. Before subdivision of the land is approved it must demonstrate (in accordance with normal development practice) that stormwater discharges across title boundaries are not increased.
- *Speed limits on Jumbunna Road should be lowered.* As noted above, Council officers support this outcome. Some submissions expressed concerns about new developments increasing traffic movements in general. A traffic study is a requirement of the DPO.
- *Uniform fencing should be provided along boundaries with existing dwellings.* Fencing is typically not a matter that Council seeks to become involved in.
- *No public housing or two storey dwellings should be considered.* The planning system can not specifically discourage public housing. Justification for height controls above and beyond those currently provided for under the building regulations are not considered necessary.

### Western Korumburra Outline Development Plan

Development interest in the western Korumburra area is growing. In addition to Amendment C52, a further two amendment requests in the general area are currently with Council. One of the amendments requests (application of the Residential 1 Zone) affects land on the northern side of Jumbunna Road opposite the subject land. In response to these development pressures Council officers have recently commenced preliminary investigations for the preparation of an Outline Development Plan to guide the integrated development of the broader western Korumburra area.

While the subject land is considered to be primarily a residential infill development, it does have a relationship to the greenfield development land on the northern side of Jumbunna Road which is to be included in the ODP process. For example, the development of an access road(s) to the subject land could impact the preferred location of access points to the adjoining northern land, especially if roundabouts are used.

It is currently anticipated that the ODP will be completed by the end of the current financial year. Due to the likely interrelationship of developments on both sides of Jumbunna Road it will be recommended to the Panel that the DPO Schedule provisions be amended to state that the Development Plan must have consideration to the outcomes of the ODP process with relation to the Jumbunna Road frontage.

### **CONCLUSION**

The amendment proponent has sought to negotiate outcomes with a number of the submitters to the amendment however it is evident that the ability to achieve unconditional withdrawals from all of the submitters is unlikely. Accordingly, it is recommended that all of the submissions to the amendment be referred to an Independent Planning Panel for consideration. In accordance with normal process, the Panel Report will be reported to Council prior to any further decision on the amendment being made by Council.

### **FINANCIAL CONSIDERATIONS**

The amendment has been prepared by two of the owners of the subject land. The statutory fees and planning panel costs are to be borne by these parties. The only immediate cost to Council in the assessment of the amendment application is the officer time required to process the amendment. Officer processing time forms part of the normal duties of the Planning Department and will occur within the existing budget.

Assuming approval of the amendment, the subsequent subdivision of the land will occur in accordance with Council's standard subdivision requirements whereby the benefiting landowners pay for the development of their land and the off site infrastructure requirements directly related to the development of the land.

## **RISK FACTORS**

There are no risk factors directly related to the recommendation presented in this Council Report.

The risk of the amendment failing at some stage in the process is borne by the amendment proponent.

## **RECOMMENDATION**

That Council:

1. Refer all submissions to Planning Scheme Amendment C52 to an Independent Planning Panel for consideration;
2. Request the appointment of a panel member with traffic engineering experience who may provide advice to Council on the traffic management issues surrounding development fronting Jumbunna Road; and,
3. Support the application of an Environmental Audit Overlay (or similar controls incorporated into the Development Plan Overlay Schedule) to ensure the future residential use of the Bus Depot site and its immediate surrounds is free of land contamination.

**MOVED: Cr Newton**

**SECONDED: Cr Deane**

**THAT COUNCIL:**

1. **REFER ALL SUBMISSIONS TO PLANNING SCHEME AMENDMENT C52 TO AN INDEPENDENT PLANNING PANEL FOR CONSIDERATION;**
2. **REQUEST THE APPOINTMENT OF A PANEL MEMBER WITH TRAFFIC ENGINEERING EXPERIENCE WHO MAY PROVIDE ADVICE TO COUNCIL ON THE TRAFFIC MANAGEMENT ISSUES SURROUNDING DEVELOPMENT FRONTING JUMBUNNA ROAD; AND,**
3. **SUPPORT THE APPLICATION OF AN ENVIRONMENTAL AUDIT OVERLAY (OR SIMILAR CONTROLS INCORPORATED INTO THE DEVELOPMENT PLAN OVERLAY SCHEDULE) TO ENSURE THE FUTURE RESIDENTIAL USE OF THE BUS DEPOT SITE AND ITS IMMEDIATE SURROUNDS IS FREE OF LAND CONTAMINATION.**

**Cr Kennedy returned to the Meeting at 8.20pm.**

**CARRIED UNANIMOUSLY**

**Attachment 1**

Proposed Rezoning, Jumbunna Road, Korumburra - Farming Zone to Residential 1 Zone & Application of a Development Plan Overlay

