



# **South Gippsland Planning Scheme Review**

Version 2.0

January 24, 2023

Draft for community exhibition



Planning and Environment Act 1987

Planning scheme review pursuant to Section 12B of the Act

South Gippsland Planning Scheme

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# **1. Executive summary**

## **1.1. Why is the planning scheme being reviewed?**

Council as the planning authority for the South Gippsland planning scheme is required to review its planning scheme every four years under Section 12(B) of the Planning and Environment Act 1987.

Council last undertook a comprehensive review of the planning scheme in 2018. The findings of this review were received by the Minister for Planning, however a planning scheme amendment was not prepared to implement the recommendations of the review.

Recently the planning scheme was restructured to insert a new Municipal Planning Strategy and local Planning Policies to replace the former Local Policy Planning Framework. This was done via amendment C127sgip and was a policy neutral amendment undertaken by the State government.

This review will be forwarded to the Minister for Planning as required under section 12(B) of the act once complete. A planning scheme amendment to implement the findings of the review has been prepared and is attached in the form of marked up ordinance as Appendix 1 to this report.

## **1.2. Health check and findings**

South Gippsland Shire's planning scheme is mature and the organisation is well aware of the significant challenges that face the municipality as the impacts of climate change become more pronounced, and the population continues to grow sharply as a result of regional migration that has occurred since COVID-19.

This growth has perhaps been a bit unexpected and one of the key findings of this review is that the resourcing of the statutory planning function should be reviewed considering the findings that permit applications have increased significantly (by 30%) and processing times have dramatically increased.

## **1.3. Top priorities for Council**

The three most significant planning challenges facing the municipality relate to coastal planning, rural planning and managing the growth of Nyora as it transitions to a higher order township.

There is a lot of work to do relating to coastal planning. Many of the planning controls in place across coastal areas, particularly the Environment Significance Overlays and the Design and Development Overlays, are not specific enough. They do not clearly articulate the preferred outcomes for each area and they do not provide enough guidance for applicants and decision makers.

The Shire's rural policy requires further work to recognise and protect the landscape and visual amenity of the rural hinterland, while providing adequate guidance for decision makers in relation to conflicting planning considerations.

Nyora has and is experiencing significant demand for growth. At present there is inadequate policy direction and associated controls to recognise opportunities for influencing land use development outcomes. The future role and function of Nyora in the overall settlement hierarchy is not defined and further work is required to plan for its future growth and development.

## 1.4. Consolidated recommendations

This section of the report outlines the recommendations and next steps for this planning scheme review. Recommendations are grouped as follows:

- Planning scheme recommendations (Recommendation 1)
- Further strategic work recommendations (Recommendations 2 – 20)
- Process improvement recommendations (Recommendations 21 – 22)
- Advocacy recommendations (Recommendations 23– 26)
- Minister for Planning recommendation (Recommendations 27 – 28)

### 1.4.1. Planning scheme amendment

These recommendations relate to the planning scheme amendment that should be progressed to implement the findings of this review relating to administrative matters or to incorporated Council or State adopted strategic planning work into the scheme.

The planning scheme review has identified many policy-neutral changes that should be made to the planning scheme to bring it into alignment with the Ministerial Direction on the Form and Content of Planning Schemes. These are purely administrative matters and do not change the policy intent of the scheme.

There are several factual changes that should be made to the Municipal Planning Strategy to bring it up to date with the most recent ABS and economic data, and the Council Plan.

Opportunity has been taken to make several other changes to the planning scheme to reflect Council practice including refining DDO3, DDO4, DDO5 and DDO6 to better comply with the Ministerial Direction on the Form and Content as well as reflect the intent of the controls.

Rural policy and strategic framework plans moved and deleted in the PPF translation is recommended for reintroduction into the ordinance.

The planning permit audit and consultation with referral authorities and Council staff identified some permit triggers to be removed as generating unnecessary permit applications that related to matters that Council is not concerned about from a planning perspective. Removal of these permit triggers should reduce the number of planning permits dealt with by Council. This represents a reduction in workload which will enable resources to be directed to other planning priorities.

An audit of local and regional strategies and policies that have been completed since the last planning scheme review has inserted new policy, as relevant. The working documents that were used to do the analysis have been provided to Council.

These changes are marked up on the supporting Ordinance (See Appendix Two).

Within the Ordinance, the reason for each change is included in orange text in brackets like this: [\[source code\]](#). This reason will take the reader back to the correct page of the parent document or the correct provision in the planning scheme as appropriate and enable changes to be understood in their original context. If the words **NEW** is at the start of the source code, it means that this is new, strategically justified policy to be included in the scheme and will require a full amendment.

#### **Recommendation:**

It is recommended that Council:

- 1. Prepare a planning scheme amendment or amendments using the marked up ordinance at Appendix Two to:**

- a) Amend the Municipal Planning Strategy (MPS), local Planning Policy Framework (PPF) policies and schedules to include changes identified in the audit of the planning scheme review in Chapter 5.
- b) Include changes requested by referral agencies as part of the planning scheme review engagement.
- c) Include policy in the planning scheme to implement the:
  - Council Plan 2022 – 2026.
  - South Gippsland Community Vision 2040.
  - South Gippsland Economic Development Strategy 2021 – 2031.
  - South Gippsland Environmental Sustainability Framework 2021.
  - South Gippsland Social and Affordable Housing Strategy 2022.
  - South Gippsland Visitor Economy Strategy 2021 – 2031.
  - Gippsland Regional Plan 2020 – 2025.
- d) Reinstate policies that were lost through the PPF translation process for rural planning, localities and strategic framework plans
- e) Update planning provisions to rectify strategically justified anomalies identified by Council.
- f) Change the designation of Nyora from ‘Small town’ to ‘Emerging district centre’ and update the description of Nyora’s future role at Clause 02.03-1 (Settlement).
- g) Include policy at Clause 13.02-1L (Bushfire Planning) to improve the safety of development.
- h) Delete the words ‘non residential zones’ from the heading of ESO3, as the control relates to both residential and non residential areas.
- i) Reduce the design objectives for Design and Development Overlays (DDO) DDO 3 Sandy Point, DDO 4 Waratah Bay, DDO 5 Venus Bay, DDO6 Tarwin Lower and relocate buildings and work requirements.
- j) Remove the subdivision permit trigger from DDO8 – DDO11 as it is not necessary to consider subdivision under the control.
- k) Move referral requirements to Clause 66.04s rather than being distributed through the ordinance.
- l) Include an updated Clause 74.02 Further strategic work that prioritises the strategic work program based on the findings of this review.

#### **1.4.2. Further strategic work**

Appendix Three of this report outlines the strategic planning work that has been identified through this planning scheme review.

Through the review process, the highest priority tasks for Council to undertake over the next four years to improve the planning scheme has been identified and is included in the recommendations below.

Only work that can be completed in the next four years should be included in Clause 72.04 of the planning scheme. A recommended Clause 72.04 is included in the marked-up ordinance at Appendix Two. This should be considered by Council to ensure that the work is reasonable to complete over the next four years and, if not, the priority projects that should be included in Clause 74.02.

#### **Recommendations:**

It is recommended that Council prioritise the following strategic planning work over the next four years:

2. **Finish the coastal strategy and introduce subsequent local policy and provisions to manage development and land use conflicts in coastal regions, particularly around risks and impacts associated with climate change. This may include tailored development controls for coastal townships.**
3. **Review existing controls and, where necessary, undertake character assessments to inform new planning controls to manage development, particularly in residentially zoned areas. This should include:**
  - a) **Review of the existing Environmental Significance Overlays (ESOs) and DDOs to ensure they are achieving what is expected from them, are applied at the right scale, have the correct permit triggers in them and sufficient detail to better aid applicant and decision makers.**
  - b) **Clearer urban design guidance to assist with balancing the tension between competing objectives and outcomes for the siting and design of buildings and works.**
  - c) **Guidance about development on laneways, particularly in Korumburra and Leongatha relating to infill subdivision and development proposals.**
4. **Prepare a rural landscapes strategy to protect inland and rural hinterlands from inappropriate development and transportation routes. This should address identification and protection of significant landscapes, preservation of agricultural land, and guidance for achieving development outcomes in keeping with scope of agricultural use.**
5. **Plan Nyora's growth and infrastructure to accommodate the expected growth in the area and transition it successfully to a higher order town in South Gippsland Shire. This may include urban character controls.**
6. **Finalise and implement Council's current review of planning permit triggers in the Shires rural areas.**
7. **Prepare the Industrial Strategy to ensure a sufficient, appropriately located supply of industrial land, particularly considering the impacts of off shore energy generation, and the changing needs of the agricultural industry**
8. **Update the 2004 South Gippsland Heritage Study as necessary and to apply the Heritage Overlay to all heritage places and precincts of local heritage significance.**
9. **Resolve a Memorandum of Understanding between South Gippsland Water and Council to enable South Gippsland Water to be removed as referral authority for unplumbed Domestic Sheds more than 30m from a waterway.**

It is recommended that Council note the following strategic planning work that has been identified as part of this review:

10. **Review ESO1 Areas of Natural Significance and prepare a detailed statement of significance and reduce the objectives to one. This may require splitting the existing ESO1 into more fine grained ESOs to address the specific issues of environmental significance.**
11. **Notify parties that strategic justification is required to facilitate the rezoning of land for future expansion of the Mirboo North Town Centre.**



12. Update Clause 15.01-1L-02 (Signage) to provide clearer guidance in relation to the specific outcomes that are sought be achieved in relation to signage within the Shire, to provide clarity for the community and to help Council to refuse inappropriate proposals.
13. Develop an offset framework to enable appropriate relocation or replacement of habitat of the Giant Gippsland Earthworm resulting from planning decision and determine whether the impacts of hydrology changes on colonies and habitat should be undertaken as part of the assessment process to strengthen 42.01 ESO9 Giant Gippsland Earthworm and Habitat Protection
14. Review whether the S173 Agreement requirements detailed in the South Gippsland Rural Strategy 2011 can be incorporated into the planning scheme and if not, undertake further strategic work to do this.
15. Review rural dwellings and subdivision policy requirements to ensure consistency with State Planning Policy and protect local values, with input via community consultation.
16. Convert ESO4 Sewer Treatment Plants and Environs and ESO8 Manufacture of Milk Products Amenity to the Buffer Area Overlay (BAO).
17. Apply the Environmental Audit Overlay (EAO) to known sites of land contamination in accordance with previous Council initiative.
18. Convert ESO5 Areas susceptible to erosion into the Erosion Management Overlay (EMO).
19. Implement the the 'Flood & Drainage Study for Foster and Surrounding Catchments – July 2019' in partnership with the West Gippsland Catchment Management Authority.
20. Various drafting changes to Special Use Zones (SUZ) SUZ4 and SUZ7, ESO 2, ESO7 and the Parking Overlay (PO).

#### **1.4.3. Process improvements**

These recommendations are drawn from both the analysis of the planning scheme and consultation with Council staff and referral authorities.

The recommendations relate to improvements that could be made to the processes associated with collection and analysis of data (such as planning permits), processing and referral of applications, and communication. Process improvements may apply to Council, the State government or referral agencies.

#### **Recommendations:**

It is recommended that Council:

21. Review the resourcing of the statutory planning function to ensure that adequate resources and systems are available to deal with the significant increase in planning permit applications over the last four years (30% increase), and address the steadily declining performance of the Council in meeting statutory processing timeframes for planning permit applications (target reduction is from 99 days to the statutory 60 days).
22. Improve the documentation about the Restructure Plans available on Council's website and work with local real estate agents to support better understanding of the implications of the Restructure Overlay to prospective purchasers of land.

#### **1.4.4. Advocacy**

These recommendations are generally beyond the scope of what Council can achieve in its planning scheme under the current Victoria Planning Provisions or scope of the Planning and Environment Act 1987. They are matters that Council may wish to discuss with the State Government to highlight the issue and advocate for change.

#### **Recommendations:**

It is recommended that Council:

- 23. Consult with Department of Transport and Planning (DTP), previously DELWP, to identify whether the Restructure Plans can be included in Clause 2.04 Strategic Framework Plans or a new Clause 11 Settlement policy to make them more accessible to the community.**
- 24. Seek advice from Department of Energy, Environment and Climate Action (DEECA), Previously DELWP, about the appropriate tool to manage Special Water Catchments (ESO2).**
- 25. Undertake consultation with the relevant authorities, with a view to resolving the three Council-identified anomalies that could potentially be resolved prior to initiation of the PSR implementing Amendment. Specifically:**
  - **Resolve a Memorandum of Understanding between South Gippsland Water and Council to enable South Gippsland Water to be removed as referral authority for unplumbed Domestic Sheds more than 30m from a waterway.**
  - **Transition Environmental Significance Overlays 4 Sewage Treatment Plants and Environments and ESO8 Manufacture of Milk Products Amenity Buffer to the Buffer Area Overlay.**
  - **Develop an offset framework to enable appropriate relocation or replacement of habitat of the Giant Gippsland Earthworm resulting from planning decision and determine whether the impacts of hydrology changes on colonies and habitat should be undertaken as part of the assessment process to strengthen 42.01 ESO9 Giant Gippsland Earthworm and Habitat Protection.**
- 26. Facilitate the development of a Development Contributions Plan (DCP) for key urban growth areas in Leongatha, Korumburra, Nyora, Mirboo North and Foster, in consultation with the Department of Transport on key transport infrastructure issues.**

#### **1.4.5. Minister for Planning**

South Gippsland Shire Council, with assistance from the Redink Planning has prepared a planning scheme review as required by section 12B(1) of the *Planning and Environment Act 1987* (the Act).

In accordance with section 12B(3) of the Act this review identifies opportunities, set out in this report, enhances the effectiveness and efficiency of the planning scheme in achieving the objectives of planning in Victoria and the objectives of the planning framework established in the Act.

In accordance with section 12B(4) of the Act, the review evaluates the planning scheme to ensure that it:

- Is consistent with Ministerial Direction on the Form and Content of Planning Schemes.
- Sets out the policy objectives for the use and development of land.
- Makes effective use of state and local provisions to achieve state and local planning policy objectives.

**Recommendation:**

- 27. That South Gippsland Shire endorse this draft for community consultation prior to finalisation.**
- 28. Once finalised, that South Gippsland Shire Council accept this Planning Scheme Review and forward to the Minister for Planning as evidence South Gippsland Shire Council, as the planning authority for South Gippsland Planning Scheme, has met its obligations in accordance with Section 12B of the Planning and Environment Act 1987 to review the planning scheme every four years.**

## 2. Introduction

### 2.1. Purpose

Council as the planning authority for the South Gippsland planning scheme is required to review its planning scheme every four years under Section 12(B) of the *Planning and Environment Act 1987* (The Act).

The scope of a planning scheme review is established under Section 12(B) and planning scheme reviews should focus on:

- The effectiveness and efficiency of the planning scheme in achieving the objectives of planning and the planning framework in Victoria.
- Aligning the planning scheme with the Ministerial Direction on the Form and Content of Planning Schemes.
- Ensuring the planning scheme contains a clear narrative about the way use and development of land will be managed to achieve the planning vision or objectives of the area.

Planning scheme reviews also provide the opportunity to:

- Align Council's policy position with the planning scheme.
- Update out of date or redundant information.
- Educate and inform stakeholders about how the planning scheme works and the process by which to improve it.

Council last undertook a comprehensive review of the planning scheme in 2018.

Recently the planning scheme was restructured to insert a new Municipal Planning Strategy and Local Planning Policies into the Planning Policy Framework to replace the former Local Policy Planning Framework. This was done via amendment C127sgip and was gazetted as a policy neutral amendment undertaken by the State government.

This review will be forwarded to the Minister for Planning as required under section 12(B) of the Act once complete. A planning scheme amendment to implement the findings of the review has been prepared and is attached in the form of marked up ordinance as Appendix Two to this report. A comprehensive list of all the Further Strategic Work that has been identified through this review is included at Appendix Three for Council to prioritise.

### 2.2. Methodology

A six-stage methodology has been developed to undertake planning scheme reviews as shown in Figure 1.

The methodology is supported by the 'Good Practice Guide to Planning Scheme Reviews' and templates that have been developed to assist with each stage of the process.

Redink Planning has been engaged to conduct stages 1 – 6 for South Gippsland Shire Council.

Figure 1: Planning scheme review methodology



The timing for the project is:

| Stage     | Timing                   |
|-----------|--------------------------|
| Initiate  | September 2022           |
| Analyse   | September / October 2022 |
| Engage    | November 2022            |
| Report    | December 2022            |
| Consult   | February 2023 (target)   |
| Implement | May 2023 (target)        |

This planning scheme review has been prepared in consideration to the following directions and guidance provided by DEWLP.

**Ministerial directions:**

- Ministerial Direction on the Form and Content of Planning Schemes.
- Ministerial Direction No. 11 Strategic Assessment of Amendments.

**Planning practice notes and advice:**

- A Practitioners’ Guide to Victorian Planning Schemes.
- PPN – 46 Strategic Assessment Guidelines.
- PPN32 – Review of planning schemes.

## **3. What's driving change**

### **3.1. Population, growth and economy**

The Shire had an estimated resident population of 30,577 persons in 2021 (ABS, 2022), which is forecast to increase to 33,930 persons in 2036 (VIF, 2016). There were 17,114 dwellings in 2021 which is forecast to increase to 19,330 dwellings by 2036 (VIF, 2016). This means the Shire will need to accommodate an additional 2,216 dwellings over the next fifteen years.

Leongatha is the largest town in the Shire, and its further urban growth and development as the Shire's principal regional centre is actively supported. Additional urban growth and development is directed by policy to Korumburra (large district centre), Foster and Mirboo North (district towns). Limited growth and development are supported in the Shires small towns, villages, hamlets and localities which is consistent with established character and responsive to constraints.

A new growth centre at Nyora has emerged since the last planning scheme review, and is discussed further in the report.

South Gippsland supports 11,157 jobs and has an annual economic output of \$4.1 billion (Remplan 2022). The Shire contains some of the most productive agricultural areas in Victoria and agriculture and its associated processing and service industries underpin the Shire's economy. Tourism is becoming a significant employer and generator of economic activity within the Shire.

### **3.2. Climate change and other environmental risks**

Reduced agricultural production, decreased and more erratic environmental flows in waterways and wetlands, increased risk of bushfire and decreased water security are all significant risks for the Shire as a result of the expected impacts of climate change.

South Gippsland's extensive coastline adds to the challenges it will face in managing climate risk. Climate modelling suggests that South Gippsland will be less impacted by rainfall variability than northern parts of the State. This will place additional pressure on South Gippsland's agricultural land to provide food and fibre for the State. The coastal impacts of climate change (erosion, inundation) are already evident in the Shire, and projected impacts now form a relevant and consequential consideration before VCAT.

### **3.3. State government amendments and advice**

The Victorian Planning Scheme is constantly being reviewed and updated at a state level with numerous VC and GC amendments occurring each year. The State also provides advice to planners in the form of updates to the Practitioners Guide and new planning practice notes.

The way in which the South Gippsland Planning Scheme should respond at a local level to these changes to the Victorian Planning Provision and how they should be applied has been considered in this review.

Since the last planning scheme review in 2018, several VC and GC amendments have introduced new policy into the Victoria Planning Provisions and the South Gippsland Planning Scheme. There is opportunity for South Gippsland to utilise some of the new controls that are now available.

#### **Buffers**

Within the South Gippsland planning scheme, there are two Environmental Significance Overlay schedules (ESO) that perform a buffer function. These are Schedule 4 Sewage Treatment Plants and its Environs and ESO8 Manufacture of Milk Products Amenity Buffer. Each provides a 'buffer' function designed to alert and protect surrounding properties from the impact of the uses.

The Buffer Area Overlay (BAO) was introduced by VC175 and Planning Practice Note 92 and in time these overlays should be translated into the Buffer Area Overlay (BAO). This is not a high priority matter, as the ESOs in their current form do the same task, however it is something that should be added to the further strategic work program.

### **Managing residential character**

VC169 introduced a new way to utilise the schedules to the residential zones and other tools to manage housing growth and neighbourhood character.

Advice from DTP outlined in PPN90 Planning for housing and PPN91 Using the residential zones indicates that the preferred approach from managing built form in residential areas is the use of the schedules to the residential zones.

Design and Development Overlays are used to manage the form of development in numerous coastal settlements (Venus Bay, Sandy Bay, etc.). This is something that Council should consider as it prepares the Coastal Strategy currently underway, and as implementation revises planning controls that apply to residentially zoned land.

### **Finding**

- A. Review existing controls and, where necessary, undertake character assessments to inform new planning controls to manage development, particularly in residentially zoned areas.**
- B. Convert ESO4 Sewer Treatment Plants and Environs and ESO8 Manufacture of Milk Products Amenity to the Buffer Area Overlay (BAO).**

## **4. Previous review**

### **4.1. Previous planning scheme review**

The South Gippsland Planning Scheme was last reviewed in-house by Council in 2018, and the review was adopted by Council at its meeting on 27 June 2018. The review focused on the operation of the planning function at Council more than the operation of the planning scheme, and as a result most of the recommendations related to process improvements rather than changes required to the ordinance and further strategic work. The review found Council had made good progress towards implementing the recommendations of the previous Planning Scheme Review (in 2014).

### **4.2. Progress since last review**

#### **4.2.1. Completed projects**

Projects that have been completed since the last review are:

- The layout and content of planning information on Council's web site was refined to be more user-friendly including:
  - A business section in the online planning application information.
  - A planning enquiry email link.
- A Design and Siting guide for development of a dwelling in coastal settlements was prepared and supported by changes to State Policy, however this will likely be reviewed as part of the Coastal Strategy.
- A resource upgrade of Pathways planning modules to support processing of planning applications.
- A request to the State Government to develop a policy or Practice Note for guiding public notice request decisions.
- A review of the alignment of Freedom of Information requirements.

#### **4.2.2. Projects underway**

- Continue to implement practices to reduce the number of applications requiring Further Information Requests.

### **4.3. Outstanding work since last review**

- Consider additional resourcing for planning enforcement duties so that proactive auditing of planning permit conditions, especially for bushfire risk reduction, can be undertaken.

### **4.4. Findings**

Council has completed or commenced most tasks recommended for implementation as part of the previous 2018 planning scheme review, noting they relate to improvement to the operation of the planning service rather than the planning scheme. The outstanding task that was recommended by the previous review is an ongoing and important operational issue, rather than a task that needs to form part of Council's strategic work program.



## 5. Audit and assessment of current scheme

### 5.1. Methodology

An audit of each local provision and schedule in the planning scheme has been undertaken. This audit has compared the drafting and application of each provision against the Ministerial Direction on the Form and Content of Planning Schemes, *a Practitioners' Guide to Victorian Planning Schemes* (Version 1.5, April 2022) and relevant planning practice notes.

Each provision has also been assessed with consideration to the work it is doing in achieving the strategic objectives that are set out in the State, regional and local planning provisions.

The detailed outcomes of the audit have been provided to Council officers for future reference as a separate document to this report.

Findings on improvements that could be made are listed below. Some of these can occur as part of a planning scheme amendment based on the findings in this report and are included in the marked-up Ordinance at Appendix Two. Others require further strategic work to justify the change and are listed as findings.

#### Action column meanings:

|                              |   |
|------------------------------|---|
| Complies                     | This means that policy or schedule is correctly constructed and does not require amending as a result of the audit (recommendations in other parts of this review might indicate a change is required).   |
| PSR Policy neutral amendment | This means that a change has been identified to ensure that the policy or schedule complies with the MDFC and good drafting practice. The change is of no policy consequence and can be made through a 20(4) amendment subject to the Minister's authorisation. A 20(4) amendment does not require public notification or review by a Planning Panel.   |
| PSR Full amendment           | This means that a change has been identified to ensure that the policy or schedule complies with the MDFC and good drafting practice. The change may or does have policy consequence and should be made through a full planning scheme amendment process that provides for public notification and review by a Planning Panel.  |
| PSR Further strategic work   | This means that a change has been identified to ensure that the policy or schedule complies with the MDFC and good drafting practice. It is beyond the scope of what can be achieved through the planning scheme review, as strategic justification is required to make the change, and Council is yet to do this work OR the change is complex and requires a separate piece of work to understand the ramifications on other parts of the scheme. |

### 5.2. Municipal Planning Strategy (MPS) findings

As well as the assessment outlined above, the MPS was cross-referenced against all the other local provisions in the scheme to ensure that there is a link to all local policies and local schedules in the MPS. This important to show a strategic link between the MPS and all of controls that have been applied in the scheme to achieve the vision and strategic directions of Council, and was not undertaken as part of the PPF translation.

| Clause no. and name | Change  | Action                   |
|---------------------|---|--------------------------|
| 02.01 Context       | Make minor amendments to the Context (02.01) to include First Nations recognition and updated economic and population data. | Policy neutral amendment |
| 02.03-6 Housing     | Introduce a new heading (Housing) to comply with MD.  | Policy neutral amendment |

### 5.3. Planning Policy Framework (PPF)

All the Local PPF policies that are included in the planning scheme are included in the table below, and a notation about whether they are satisfactory or require changing because of this audit. Changes may be required to align with the Ministerial Direction on the Form and Content of Planning Schemes, or they may be suggested to clarify the policy as identified through the analysis and engage stages of the review.

| Clause no. and name   | Changes required (if relevant)  | Action                   |
|---|---|--------------------------|
| 11.01-1L-01 Settlement  | Delete first strategy (duplication of 11.01-1S)<br>Move second strategy to 15.01-3L (Subdivision)<br>Move third strategy to 16.01-1L (Housing)<br>Re-number all subsequent Clauses              | Policy neutral amendment |
| 11.01-1L-04 Korumburra  | Amend 1 strategy to commence with a PG approved verb.   | Policy neutral amendment |
| 11.01-1L-03 Southern Leongatha Growth Area  |   | Complies                 |
| 11.01-1L-04 Korumburra  |   | Complies                 |
| 11.01-1L-05 Korumburra town centre  |   | Complies                 |
| 11.01-1L-06 District towns – Foster and Mirboo North                                | Include policy application to clearly identify the area and group of discretions to which the policy applies, in accordance with PG.<br>Amend 2 strategies to commence with a PG approved verb. | Policy neutral amendment |
| 11.01-1L-07 Small towns – Fish Creek, Loch, Meenian, Nyora, Poowong, Toora          | Amend first Toora strategy to use simplified, plain English.<br>Correct spelling of 'Davis Street' (not David) Nyora in Nyora local policy  | Policy neutral amendment |
| 11.01-1L-08 Villages – Koonwarra, Welshpool   |   | Complies                 |
| 11.01-1L-09 Coastal villages, Port Welshpool, Sandy Point, Tarwin Lower, Venus Bay, | Amend last dot point of 4 <sup>th</sup> strategy so it is a strategy in its own right.  | PSR full amendment       |
|   | Amend 1 strategy to commence with a PG approved verb.   | Policy neutral amendment |

| Clause no. and name  | Changes required (if relevant)   | Action                   |
|--|--|--------------------------|
| Walkerville, Waratah Bay and Yanakie   | Delete reference to expansion area in Estate 2 in Venus Bay (anomaly).   | Policy neutral amendment |
| 11.01-1L-10 Hamlets. – Bena, Buffalo, Dumbalk, Jumbunna, Kongwak, Mirboo, Port Franklin, Ruby, Stony Creek |  | Complies                 |
| 12.01-1L Biodiversity  |  | Complies                 |
| 12.05-2L-01 Coastal and hinterland landscapes  |  | Complies                 |
| 12.05-2L-02 Significant landscape character areas  | Amend 5 strategies to commence with a PG approved verb.  | Policy neutral amendment |
| 14.01-1I-01 Rural dwellings  | Re-introduce strategies removed from through the PPF translation as planners rely on the policy for decision making.                 | Policy neutral amendment |
| 14.01-1L-02 Second and subsequent dwellings in rural areas   | Re-introduce strategies inadvertently omitted through the PPF translation.   | Policy neutral amendment |
| 14.01-1L-03 Rural dwellings on lots with remnant native vegetation   | Re-introduce strategies inadvertently omitted through the PPF translation.   | Policy neutral amendment |
| 14.01-1L-04 Land use and dwellings in the Rural Activity Zone  | Re-introduce strategies inadvertently omitted through the PPF translation.   | Policy neutral amendment |
| 14.01-1L-05 Subdivision in the Farming and Rural Activity Zone   | Re-introduce strategies inadvertently omitted through the PPF translation.   | Policy neutral amendment |
| 14.01-2L Marine industry and farm forestry   |  | Complies                 |
| 15.01-1L-01 Urban Design   | Amend first strategy to make clearer use of plain English.<br>Amend 1 strategy to commence with a PG approved verb.                  | Policy neutral amendment |
| 15.01-1L-02 Signs  |  | Complies                 |
| 15.01-2L-01 Building design – residential  | Include policy application to clearly identify the area and group of discretions to which the policy applies, in accordance with PG. | Policy neutral amendment |
| 15.01-2L-02 – Industrial development design  | Amend 2 strategies to commence with a PG approved verb.  | Policy neutral amendment |
| 15.01-3L Subdivision design – South Gippsland  | Include second strategy from 11.01-1L-01 (Settlement) as a subdivision strategy  | Policy neutral amendment |
| 15.01-6L Open farmed landscapes  |  | Complies                 |

| Clause no. and name                            | Changes required (if relevant)   | Action                   |
|--|--|--------------------------|
| 15.03-1L Heritage                              |  | Complies                 |
| 16.01-1L Housing supply in South Gippsland     | Include third strategy from 11.01-1L-01 (Settlement) as a housing strategy               | Policy neutral amendment |
| 17.01-1L Diversified economy – South Gippsland | Amend 1 strategy to commence with a PG approved verb.                                    | Policy neutral amendment |
| 17.02-1L Commercial, office and retail uses    |  | Complies                 |
| 17.03-1L Industrial land supply                |  | Complies                 |
| 18.02-4L Road system                           | Delete first strategy (duplication of 18.01-1S & 18.02-4S),                              | Policy neutral amendment |
| 18.02-5L Freight                               | Move second and third strategies to new 18.02-6L (Ports).                                | Policy neutral amendment |
| 18.02-7L Leongatha Aerodrome/Airport           |  | Complies                 |
| 18.02-6L Ports                                 | Include second and third strategies from 18.02-5L (Freight) as port-specific strategies. | Policy neutral amendment |
| 19.02-1L Health facilities                     |  | Complies                 |
| 19.02-2L Education facilities                  |  | Complies                 |
| 19.02-4L Community facilities                  |  | Complies                 |

## 5.4. Zones

All the zone schedules that are included in the planning scheme are included in the table below, and a notation about whether they comply or require changing because of this review. Changes may be required to align with the Ministerial Direction on the Form and Content of Planning Schemes, or they may be suggested to clarify the policy as identified through the analysis and engage stages of the review.

| Clause no. and name                  | Changes required (if relevant)   | Action                   |
|--------------------------------------|--|--------------------------|
| 32.03s1 Low Density Residential Zone | Include Schedule number against planning scheme map reference to comply with MD                      | Policy neutral amendment |
| 32.04s1 Mixed Use Zone               | Include Schedule number in Schedule name and against planning scheme map reference to comply with MD | Policy neutral amendment |
| 32.05s1 Township Zone                | Include Schedule number against planning scheme map reference to comply with MD                      | Policy neutral amendment |
| 32.08s1 General Residential Zone     |  | Complies                 |
| 33.01s1 Industrial 1 Zone            |  | Complies                 |
| 33.03s3 Industrial 3 Zone            |  | Complies                 |

| Clause no. and name                          | Changes required (if relevant)   | Action                   |
|--|--|--------------------------|
| 34.01s1 Commercial 1 Zone                    |  | Complies                 |
| 35.03s1 Rural Living Zone                    | Create 3 separate schedules for 3 separate minimum subdivision areas to comply with MD | Policy neutral amendment |
| 35.06s1 Rural Conservation Zone              | Include Schedule number against planning scheme map reference to comply with MD        | Policy neutral amendment |
| 35.07s1 Farming Zone                         | Include Schedule number against planning scheme map reference to comply with MD        | Policy neutral amendment |
| 35.08s1 Rural Activity Zone                  | Include Schedule number against planning scheme map reference to comply with MD        | Policy neutral amendment |
| 36.01s Public Use Zone                       |  | Complies                 |
| 36.02s Public Park and Recreation Zone       |  | Complies                 |
| 36.03s Public Conservation and Resource Zone |  | Complies                 |
| 37.01s1 Special Use Zone                     | Amend drafting / wording of buildings and works permit exemption to comply with MD     | Policy neutral amendment |
| 37.01s2 Special Use Zone                     | Table of uses incorrectly constructed  | Further strategic work   |
|  | Amend drafting / wording of various provisions to comply with MD drafting requirements | Policy neutral amendment |
| 37.01s3 Special Use Zone                     | Amend drafting / wording of various provisions to comply with MD drafting requirements | Policy neutral amendment |
| 37.01s4 Special Use Zone                     | Table of uses incorrectly constructed  | Further strategic work   |
|  | Amend drafting / wording of various provisions to comply with MD drafting requirements | Policy neutral amendment |
| 37.01s5 Special Use Zone                     | Amend drafting / wording of various provisions to comply with MD drafting requirements | Policy neutral amendment |
| 37.01s6 Special Use Zone                     | Amend drafting / wording of various provisions to comply with MD drafting requirements | Policy neutral amendment |
| 37.01s7 Special Use Zone                     | Amend drafting / wording of various provisions to comply with MD drafting requirements | Policy neutral amendment |
| 37.01s8 Special Use Zone                     | Capitalize name of Schedule to comply with MD drafting requirements                    | Policy neutral amendment |

## 5.5. Overlays

All the overlay schedules that are included in the planning scheme are included in the table below, and a notation about whether they comply or require changing as a result of this review. Changes may be required to align with the Ministerial Direction on the Form and Content of Planning Schemes, or they may be suggested to clarify the policy as identified through the analysis and engage stages of the review.

| Clause no. and name   | Changes required (if relevant)   | Action                   |
|---|--|--------------------------|
| 42.01s1<br>Environmental<br>Significance Overlay -<br>Areas of natural<br>significance                  | Schedule contains 5 disparate objectives, MD only allows one.  | Further strategic work   |
|   | Amend drafting / wording of various provisions to comply with MD drafting requirements   | Policy neutral amendment |
| 42.01s2<br>Environmental<br>Significance Overlay -<br>Special water supply<br>catchment areas           | Schedule contains 8 disparate objectives, MD only allows 1.  | Further strategic work   |
|   | Amend drafting / wording of various provisions to comply with MD drafting requirements   | Policy neutral amendment |
|   | Delete referral requirements, move to 66.04  | Policy neutral amendment |
|   | Delete background documents (not as per MD format, already listed at 72.08)  | Policy neutral amendment |
| 42.01s3<br>Environmental<br>Significance Overlay -<br>Coastal settlements –<br>non residential zones    | Schedule contains 4 disparate objectives, MD only allows 1.  | Further strategic work   |
|   | Amend drafting / wording of various provisions to comply with MD drafting requirements   | Policy neutral amendment |
|   | Delete referral requirements, move to 66.04  | Policy neutral amendment |
| 42.01s4<br>Environmental<br>Significance Overlay -<br>Sewerage treatment<br>plant and environs          | ESO is not the appropriate VPP tool, translate into Buffer Area Overlay (BAO)  | Further strategic work   |
|   | Merge 2 objectives into 1 to comply with MD  | Policy neutral amendment |
|   | Amend drafting / wording of various provisions to comply with MD drafting requirements.  | Policy neutral amendment |
| 42.01s5<br>Environmental<br>Significance Overlay -<br>Areas susceptible to<br>erosion                   | Merge 2 objectives into 1 to comply with MD  | Policy neutral amendment |
|   | Amend drafting / wording of various provisions to comply with MD drafting requirements.  | Policy neutral amendment |
| 42.01s7<br>Environmental<br>Significance Overlay -<br>Coastal Settlements                               | Schedule contains 4 disparate objectives, MD only allows 1.  | Further strategic work   |
|   | Amend drafting / wording of various provisions to comply with MD drafting requirements.  | Policy neutral amendment |
| 42.01s8<br>Environmental<br>Significance Overlay -<br>Manufacture of milk<br>products amenity<br>buffer | ESO is not the appropriate VPP tool, translated into Buffer Area Overlay (BAO)   | Further strategic work   |
|   | Schedule contains 4 disparate objectives, MD only allows 1.  | Further strategic work   |
|   | Amend drafting / wording of various provisions to comply with MD drafting requirements.  | Policy neutral amendment |
|   | Delete referral requirements, move to 66.04  | Policy neutral amendment |
|   | Delete background documents (not as per MD format, already listed at 72.08)  | Policy neutral amendment |
|   | Amend drafting / wording of various provisions to comply with MD drafting requirements.  | Policy neutral amendment |
|   | Amend wording of permit requirement to clarify all listed buildings and works are exempt; as drafted current wording requires all dot points to be met to achieve the exemption. | Policy neutral amendment |

| Clause no. and name   | Changes required (if relevant)   | Action                   |
|---|--|--------------------------|
| 42.01s9 Environmental Significance Overlay - Giant Gippsland Earthworm and Habitat Protection | Include Background Document at 72.08   | Policy neutral amendment |
| 42.03s1 Significant Landscape Overlay - Venus Bay Peninsula And Anderson Inlet                | Schedule contains 12 disparate objectives, MD only allows 5.                             | Further strategic work   |
|   | Amend drafting / wording of decision guidelines to comply with MD drafting requirements. | Policy neutral amendment |
| 42.03s2 Significant Landscape Overlay - Cape Liptrap To Waratah Bay                           | Schedule contains 18 disparate objectives, MD only allows 5.                             | Further strategic work   |
|   | Delete background documents (not as per MD format, already listed at 72.08)              | Policy neutral amendment |
| 42.03s3 Significant Landscape Overlay - Corner Inlet Amphitheatre                             | Schedule contains 14 disparate objectives, MD only allows 5.                             | Further strategic work   |
|   | Delete background documents (not as per MD format, already listed at 72.08)              | Policy neutral amendment |
| 43.01s Heritage Overlay   |  | Complies                 |
| 43.02s1 Design and Development Overlay - Township Approach                                    | Amend drafting / wording of various provisions to comply with MD drafting requirements.  | Policy neutral amendment |
| 43.02s2 Design and Development Overlay - Burchell Lane Industrial Precinct                    |  | Complies                 |
|   |  |                          |
| 43.02s3 Design and Development Overlay - Sandy Point  | Schedule contains 15 disparate objectives, MD only allows 5.                             | Further strategic work   |
|   | Amend drafting / wording of various provisions to comply with MD drafting requirements.  | Policy neutral amendment |
|   | Delete background documents (not as per MD format, already listed at 72.08)              | Policy neutral amendment |
| 43.02s4 Design and Development Overlay - Waratah Bay  | Schedule contains 23 disparate objectives, MD only allows 5.                             | Further strategic work   |
|   | Amend drafting / wording of various provisions to comply with MD drafting requirements.  | Policy neutral amendment |
|   | Delete background documents (not as per MD format, already listed at 72.08)              | Policy neutral amendment |
| 43.02s5 Design and Development Overlay - Venus Bay  | Schedule contains 22 disparate objectives, MD only allows 5.                             | Further strategic work   |
|   | Amend drafting / wording of various provisions to comply with MD drafting requirements.  | Policy neutral amendment |
|   | Delete background documents (not as per MD format, already listed at 72.08)              | Policy neutral amendment |

| Clause no. and name   | Changes required (if relevant)   | Action                   |
|---|--|--------------------------|
| 43.02s6 Design and Development Overlay - Tarwin Lower   | Schedule contains 24 disparate objectives, MD only allows 5.   | Further strategic work   |
|   | Amend drafting / wording of various provisions to comply with MD drafting requirements.                | Policy neutral amendment |
|   | Delete background documents (not as per MD format, already listed at 72.08)                            | Policy neutral amendment |
| 43.02s7 Design and Development Overlay - Korumburra Industrial Area Highway Precinct  | Amend drafting / wording of various provisions to comply with MD drafting requirements.                | Policy neutral amendment |
| 43.02s8 Design and Development Overlay - Emergency Medical Services Helicopter Flightpath Area: Leongatha Hospital (Inner Area) | Amend drafting / wording of various provisions to comply with MD drafting requirements                 | Policy neutral amendment |
|   | Delete referral requirements (already specified at 66.04)  | Policy neutral amendment |
|   | Delete " <i>Planning permits will be assessed against...</i> " requirement.                            | Policy neutral amendment |
| 43.02s9 Design and Development Overlay - Emergency Medical Services Helicopter Flightpath Area: Leongatha Hospital (Outer Area) | Amend drafting / wording of various provisions to comply with MD drafting requirements                 | Policy neutral amendment |
|   | Delete referral requirements (already specified at 66.04)  | Policy neutral amendment |
|   | Delete " <i>Planning permits will be assessed against...</i> " requirement.                            | Policy neutral amendment |
| 43.02s10 Design and Development Overlay - Emergency Medical Services Helicopter Flightpath Area: Foster Hospital (Inner Area)   | Amend drafting / wording of various provisions to comply with MD drafting requirements                 | Policy neutral amendment |
|   | Delete referral requirements (already specified at 66.04)  | Policy neutral amendment |
|   | Delete " <i>Planning permits will be assessed against...</i> " requirement.                            | Policy neutral amendment |
| 43.02s11 Design and Development Overlay - Emergency Medical Services Helicopter Flightpath Area: Foster Hospital (Outer Area)   | Amend drafting / wording of various provisions to comply with MD drafting requirements                 | Policy neutral amendment |
|   | Delete referral requirements (already specified at 66.04)  | Policy neutral amendment |
|   | Delete " <i>Planning permits will be assessed against...</i> " requirement.                            | Policy neutral amendment |
| 43.02s12 Design and Development Overlay - Nyora Town Centre   | Delete references to former Clause 21.15 (duplicates non-existent provisions, contrary to PG)          | Policy neutral amendment |
|   | Delete MD guidance text  | Policy neutral amendment |
|   | Move application requirements currently at 2.0 (buildings and works) to 5.0 (application requirements) | Policy neutral amendment |
| 43.02s13 Design and Development Overlay - Mirboo North Town Centre  | Delete references to former Clause 21.14 (duplicates non-existent provisions, contrary to PG)          | Policy neutral amendment |
| 43.04s1 Development Plan Overlay - Korumburra Entrance Node   |  | Complies                 |



| Clause no. and name   | Changes required (if relevant)  | Action                   |
|---|---|--------------------------|
| 43.04s2 Development Plan Overlay - Waratah Bay  |   | Complies                 |
| 43.04s3 Development Plan Overlay - Murray Goulburn Leongatha Factory                            | Amend drafting / wording to comply with MD drafting requirements                                  | Policy neutral amendment |
| 43.04s4 Development Plan Overlay - Low Density Residential Zone Development Plan – Simons Lane  | Amend drafting / wording to comply with MD drafting requirements                                  | Policy neutral amendment |
| 43.04s5 Development Plan Overlay - Nyora Residential Development Transition Area                | Amend drafting / wording to comply with MD drafting requirements                                  | Policy neutral amendment |
| 43.04s6 Development Plan Overlay - Korumburra Residential Growth Areas                          | Amend drafting / wording to comply with MD drafting requirements                                  | Policy neutral amendment |
| 43.04s7 Development Plan Overlay - Jumbunna Road Residential Area                               | Amend drafting / wording to comply with MD drafting requirements                                  | Policy neutral amendment |
| 43.04s8 Development Plan Overlay - Residential Growth Area (North West Korumburra)              | Amend drafting / wording to comply with MD drafting requirements                                  | Policy neutral amendment |
| 43.04s9 Development Plan Overlay - Western Leongatha Residential Growth Area                    |   | Complies                 |
| 43.04s10 Development Plan Overlay - Nyora Urban Residential Growth Area (South Of Glovers Road) | Amend drafting / wording to comply with MD drafting requirements                                  | Policy neutral amendment |
| 43.04s11 Development Plan Overlay - Berrys Creek Road Residential Development Area              | Amend drafting / wording to comply with MD drafting requirements                                  | Policy neutral amendment |
| 44.01s1 Erosion Management Overlay  | Add Schedule number to comply with MD   | Policy neutral amendment |
|   | Move application requirements currently under permit requirements to 4.0 Application requirements | Policy neutral amendment |

| Clause no. and name   | Changes required (if relevant)   | Action                   |
|---|--|--------------------------|
| 44.04s Land Subject to Inundation Overlay   | Add Schedule number to comply with MD  | Policy neutral amendment |
|   | Amend drafting / wording to comply with MD drafting requirements                     | Policy neutral amendment |
|   | Delete background documents – already listed at 72.08                                | Policy neutral amendment |
| 44.06s1 Bushfire Management Overlay - Venus Bay, Wakerville Bal-29 Areas  | Delete MD guidance text  | Policy neutral amendment |
|   | Amend drafting / wording to comply with MD drafting requirements                     | Policy neutral amendment |
| 44.06s2 Bushfire Management Overlay - Foster, Meeniyan, Mirboo North/Baromi, Port Welshpool, Tarwin Lower, Venus Bay, Wakerville Bal-12.5 Areas | Amend drafting / wording to comply with MD drafting requirements                     | Policy neutral amendment |
| 44.07s1 Strategic Extractive Resource Areas   |  | Complies                 |
| 44.07s2 Protecting extractive industries  |  | Complies                 |
| 45.01s1 Public Acquisition Overlay  |  | Complies                 |
| 45.02s2 Airport Environs Overlay  |  | Complies                 |
| 45.05s1 Restructure Overlay   |  | Complies                 |
| 45.09s1 Parking Overlay   | Section 3.0 not in accordance with MD drafting requirements                          | Further strategic work   |
|   | Amend drafting / wording of various sections to comply with MD drafting requirements | Policy neutral amendment |

## 5.6. Particular provisions

All the particular provision schedules that are available to be applied in the planning scheme are included in the table below, and a notation about whether they comply or require changing as a result of this review. Changes may be required to align with the Ministerial Direction on the Form and Content of Planning Schemes, or they may be suggested to clarify the policy as identified through the analysis and engage stages of the review.

| Clause no. and name                         | Is it applied?<br>Changes required (if relevant) | Action   |
|---|--|----------|
| 51.01s Specific sites and inclusions        | Applied. No changes required                     | Complies |
| 52.02s Easements, restrictions and reserves | Applied. No changes required                     | Complies |
| 52.05s Signs                                | Applied. No changes required                     | Complies |
| 52.16s Native vegetation precinct plan      | Applied. No changes required                     | Complies |

| Clause no. and name   | Is it applied?<br>Changes required (if relevant) | Action   |
|---|--|----------|
| 52.17s Native vegetation  | Applied. No changes required                     | Complies |
| 52.27s Licenced premises  | Applied. No changes required                     | Complies |
| 52.28s Gaming   | Applied. No changes required                     | Complies |
| 52.32s Wind energy facility   | Applied. No changes required                     | Complies |
| 52.33 Post boxes and drystone walls   | Applied. No changes required                     | Complies |
| 53.01s Public open space contributions and subdivision.   | Applied. No changes required                     | Complies |
| 53.06s Live music entertainment venues  | Applied. No changes required                     | Complies |
| 53.15s Statement of underlying provisions   | Applied. No changes required                     | Complies |
| 59.15s Local VicSmart applications  | Applied. No changes required                     | Complies |
| Schedule 1 to Clause 59.16 Information requirements and decision guidelines for local VicSmart applications | Applied. No changes required                     | Complies |

## 5.7. General provisions

There are two general provisions that have a schedule available. They are included in the table below with a notation about whether they comply or require changing as a result of this review. Changes may be required to align with the Ministerial Direction on the Form and Content of Planning Schemes, or they may be suggested to clarify the policy as identified through the analysis and engage stages of the review.

| Clause no. and name  | Is it applied?<br>Changes required (if relevant)  | Action                   |
|--|---|--------------------------|
| 66.04s Referral of permit applications under local provisions. | Applied<br>Amend to ensure the referral under ESO2 includes the “unless...” text as specified in the ESO Schedule | Policy neutral amendment |
| 66.06s Notice of permit applications under local provisions    | Applied<br>No changes required  | Complies                 |

## 5.8. Operational provisions

All the operational provision schedules that are available to be applied in the planning scheme are included in the table below, and a notation about whether they comply or require changing as a result of this review. Changes may be required to align with the Ministerial Direction on the Form and Content of Planning Schemes, or they may be suggested to clarify the policy as identified through the analysis and engage stages of the review.

| Clause no. and name                                   | Changes required (if relevant) | Action   |
|---|--------------------------------|----------|
| 72.01s Responsible authority for this planning scheme | Applied<br>No changes required | Complies |
| 72.01s What area is covered by this planning scheme?  | Applied<br>No changes required | Complies |

| Clause no. and name                                      | Changes required (if relevant)   | Action                   |
|--|--|--------------------------|
| 72.03s What does this planning scheme consist of?        | Applied<br>No changes required   | Complies                 |
| 72.04s Documents incorporated into this planning scheme. | Applied<br>No changes required   | Complies                 |
| 72.05s When did this planning scheme begin?              | Applied<br>No changes required   | Complies                 |
| 72.08s Background documents                              | Applied<br><i>Add Giant Gippsland Earthworm Environmental Significance Overlays Reference Document (September 2015), listed as a background document to Clause 42.01s9</i> | Policy neutral amendment |
| 74.01s Application of zones, overlays and provisions     | Applied<br>No changes required   | Complies                 |
| 74.02s Further strategic work                            | Changes will be applied as a result of this review.  | Full amendment           |

## 5.9. Conclusion

The audit of the planning scheme has found that the local provisions are performing well. For the most part, the audit only identified minor compliance issues when assessed against the Ministerial Direction on the Form and Content of Planning Schemes, the Practitioners Guide to Victorian Planning Schemes and relevant Practice Notes.

The main area for concern arising from the audit relates to the Environmental Significance, Significant Landscape and Design and Development Overlays. Many of these Overlays contain many more objectives than permissible under the Ministerial Direction, and many objectives do not provide a clear understanding of the planning objective(s) being sought by the Overlay but relate more to policy and guidelines to achieve an unclear objective. The statements of significance in the Environment Significance Overlays and Significant Landscape Overlays do not provide enough direction to help applicants understand what is expected, and planners to make consistent decisions.

Like most planning schemes across the State, the table of use in the Special Use Zone have been incorrectly constructed. Fixing this is beyond the scope of what can be achieved in this review as it is not a simple thing to fix because of the way the uses interact in the nesting tables. More in depth consideration and potential consultation will be required to correct the Special Use Zone table of uses.

### Findings:

Most of the findings of the audit of the planning scheme can be made now as part of the planning scheme amendment for the planning scheme review, and are marked up in Appendix Two.

- C. Amend the MPS, local PPF policies and schedules to include changes identified in the audit of the planning scheme review identified in Chapter 5 and shown on the marked up ordinance at Appendix Two.**

The following findings of the audit are beyond the scope of this review and have been identified as further strategic work for Council:

- D. Re-draft the table of uses for SUZ4 and SUZ7 to comply with the Ministerial Direction on the Form and Content of Planning Schemes.**

- E. Convert ESO4 and ESO8 to the Buffer Area Overlay (BAO).**
- F. Re-draft ESO1, ESO2, ESO3, ESO4, ESO8, SLO1, SLO2, SLO3, DDO3, DDO4, DDO5, DDO6 to clarify the statement of significance, clarify objectives and comply with the Ministerial Direction and to clearly articulate the planning objective to be achieved under each Overlay.**
- G. Amend Section 3.0 of the Parking Overlay (PO) to comply with the Ministerial Direction on the Form and Content of Planning Schemes.**

## 6. Planning scheme performance

This section contains an analysis of planning permit activity that has taken place during the last four years. It draws on both publicly available Planning Permit Activity and Reporting System (PPARs) data and data provided by Council. Council officers have been provided with raw data that has been used for the analysis.

### 6.1. Planning permit activity

#### 6.1.1. Number of permits assessed

##### Evidence

Table 1 shows the number of permit applications received between the 2017/18 financial year and the 2020/21 financial year. The numbers varied, with a low of 409 in 2018/2019 and a high of 558 in the last financial year, with the average permits being received per year at 464.5. In 2020/21 Council received more applications than previous years.

Table 1: PPARs report for permits issued between the 2017/2018 financial year and the 2020/2021 financial year

| Permits (including refusals) | 2017/2018 | 2018/2019 | 2019/2020 | 2020/2021 | 2021/2022 |
|------------------------------|-----------|-----------|-----------|-----------|-----------|
| Received                     | 409       | 457       | 434       | 558       | 567       |
| NOD                          | 25        | 18        | 18        | 34        | 21        |
| New / Amended Permit         | 400       | 360       | 403       | 475       | 503       |
| Refusal                      | 5         | 16        | 8         | 5         | 3         |

Source: PPARS

##### Discussion and conclusion

The number of permits being processed by Council has increased significantly between year ending 2020 and year ending 2022. There has been a 30% increase in permit applications during this period.

There has been a general trend across the state in increased permit activity in regional areas which has been attributed to the COVID-19 pandemic and the movement of people away from the city.

Council officers were unable to identify any other particular reason that the number of applications has increased so greatly (such as by the introduction of a new planning control).

Council should monitor the permit activity in the Shire to ensure that adequate resources are allocated to the statutory planning department to process applications, and to identify opportunities for streamlining of planning scheme controls to remove permit applications for low value matters.

#### 6.1.2. Nature of permits assessed

##### Evidence

PPAR's data shows that over the last 4 years the category of permits generating the highest activity has been "one or more new buildings", "Single dwelling" and "Extension to an existing dwelling or

associated structure”. “Subdivision of land” and “Change or extension of use” also generated a significant proportion of permit activity.

Council supplied data for 2020 and 2021 indicates that a significant number of planning permit applications are being triggered by a limited number of existing provisions in the Farming Zone, ESO2, ESO3 and ESO5, the BMO, and by currently specified requirements pertaining to use, setbacks and building areas. Table 2 identifies those Zones and associated triggers which generated 50 or more planning permit applications in one of the last two years. In recording the last 2 years of permit data, Council has also identified and recorded “Themes”; these represent common permit triggers under the various Zone and Overlay provisions.

Table 2: Permit triggers by clause (50 or more) in 2020 and 2021

|        | <b>35.07-4-<br/>FZ<br/>Building<br/>Works</b> | <b>42.01-2-<br/>ESO2<br/>Building<br/>Works</b> | <b>42.01-3-<br/>ESO3<br/>Building<br/>Works</b> | <b>42.01-2-<br/>ESO5<br/>Building<br/>Works</b> | <b>44.06-2 -<br/>BMO<br/>Subdivision<br/>Building<br/>Works</b> |
|--------|---|---|---|---|---|
| 2021   | 156   | 65  | 51  | 155   | 109   |
| 2020   | 98  | 30  | 21  | 83  | 62  |
| Totals | 254   | 95  | 72  | 238   | 171   |

Source: Council data

Table 3: Permit triggers by permit trigger (50 or more) in 2020 and 2021

|        | <b>Section 2 Use</b> | <b>Road Zone<br/>Setback</b> | <b>Waterway setback</b> | <b>Building Area</b> |
|--------|----------------------|------------------------------|-------------------------|----------------------|
| 2021   | 65                   | 52                           | 76                      | 126                  |
| 2020   | 25                   | 32                           | 41                      | 63                   |
| Totals | 90                   | 84                           | 117                     | 189                  |

Source: Council data

## Discussion

It is not surprising that a significant proportion of applications dealt with by Council are triggered by the provisions of the Farming Zone, ESO2 (Special Water Supply Catchment Areas), ESO3 (Coastal Settlements – Non-Residential Zones) and ESO5 (Areas Susceptible to Erosion). The controls affect a significant proportion of the Shire’s physical area (for example, approximately 30% of land in the Shire is located within a designated water catchment) and given the nature of land use and development outcomes sought to be achieved by these controls, it is unsurprising that many applications are triggered by them.

Council is currently undertaking review of planning permit triggers in the Shire’s rural areas. The planning permit trigger review will assess both Zones and Overlay triggers that are currently applicable. This review has the potential to result in the removal of redundant and / or unnecessary permit triggers, thereby reducing the quantum of applications relating to the Shire’s rural areas.

Through consultation Council Officers identified that there are existing planning permit triggers under ESO2, ESO3 and ESO5 that do not appear to serve a useful purpose, however the provisions of these Schedules were amongst the most commonly relied upon for decision making. Given the quantum of applications currently being triggered under ESO2, ESO3 and ESO5 and the feedback from Council Officers regarding the efficiency and effectiveness of these provisions as currently drafted, a review of the planning permit triggers under these Overlays is recommended.

## Findings

- H. Finalize and implement Council's current review of planning permit triggers in the Shires rural areas.
- I. Undertake a review of the efficiency and effectiveness of ESO2, ESO3 and ESO5 with a view to removing any redundant and unnecessary permit triggers.

### 6.1.3. Service performance

#### Evidence

Table 4 sets out data against four different indicators for South Gippsland Shire in comparison to the State average for the Large Rural Council grouping.

Table 4: Service performance of South Gippsland Shire against similar Councils

| Council  | 2017-2018 | 2018-2019      | 2019-2020      | 2020-2021      | 2021-2022      |
|--|-----------|----------------|----------------|----------------|----------------|
| <b>Time taken to decide planning applications</b>                  |           |                |                |                |                |
| South Gippsland Shire  | 69 days   | 72 days        | 77 days        | 83 days        | 99 days        |
| <b>Large rural average</b>   | -         | <b>70 days</b> | <b>65 days</b> | <b>67 days</b> | <b>78 days</b> |
| <b>Planning applications decided within required time frames</b>   |           |                |                |                |                |
| South Gippsland Shire  | 77%       | 79%            | 55%            | 48%            | 40%            |
| <b>Large rural average</b>   | -         | <b>78%</b>     | <b>78%</b>     | <b>73%</b>     | <b>69%</b>     |
| <b>Cost of statutory planning service per planning application</b> |           |                |                |                |                |
| South Gippsland Shire  | \$2,229   | \$1,773        | \$1,748        | \$1,385        | \$1,442        |
| <b>Large rural average</b>   | -         | <b>\$2,256</b> | <b>\$2,254</b> | <b>\$1,873</b> | <b>\$1,861</b> |
| <b>Council planning decisions upheld at VCAT</b>                   |           |                |                |                |                |
| South Gippsland Shire  | 80%       | 80%            | 71%            | 50%            | 75%            |
| <b>Large rural average</b>   | -         | <b>50%</b>     | <b>60%</b>     | <b>51%</b>     | <b>61%</b>     |

Source: Know your Council website.

## Discussion

Service delivery and permit approval times at South Gippsland have been impacted due to a significant increase in the number of planning applications received compared to the previous year as identified earlier. Key issues for Council are:

- Planning permit processing times are steadily rising and at 99 statutory days are far higher than the required 60 days, and also significantly higher than the average for other large rural shires which is 78 days.
- The number of planning permit applications being processed within required timeframes has steadily dropped to 40%. The average for other large rural shires is 69% and Council should be aiming for 100%.



- The cost to Council to process each application has dropped significantly over four years, and is lower than the average for large rural shires by over \$400 per application and \$800 less per application than neighbouring Bass Coast Shire

South Gippsland explains this, on the Know Your Council website, as due to difficulties in recruiting staff and retaining staff.

Collectively, this data is indicating that Council is underspending on the statutory planning service it delivers and as a result there are negative impacts on the processing of applications within statutory timeframes.

It seems that there are two reasons for this:

- Planning permit application numbers have increased significantly (by 30% over the period) which has increased the workload of the statutory planning unit.
- Staff attraction and retention is creating ongoing staff shortages which is affecting productivity.

These are the core issues that should be addressed. They may be addressed by recruiting more staff (difficult in the current environment), investing in the IT system (Pathways) to automate and streamline the processing of applications and removing unnecessary permit triggers (Council is already doing this project).

## Findings

- J. **Review the resourcing of the statutory planning function to ensure that adequate resources and systems are available to deal with the significant increase in planning permit applications over the last four years (30% increase), and address the steadily declining performance of the Council in meeting statutory processing timeframes for planning permit applications (target reduction is from 99 days to the statutory 60 days).**

### 6.1.4. Decision making

#### By Council

Based upon Council supplied data, Council has been the decision maker 10 times in the last 4 years, and in each instance, Councilors supported the recommendations of their Officers. This suggests that Council has good systems in place for processing applications, including effective delegations and a sound decision making against the planning scheme.

Delegations appear to be working effectively and are not recommended for review.

#### By Victorian Civil and Administrative Tribunal (VCAT)

South Gippsland Shire appears regularly at VCAT, with 24 appearances in the last 4 years, averaging 6 appearances per year (PPARs data).

Council appears at VCAT on average six times per year. This represents less than two percent of applications received and is well below the State average. There is no action recommended on this matter.

## 6.2. Planning Panel Victoria

### 6.2.1. Summary of planning scheme amendments

Council has undertaken 9 'C' planning scheme amendments since the last planning scheme review. A detailed analysis of these has been provided to Council officers. The ones that went to Panel are summarised below.

**C109sgip, in operation from 20 February 2019:** Updated the Venus Bay local policy, rezoned the Venus Bay Caravan Park, rezoned land to the Low Density Residential Zone and the Township Zone and applied Overlays to manage built form outcomes and to protect vegetation.

**C090sgip, in operation from 19 April 2020:** Implemented the recommendations of the South Gippsland Housing and Settlement Strategy 2013 and applied the Restructure Overlay.

**C116sgip, in operation from 8 July 2020:** Applied the Land Subject to Inundation Overlay to flood prone areas identified by Melbourne Water and the West Gippsland Catchment Management Authority.

**C115sgip, in operation from 12 August 2020:** Implemented the Mirboo North Structure Plan Refresh (2017)

**C124sgip, in operation from 10 August 2022:** Rezoned land at 6A Warralong Court, Leongatha and 15 Old Waratah Road, Fish Creek from public zones to residential zones to reflect their ownership.

### 6.2.2. Policy issues raised at Panels

The issues raised by Panels that have policy implications for the planning scheme were:

- Rural dwellings and rural subdivision policy.
- Commercial land availability in Mirboo North.

The matters are discussed in the following sections.

### 6.2.3. Rural dwellings and rural subdivision policy

#### Evidence

**C090sgip** Implemented the recommendations of the South Gippsland Housing and Settlement Strategy 2013. In its report, the Panel commented upon the suite of policies for to dwellings and subdivision in the rural zones (Clauses 22.05, 22.06 and 22.07).

The Panel had fundamental concerns with those policies due to their lack of consistency with State and other Local planning policies as well as applicable guidance on the drafting of policy.

It was outside the scope of the amendment to address these concerns So the Panel made the following recommendation:

*“13. Council consider undertaking a fulsome review of Clauses 22.05 and 22.06 of the South Gippsland Planning Scheme pertaining to Rural dwellings and Rural subdivision to ensure their consistency with the Planning Policy Framework and established principles (including Planning Practice Notes) relating to the form and scope of a local planning policy”.*  
(Amendment C090sgip Panel Report, p39)

#### Discussion

While Council has translated previous planning policy into the new Planning Policy Framework, this occurred without a 'fulsome' review of Clause 22.05 and 22.06. Key elements of these policies remain inconsistent with State and other local policies, notably support for new dwellings on

Farming Zone lots less than 4.1 hectares. In addition to the C90 Panel Report quoted above, this policy inconsistency has been identified via a review of VCAT decisions, where the Tribunal has refused dwellings on lots less than 4.1 hectares.

A review of the policy intent of Clause 22.05 and Clause 22.06 will identify areas of policy inconsistency and make recommendations to achieve improved alignment between state and local policy.

The existing policy relating to dwellings on small Farming Zone lots is not consistent with State policy and could lead to unintentional outcomes for development in rural areas. Based on Council supplied data, there are approximately 3600 lots that are 4.1 hectares or less in the Farming Zone that remain vacant. Development of these could result in a proliferation of dwellings, an increased exposure of residents to environmental risks (notably fire), landscape impacts and potential for amenity conflict between rural lifestyle land uses and commercial agriculture.

A review of the policy is required to consider the impact of these matters and determine whether local policy continues to support local and state values.

### **Recommendation**

- K. Review rural dwellings and subdivision policy requirements to ensure consistency with State Planning Policy and protect local values.**

#### **6.2.4. Commercial land availability in Mirboo North**

##### **Evidence**

**C115sgip** Implemented the Mirboo North Structure Plan Reference (2017). Amongst other matters, the amendment sought to rezone two parcels of land to facilitate the future expansion of the town centre to meet anticipated demand.

The Panel found that insufficient work had been done to strategically justify the proposed rezoning and recommended that this element of the amendment be abandoned.

##### **Recommendation**

- L. Notify Mirboo North Town Centre that any future expansion requires further strategic work.**

#### **6.3. VCAT**

##### **6.3.1. VCAT cases reviewed**

Council officers provided the following list of VCAT cases to review.

- Lindsay Holland Pty Ltd v South Gippsland SC [2018] VCAT 1408 (24 September 2018)
- XO Network Pty Ltd v South Gippsland SC [2019] VCAT 1789 (15 November 2019)
- Dunn v South Gippsland SC [2019] VCAT 1130
- Meredith-Aubrey Pty Ltd v South Gippsland SC [2019] VCAT 726
- Lyon v South Gippsland SC [2019] VCAT 821 (3 June 2019)
- Trease v South Gippsland SC [2018] VCAT 1636 (18 October 2018)
- XYZ v South Gippsland SC [2019] VCAT 948
- JSW Brian Pty Ltd v South Gippsland SC [2019] VCAT 1730
- Chapman v South Gippsland SC [2019] VCAT 1831

- Thompson v South Gippsland SC [2021] VCAT 1473
- Rossi v South Gippsland SC [2019] VCAT 964
- Course v South Gippsland SC [2019] VCAT 1824
- Scott v South Gippsland SC [2020] VCAT 1451
- Scott v South Gippsland SC (Corrected) [2022] VCAT 849
- Maugeri v South Gippsland SC [2019] VCAT 1415
- Rowland v South Gippsland SC [2021] VCAT 504
- Thomas v South Gippsland SC [2021] VCAT 729

### **6.3.2. Policy issues raised at VCAT**

The issues raised with policy implications at VCAT over the past four years related to:

- Climate change impacts in coastal settlements.
- The Bushfire Management Overlay, vehicular access and seasonal operations.
- Farm management plans.
- Section 173 requirements in rural areas.

These matters are discussed in the following sections.

### **6.3.3. Climate change impacts in coastal settlements**

#### **Evidence**

In *Lindsay Holland Pty Ltd v South Gippsland SC* [2018] VCAT 1408, the Tribunal refused an application for the development of four dwellings within the Venus Bay township that was considered otherwise acceptable in many respects.

The Tribunal refused the application on the basis that public access into and out of Venus Bay (by the Inverloch-Venus Bay Road) would, based on climate change projections, expose future occupants to an unacceptable level of coastal flooding hazard.

The Tribunal noted that that this decision had wider and potentially significant implications for future use and development within Venus Bay, and that Council was (at the time of the decision) progressing strategic work to deal with those implications.

#### **Discussion**

The refusal of an application that was otherwise acceptable in many respects on the grounds that public access would expose future occupants to an unacceptable level of coastal flooding hazard, is a significant and consequential decision for the Shire's coastal settlements.

This decision has implications for not just Venus Bay but for many of the Shire's coastal settlements, some of which are already susceptible to the coastal impacts of climate change and are serviced by only one public access route.

As is discussed in further detail in this report, Council is currently in the process of developing a Coastal Strategy which will provide strategic direction for the planning of South Gippsland's coastal areas and (amongst other matters) respond to climate change risk.

#### **Recommendation**

- M. Undertake further strategic work to develop and implement planning policy that provides clear and appropriate direction for future of the Shire's coastal settlements in the context of known climate change impacts.**

#### **6.3.4. The BMO, vehicular access and seasonal operation**

Three recent decisions (XO Network Pty Ltd v South Gippsland SC [2019] VCAT 1789, Dunn v South Gippsland SC [2019] VCAT 1130, Meredith-Aubrey Pty Ltd v South Gippsland SC [2019] VCAT 726) have highlighted issues associated with the provision of secondary vehicular access to the public road network for use and development within the BMO.

In XO Network Pty Ltd v South Gippsland SC [2019] VCAT 1789, the Tribunal refused an application but noted that their findings may have been different if there more than one vehicular access route had been provided to the public road network.

Similarly, in Meredith-Aubrey Pty Ltd v South Gippsland SC [2019] the Tribunal refused the application in part because no alternative vehicle escape routes were identified.

Conversely, in Dunn v South Gippsland SC [2019] the Tribunal supported the proposal in part because a secondary point of vehicular access had been provided to the public road network.

An additional matter raised in XO Network Pty Ltd v South Gippsland SC [2019] VCAT 1789 related to the period of operation of the proposed use (in that case, Group Accommodation). In refusing the application the Tribunal noted that their findings may have been different if the proposal intended to not operate at all during the declared fire danger season.

#### **Discussion**

Since the last planning scheme review Council has spent a considerable amount of time and resources dealing with access issues in areas that are subject to heightened bushfire risk.

Climate change is demonstrably increasing the intensity and frequency of extreme weather events, including bushfire. Within this context and noting Council's obligation to prioritise the protection of human life over all other policy considerations in bushfire affected areas (refer to Clause 71.02-3 – Integrated decision making), encouraging uses in bushfire affected areas to operate outside of the fire danger season is recommended as an appropriate policy response.

Three VCAT cases over the last four years have had to consider the issue of access to and operation of uses in Bushfire Management Overlay areas and the conclusions from VCAT are clear.

- Development should generally not be supported when there is not two access points to the land.
- Uses which are sensitive and not essential in the Bushfire Management Overlay should not be supported to operate during the declared fire season. In some cases, this will mean it is appropriate to refuse a use application.

The policy outlined in the first point is becoming more common throughout the State and represents the position of the CFA on access and egress to sites. While it should ideally be addressed at the State policy level, it is not at this stage.

On the basis of the applications Council has had before it over the last four years, and the clear guidance from VCAT about how they should be dealt with, it is recommended that policy be included in the local Planning Policy Framework to assist applicants and decision makers.

The second point is not really a planning matter. Generally the times in which a business operates, with the exception of entertainment, liquor licensing, gaming and events is not controlled through planning permits.

#### **Recommendation**

- N. Include policy at Clause 13.02-1L (Bushfire Planning) to ‘Design of use and development in areas subjected to heightened bushfire risk provide more than one access route onto the public road network’.**

### **6.3.5. Farm management plans**

Three recent decisions have highlighted that previously it was an application requirement (at Clause 22.05) that a ‘whole farm plan’ be submitted with an application to construct a dwelling in association with an agricultural activity. This application requirement no longer applies.

In *Chapman v South Gippsland SC* [2019] VCAT 1831, the Tribunal found that the level and quality of information submitted as part of the application was sufficient to justify a proposed dwelling in association with agricultural activity.

Conversely, in *Thompson v South Gippsland SC* [2021] VCAT 1473 and in *Rossi v South Gippsland SC* [2019] VCAT 964, the Tribunal found that the level and quality of the information provided to justify the proposed dwellings in association with the proposed agricultural activity was deficient.

#### **Discussion**

Requiring the submission of a ‘whole farm plan’ as part of an application to construct a dwelling in association with an agricultural activity typically ensures that the level and quality of information submitted as part of the application is sufficient for Council to properly assess such an application.

The requirement for such an application to be supported by a ‘whole farm plan’ also establishes a clear expectation that any prospective applicant will need to meaningfully justify the need for a proposed dwelling in association with an agricultural activity. This is an entirely appropriate requirement which provides clarity to applicants and decision makers.

In the translation of the planning scheme to the new PPF policy format, DTP, previously DELWP, did not permit the translation of application requirements such as the requirement for a Farm Management Plan in local policy. This appears to be a ‘non policy neutral’ translation.

See the discussion in Section 10 of this report for recommended action about this matter.

### **6.3.6. Section 173 agreement (S173) requirements in rural areas**

In *JSW Brian Pty Ltd v South Gippsland SC* [2019] VCAT 1730, Council sought to impose a Condition requiring a S173 to be entered into to ensure that, until such time as the land is rezoned to a residential or rural living zone, the land could not be further subdivided to increase the number of lots and that no further dwellings could be built.

The Tribunal found that the provisions of the Planning Scheme did not require the section 173 agreement, and that while the Rural Strategy 2011 (Background Document) contained policy which imposes a requirement for a section 173, this could not be given any weight as it was not incorporated into the planning scheme.

The Tribunal concluded that it was unnecessary and unreasonable to require a section 173 agreement preventing a future dwelling on the Balance Lot given it is an as of right use under the planning scheme and that any subdivision would be subject to assessment against relevant policy.

#### **Discussion**

Agriculture and its associated processing and service industries underpin the Shire's economy, and the pressure for rural lifestyle properties, the fragmentation of agricultural land, the intrusion of non-agricultural uses as well as the protection of agricultural land and agricultural production are some of the main long term land use trends / challenges facing the municipality.

The South Gippsland Rural Strategy 2011 clearly articulated the intention to utilise a Section 173 Agreement to achieve "no further excisions" and "no more dwellings" outcomes. It is unclear why these requirements were not translated into the Planning Scheme.

These requirements have had a strategically justified basis and would serve a role in helping to protect the Shire's highly productive agricultural land. Consideration would need to be given to how these requirements can and should be best integrated given the evolution of rural policy and drafting requirements since 2011.

## **Findings**

- O. Review whether the S173 Agreement requirements detailed in the South Gippsland Rural Strategy 2011 can be incorporated into the planning scheme and if not, undertake further strategic work to do this.**

## 7. Stakeholder engagement

This section contains a summary and analysis of stakeholder engagement that has informed the Planning Scheme Review. It includes data collected as part of a Council planner survey, responses from key referral agencies and external stakeholders as well as feedback provided by planning staff, key internal staff and Councillors through a series of Workshops.

The intention of this part of the review is to provide context from those who most use the planning scheme and Councillors, as the community representatives. The findings of this engagement help refine the key issues that Council needs to address and prioritise the scope of further strategic work that should be undertaken during the next four years.

Refer to Appendix One for detailed meeting notes and tabulated survey results.

### 7.1. Council officer survey

Council officers were asked to respond to a survey about the South Gippsland Planning Scheme, prior to any analysis documents or findings being shared. The Survey included questions to determine, from an officer perspective, how well the Scheme is performing, controls that need refining or could be removed, applications that are taking more time than they should, and policy gaps.

The substantive issues that Council officers raised have been loosely grouped under the following headings, with full responses available in Appendix One:

- Dwellings, outbuildings & subdivision in the Farming Zone:
- Coastal settlements & climate change Impacts:
- Managing bushfire risk:
- Environment Significance Overlay (drafting and usability):
- Significant Landscape Overlay (drafting and usability):
- Design and Development Overlay (drafting and usability):
- Lack of existing protection for the Shire's heritage assets; and
- The Future growth and development of Nyora.

### 7.2. Planners' workshop and consultation

The feedback from the initial planner survey provided a basis for two workshops with Council Planners, held on 12 October and 9 November 2022. The first workshop expanded on the issues raised in the planners survey and the second, a month later, focused on the broader analysis of the planning scheme provided to the staff prior to the meeting.

In addition, ongoing discussions with the Strategic Planning team identified issues as they arose.

Generally, the matters raised in these discussions echoed the planner survey results and analysis outcomes. However, other matters raised included:

- Parking Overlay in Leongatha that includes a car parking contribution but is generally being waived.
- The drafting and usability of Schedules.
- Land use and development conflict in rural areas, including implementation of current policy for dwellings on small lots.
- Inappropriate development proposals in infill areas, particularly 'night cart laneways'.
- PPF translation omissions (rural policies, 'localities', signs, settlement hierarchy)



- The current extensive list of Planning Scheme anomalies. (This is addressed in Chapter 10).

### **7.3. Internal staff**

Council staff identified as having an interaction with the South Gippsland Planning Scheme, either in an internal referral capacity or as an administrator of its policies, were asked to participate in a workshop on the 3 November 2022 or to provide written feedback.

Generally, the matters raised in these workshop discussions echoed the planner survey results and analysis outcomes. Other items raised included:

- Process improvements – internal referrals earlier in the planning permit assessment process (e.g. Environmental Health, Biodiversity).

### **7.4. Councillors and executive team**

Councillors participated in a two-hour workshop on 26 October 2022. The workshop introduced the planning scheme review and spoke about the objectives of planning in Victoria and included a summary of analysis findings to date.

The Councillors were active and engaged participants in the workshop, and raised several matters that had not previously been highlighted during the previous workshop discussions, including:

- The impact of renewables on the Shire, including population growth expected in Nyora, and the impact of freight.
- State priorities v local priorities.
- Protection of biodiversity and significant landscapes outside of the coast and coastal hinterland.
- Managing expectation and growth in coastal settlements such as Venus Bay.

### **7.5. Referral agencies**

All agencies and authorities listed in Clauses 66.04 and 66.06 were invited to comment upon current arrangements for the referral of permit applications under local provisions. Agencies and authorities were also invited to comment upon any other aspects of the operation of the planning scheme as relevant to their area(s) of responsibility.

The substantive issues that each agency or authority raised are summarised below, with full responses available in Appendix Four:

#### **Gippsland Water**

- Requested that Gippsland Water be added as a Determining Referral Authority at Clause 66.04 for applications within Environmental Significance Overlay Schedule 2 (Special Water Supply Catchment Areas) that fall within the Mirboo North catchment. This requested change is supported.

#### **South Gippsland Water**

- Requested that South Gippsland Water be removed as referral authority for unplumbed Domestic Sheds more than 30m from a waterway. This requested change is supported but requires further strategic work; there needs to be an MOU in place between the authority and Council to affect this change.
- Requested that multi-unit tourist accommodation (glamping tents or cabins, etc.) on a single property be restricted within Environmental Significance Overlay Schedule 2 (Special Water

Supply Catchment Areas). While understanding the basis for the request, technically such a restriction cannot be included in the Environmental Significance Overlay Schedule 2 pursuant to the drafting requirements of the Ministerial Direction and the Practitioner's guide.

- Requested that Environmental Significance Overlay Schedule 2 (Special Water Supply Catchment Areas) clearly define the acceptable accreditations/qualifications of a 'suitably qualified person' to produce a Land Capability Assessment. This request is a State Government matter that is beyond the scope of this review.
- Requested a new waterway revegetation requirement be added to Environmental Significance Overlay Schedule 2 (Special Water Supply Catchment Areas). This requested change is supported and the draft ordinance has been amended to reflect this request.
- Requested a new requirement to Environmental Significance Overlay Schedule 2 (Special Water Supply Catchment Areas) for septic systems to be upgraded where works have been undertaken. This change was not supported as it is considered this requirement is adequately covered by the existing application requirements.

### **Department of Environment, Land, Water and Planning (now DTP or DECCA)**

DELWP's submission focused on five Environmental Significance Overlays and requested changes to:

- Changing the name of DELWP to the relevant name post-election. This should be done at authorization.
- Deleting referrals from the decision guidelines and inserting them appropriately in Clause 66.04s as recommending referral authorities.
- Deleting referrals where DELWP no longer provides the service (e.g. keeping Land Capability Assessment guidelines up to date, assessing significant landscapes).
- Including a reference document at Clause 72.04 for the Giant Gippsland Earthworm Environmental Significance Overlay Reference Document (September 2015).
- Add further strategic work related to 42.01 ESO9 Giant Gippsland Earthworm and Habitat Protection to: 1) Develop an offset framework to enable appropriate relocation or replacement of habitat of the Giant Gippsland Earthworm resulting from planning decision. 2) determine whether the impacts of hydrology changes on colonies and habitat should be undertaken as part of the assessment process.
- Add further strategic work related to 42.01 ESO7 Coastal settlements to quantify drainage, access and buffer planting on interface requirements between private land and Crown land.

### **Environment Protection Agency**

- Requested that relevant Environmental Significance Overlays be transitioned to the Buffer Area Overlay. This requested change is supported and is identified as further strategic work
- Requested that current planning permit exemptions detailed in Environmental Significance Overlay Schedule 8 (Manufacture of Milk Products Amenity Buffer) be applied in Environmental Significance Overlay Schedule 4 (Sewerage Treatment Plant and Environs). While the requested change is generally supported, Council needs to review and advise upon this, as there may be reasons unknown to the Redink team why the exemptions would not be appropriate.

### **Leongatha Aerodrome Users Pty Ltd**

- Requested that the 'Airport Owner' be identified as a Determining Referral Authority at Clause 66.04. In this case the airport owner is a private entity / users association and affording Determining Authority status to such an entity is generally not supported.
- Requested that the Leongatha Aerodrome be rezoned to a Special Use Zone. This request is beyond the scope of this review to address.

### **West Gippsland Catchment Management Authority**

- Requested that the Coastal Development Application requirements of the Land Subject to Inundation Overlay Schedule be removed as they duplicate PPF provisions. This requested change is supported and the draft ordinance has been amended to reflect this request.

#### **Department of Transport**

- Requested that the wording of various provisions be changed to reflect the Departments role and the nature of the arterial road network. These requested changes are supported and the draft ordinance has been amended to reflect these requests.
- Requested changes to identify the future preparation of development plans in 3 growth area settings (Leongatha South, Jumbunna Road Precinct, Nyora Township). While the basis for requested change is understood supported, Council needs to review and advise upon this as it is a strategic planning decision and outside the scope of this review.

#### **Findings**

As a result of Engagement with referral agencies make the following changes to the ordinance as shown in Appendix Two:

- P. Update planning provisions to include strategically justified changes identified by the referral agencies as part of the planning scheme review consultation as shown in Appendix Two.**
- **Add Gippsland Water as a Determining Referral Authority at Clause 66.04 for applications within Environmental Significance Overlay Schedule 2 that fall within the Mirboo North catchment.**
  - **Add a new a new waterway revegetation requirement to Environmental Significance Overlay Schedule.**
  - **Delete the Coastal Development Application requirements of the Land Subject to Inundation Overlay Schedule.**
  - **Amend the wording of Special Use Zone Schedule 6 and Development Plan Overlay Schedule 9 to refer to ‘arterial roads’ rather than ‘major arterial roads.’**
  - **Replace reference to VicRoads with the Department of Transport in Development Plan Overlay Schedule 9.**

Introduce the following further strategic work as shown in Appendix Three:

- Q. Resolve a Memorandum of Understanding between South Gippsland Water and Council to enable South Gippsland Water to be removed as referral authority for unplumbed Domestic Sheds more than 30m from a waterway.**
- R. Transition Environmental Significance Overlays 4 Sewage Treatment Plants and Environments and ESO8 Manufacture of Milk Products Amenity Buffer to the Buffer Area Overlay.**
- S. Develop an offset framework to enable appropriate relocation or replacement of habitat of the Giant Gippsland Earthworm resulting from planning decision and determine whether the impacts of hydrology changes on colonies and habitat should be undertaken as part of the assessment process to strengthen 42.01 ESO9 Giant Gippsland Earthworm and Habitat Protection**
- T. Quantify drainage, access and buffer planting on interface requirements between private land and Crown land to strengthen 42.01 ESO7 Coastal settlements.**

## **7.6. Registered Aboriginal Parties**

The Victorian Aboriginal Heritage Act (2006) recognises Traditional Owners as the primary guardians, keepers and knowledge holders of Aboriginal cultural heritage. At a local level, Registered Aboriginal Parties are the voice of Aboriginal people in the management and protection of Aboriginal cultural heritage in Victoria.

The Registered Aboriginal Party (Gunai Kurnai Land and Waters Aboriginal Corporation) were invited to participate in the planning scheme review.

## Findings

- U. Update Clause 02.01 (Context) to include appropriate First Nations recognition.**

## 7.7. Summary of issues raised through engagement

Table 5 summarises the planning-related issues that were raised during the Stakeholder Engagement phase of the review, and the recommended actions in relation to each:

Table 5: Engagement phase planning related issues and recommended actions

|   | Officer survey | Planners | Internal staff | Councillors and Executive | Referral Agencies | Other stakeholders |
|---|----------------|----------|----------------|---------------------------|-------------------|--------------------|
| Coastal Settlements and Climate Change Impacts                                    | ✓              | ✓        | ✓              | ✓                         |                   |                    |
| Dwellings, Outbuildings and Subdivision in FZ                                     | ✓              | ✓        |                | ✓                         |                   |                    |
| Hinterland significant landscapes   | ✓              | ✓        |                | ✓                         |                   |                    |
| The drafting and usability of local Schedules, specifically the ESO, SLO and DDO. | ✓              | ✓        |                | ✓                         | ✓                 |                    |
| Impacts of the developing renewables industry                                     | ✓              | ✓        | ✓              | ✓                         |                   |                    |
| PPF Translation issues  | ✓              | ✓        |                |                           |                   |                    |
| Rural Land Use Policy   | ✓              | ✓        |                |                           |                   |                    |
| Planning scheme anomalies   | ✓              | ✓        |                |                           | ✓                 |                    |
| Protection of the Shire's heritage assets   | ✓              | ✓        |                |                           |                   |                    |
| Future growth and development of Nyora  | ✓              | ✓        |                |                           | ✓                 |                    |
| Managing bushfire risk  | ✓              | ✓        |                |                           |                   |                    |
| Parking Overlay in Leongatha  | ✓              | ✓        |                |                           |                   |                    |

|   | Officer survey | Planners | Internal staff | Councillors and Executive | Referral Agencies | Other stakeholders |
|---|----------------|----------|----------------|---------------------------|-------------------|--------------------|
| Use of C1Z land for residential purposes in smaller towns (Foster, Toora)   |                |          |                | ☑                         |                   |                    |
| Inappropriate development proposals for infill development in areas with night cart laneways                              | ☑              |          | ☑              |                           |                   |                    |
| Impacts of State government proposals on local areas (transmission lines)   |                |          |                | ☑                         |                   |                    |
| Protecting character in small towns such as Fish Creek and Foster as a point of difference (for tourism attraction, etc.) |                |          |                | ☑                         |                   |                    |
| Restructure Overlay – not working as intended and does not cover all areas  | ☑              | ☑        |                | ☑                         |                   |                    |

## Findings

- V. **Undertake further strategic work to develop a local policy to provide guidance in relation to residential subdivisions on laneways.**

## 8. New strategic work

New strategic work that has been adopted by Council and prepared for the South Gippsland Region was reviewed to identify whether any policy should be incorporated into the planning scheme.

The intention of this part of the review process is to incorporate policy that may have been developed by another part of Council (for example, Economic Development, Sustainability, Community Planning etc.) and that is unlikely to be incorporate into the planning scheme through a stand-alone amendment.

The scope of this does not include significant strategic land use planning projects such as Structure Plans for Activity Centres, or Housing Strategies, which should go through a separate, dedicated planning scheme amendment process.

Regional documents, such as Catchment Management Plans, are also reviewed, to identify if there are any Council specific proposals that should be reflected in the planning scheme. (For example, the construction of a new wetland).

### 8.1. Council strategies and documents

Council provided twenty documents for review that have been developed since the last review. Each of these documents are adopted positions of Council and have been through a consultation process. There is strategic justification for the policies outlined in these documents.

Each document as reviewed by Redink Planning. It was found that policy outlined in seven of the documents should be bought across to the planning scheme as they relate to matters that applicants and decision makers should be considering in order to achieve the objectives set out in those strategies.

#### Documents reviewed

- South Gippsland Council Plan 2022-2026 (SGSC, 2022)
- South Gippsland Healthy Communities Plan 2021 (SGSC, 2021)
- South Gippsland Community Vision 2040 (SGSC, 2022)
- South Gippsland Integrated Planning Engagement Report 2022 (SGSC, 2022)
- South Gippsland Advocacy Strategy 2022 (SGSC, 2022)
- South Gippsland Economic Development Strategy 2021-2031 (SGSC,2021)
- South Gippsland Domestic Animal Management Plan 21-22 (SGSC, 2021)
- South Gippsland Arts, Culture & Creative Industries Strategy 2022-2026 (SGSC, 2022)
- South Gippsland Asset Plan 2022/23 – 2031/32 (SGSC, 2022)
- South Gippsland Blueprint for Community and Economic Infrastructure 2021-2036 (SGSC, 2021)
- South Gippsland Community Engagement Strategy 2020-2024 (SGSC, 2020)
- South Gippsland Community Strengthening Strategy 2018-2022 (SGSC, 2018)
- Municipal Domestic Wastewater Management Plan 2022-2026 (SGSC, 2022)
- South Gippsland Environmental Sustainability Framework 2021 (SGSC, 2021)
- South Gippsland Paths and Trails Strategy 2018 (SGSC, 2018)
- South Gippsland Road Management Plan 2022 (SGSC, 2022)
- South Gippsland Social and Affordable Housing Strategy 2022 (Horsnby & Co, 2022)
- South Gippsland Tree Management Plan (SGSC, 2021)
- South Gippsland Visitor Economy Strategy 2021-2031 (SGSC, 2021)
- South Gippsland Waste Management Strategy 2016-2021 (SGSC, 2016)

### **8.1.1. Recommendations**

Seven documents had policy implications. A summary of each, and the recommended changes to the planning scheme for each follows. Note that sometimes recommendations repeat as they appear in more than one strategic document.

#### **Council Plan 2022-2026**

The Council Plan 2022-2026 sets out the strategic directions and priorities of South Gippsland Shire Council for the next four years. To implement Council Plan 2022-2026 in the planning scheme:

- W. Include policy in the planning scheme to implement the Council Plan 2022 – 2026 as shown on Appendix Two.**
  - Insert a strategy at Clause 18.02-1L (Walking) to enhance the Shire’s network of trails and footpaths.
  - Insert a strategy at Clause 14.01-2L (Sustainable agricultural land use) that supports agriculture, food and fibre production to remain competitive and significant contributors to the local and national economies.
  - Insert a new strategy at Clause 17.04-1L (Tourism) to support improved visitor accommodation that encourages tourists to visit and remain longer in the region.
  
- X. Undertake further strategic work identified in the Council Plan 2022-2026 as shown on Appendix Three:**
  - Prepare a municipal industrial land supply assessment.
  - Prepare a Development Plan (including developer contributions) for the South Western precinct of Nyora as part of the Nyora Development Strategy.
  - Prepare a Coastal Strategy.

#### **South Gippsland Community Vision 2040 (SGSC, 2022)**

The South Gippsland Community Vision 2040 (SGSC, 2022) describes the community’s aspirations for the future of the municipality and is designed to help guide decision making.

To implement the South Gippsland Community Vision 2040 in the planning scheme:

- Y. Include policy in the planning scheme to implement the South Gippsland Community Vision 2040 as shown on Appendix Two.**
  - Add a new direction to Clause 02.02 (Vision) that to ensure decision-making supports adaptation to climate change by protecting and enhancing the Shire’s unique natural environment, towns and villages.
  - Introduce a new Clause 14.01-2L (Sustainable agricultural land use) that supports agricultural industries that use regenerative land management practices, to ensure the long-term viability of land.
  - Introduce a new Clause 16.01-2L (Housing affordability) that promotes development that includes affordable housing.

#### **South Gippsland Integrated Planning Engagement Report 2022 (SGSC, 2022)**

The South Gippsland Integrated Planning Engagement Report Provides a summary of the engagement that has gone into Council’s suite of Integrated Plans (Community Vision 2040, Council Plan 2022 – 2026, Annual Budget 2022/23 – 2025/26, Rating and Revenue Strategy 2022 – 2026, Domestic Wastewater Management Plan 2022 – 2026, Asset Management Plan 2022/23 – 2031/32,

Long Term Financial Plan 2022/23 – 2031/32). It provides details on how many people have engaged at each stage and outline what changes have been made to the Plans as a result of engagement.

To implement the South Gippsland Integrated Planning Engagement Report 2022 in the planning scheme:

- Z. Undertake further strategic work identified in the South Gippsland Integrated Planning Engagement Report 2022 as shown on Appendix Three:**
  - **Prepare planning scheme guidelines to protect the character of coastal townships.**
  - **Develop a ‘solutions focused’ Industrial Land Supply Strategy.**

### **South Gippsland Economic Development Strategy 2021-2031 (SGSC, 2021)**

The South Gippsland Economic Development Strategy 2021-2031 (SGSC, 2021) sets out our economic strategy for the next decade. It contains strategic themes to guide Council’s economic planning and secure South Gippsland’s future.

To implement the South Gippsland Economic Development Strategy 2021-2031 in the planning scheme:

- AA. Amend Clause 02.03-7 (Diversified economy) to include the over-arching strategic directions for economic development articulated in the South Gippsland Economic Development Strategy 2021-2031 and shown on Appendix Two.**

### **South Gippsland Environmental Sustainability Framework 2021 (2021)**

The South Gippsland Environmental Sustainability Framework 2021 (2021) represent Council’s adopted direction in the environmental sustainability realm. To implement the South Gippsland Environmental Sustainability Framework 2021 in the planning scheme:

- BB. Amend Clause 02.03-3 (Environmental risks and amenity) to highlight the vulnerability of key industries including agriculture and tourism to climate change impacts to implement the South Gippsland Environmental Sustainability Framework 2021 and shown in Appendix Two.**

### **South Gippsland Social and Affordable Housing Strategy 2022**

The South Gippsland Social and Affordable Housing Strategy 2022 seeks to facilitate affordable housing outcomes in the South Gippsland Shire. To implement the South Gippsland Social and Affordable Housing Strategy 2022 in the planning scheme:

- CC. Introduce a new Clause 16.01-2L (Housing affordability) to significantly increase access to affordable and social housing to implement the South Gippsland Social and Affordable Housing Strategy 2022.**

### **South Gippsland Visitor Economy Strategy 2021-2031**

The South Gippsland Visitor Economy Strategy 2021-2031 seeks to achieve Council’s vision that the Shire is a destination of choice for local and international visitors. To implement the South Gippsland Visitor Economy Strategy 2021-2031 in the planning scheme:

- DD. Amend Clause 02.03-7 (Tourism) to include to include the over-arching strategic directions for tourism articulated by the South Gippsland Visitor Economy Strategy 2021-2031.**



## Council resolutions and adopted studies

Council resolved on 25 November 2020 to implement the findings of a Council led audit of potentially contaminated land, see **Appendix Five**. Officers identified known sites of contamination throughout the municipality and gained Council support to seek authorisation to apply the Environmental Audit Overlay (EAO) to land identified.

- EE. Apply the Environmental Audit Overlay (EAO) to known sites of land contamination in accordance with previous Council resolution on 25 November 2020 to implement the findings of Council's audit of potentially contaminated land.**

Council resolved to replace the Environmental Significance Overlay – Schedule 5 (ESO5) with the appropriate planning tool being the Erosion Management Overlay (EMO) at a Council Meeting on 25 May 2016.

The EMO is the preferred VPP tool to manage erosion issues. Its purpose is:

To protect areas prone to erosion, landslip, other land degradation or coastal processes by minimising land disturbance and inappropriate development.

- FF. The EMO is a risk management tool as opposed to the ESO which is more focussed on protection of environmental values, and more appropriate to manage this issue. Replace the Environmental Significance Overlay Schedule 5 (Areas susceptible to erosion) with the Erosion Management Overlay and introduce design guidelines for development on steep slopes in accordance with Council resolution 25 May 2016.**

## 8.2. Regional projects and documents

The regional documents that were reviewed were:

- Gunai Kurnai Whole of Country Plan (Gunai Kurnai Land and Waters Aboriginal Corporation 2015)
- West Gippsland Regional Catchment Management Strategy 2021-2027 (WGCM, 2021)
- Gippsland Regional Plan 2020-2025 (Gippsland Regional Plan Leadership Group, 2020)

### 8.2.1. Documents with policy implications

#### Gunai Kurnai Whole of Country Plan

The Gunai Kurnai Whole of Country Plan aims to bring together and add to the discussions that Gunai Kurnai people have had over the past two decades during their fight for Native Title and paints a picture of how they now are going to move forward.

To show respect for Traditional Owners and their continuing connection to Country, it is recommended that appropriate First Nations recognition be introduced at Clause 02.01 (Context). This action has been recommended for all planning scheme reviews being undertaken by Redink Planning.

- GG. Introduce recognition of the traditional owners of the land at Clause 2.01 Context. In the MPS.**

#### Gippsland Regional Plan 2020-2025

The Gippsland Regional Plan 2020-2025 is a long-term strategic plan that seeks to improve the economic, social, cultural, and environmental outcomes for the Gippsland region and community.

It contains policy in relation to facilitating investment in renewable, clean and community energy that should be incorporated into the planning scheme.

#### **Recommendations**

- HH. Introduce a strategy at Clause 19.01-2L Renewable energy sources 'Facilitate investment in renewable, clean and community energy' to implement the Gippsland Regional Plan 2020-2025**

## 9. Work underway

### 9.1. Concurrent planning scheme amendments

The following Council (C) amendments are currently underway for the South Gippsland planning scheme.

| Amendment number | Common name of the amendment<br>What the amendment does                   | Stage                       |
|------------------|---|-----------------------------|
| C124sgip         | Removal of reserve and rezoning of Council-owned land                     | Gazettal (12 August 2022)   |
| C126sgip         | Apply Heritage Overlay to Aroyn Homestead, Lang Lang, Poowong Road, Nyora | Gazettal (11 March 2022)    |
| C125sgip         | General amendment and rezoning of 293 Whitelaw Road, Korumburra           | Gazettal (8 September 2022) |

None of the above planning scheme amendments are anticipated to have implications for the current Planning Scheme review project.

### 9.2. Strategic planning projects

Council is currently substantially underway with the following strategic planning projects.

| Project name                      | What the project is intended to do  | Stage                                 |
|-----------------------------------|---|---------------------------------------|
| Coastal Strategy                  | Develop strategies to respond to coastal issues, in particular climate risks  | Initiation                            |
| Foster Structure Plan Refresh     | Identify key strategies for the township and update the Framework Plan  | Analysis                              |
| Bushfire Planning                 | Identify key risk areas for Foster and Mirboo North to establish where urban growth can occur and should not occur. Supports Foster Structure Planning Project and further implementation of the Mirboo North Refresh Project (partially implemented by C115sgip) | Draft Report / consultation with CFA. |
| Rural areas permit trigger review | Identify redundant planning permit triggers for policy in the Rural Zones and update the planning scheme to remove these  | Draft Report                          |

The work that is underway now, particularly the Coastal Strategy and the Rural areas permit trigger review, will resolve some of the issues that have been identified in this planning scheme review. The planning scheme review is not the vehicle to implement this work though, as they do not form resolved positions of Council.

# 10. Key issues

As a result of the Planning Scheme Review, these matters have been identified as the issues that Council needs to focus on over the next four years.

## 10.1. Planning for the Shire's coastal settlements

This review has identified two key and interrelated issues associated with the planning of the Shire's coastal settlements:

- Planning for the coastal impacts of climate change.
- Siting and design of buildings and works in coastal areas.

Council is aware of the issues that impact on the coastal areas which have been exacerbated over recent years as the realities of climate change impact on the foreshore, and population growth to the area is rising sharply. For this reason, a Coastal Strategy is being prepared, and should address many of the issues that have been identified both in this part of the discussion and under 10.7 of this section which addresses overlays.

### 10.1.1. The coastal impacts of climate change

#### Issue

This review has identified that the impacts of climate change upon the Shire's coastal settlements is one of the main long-term land use planning challenges facing the municipality. At present there is an absence of policy that provides appropriate directions for the future of the Shire's coastal settlements in the context of known climate change impacts.

#### Evidence

VCAT's recent refusal of an application in Venus Bay that was otherwise acceptable in many respects, on the grounds that public access into and out of Venus Bay would expose future occupants to an unacceptable level of coastal flooding hazard, was a significant decision that brought the absence of such policy into sharp relief. This recent VCAT decision has broad implications for the future growth and development of not just Venus Bay but many of the Shire's coastal settlements, some of which are susceptible to the coastal impacts of climate change.

#### Discussion

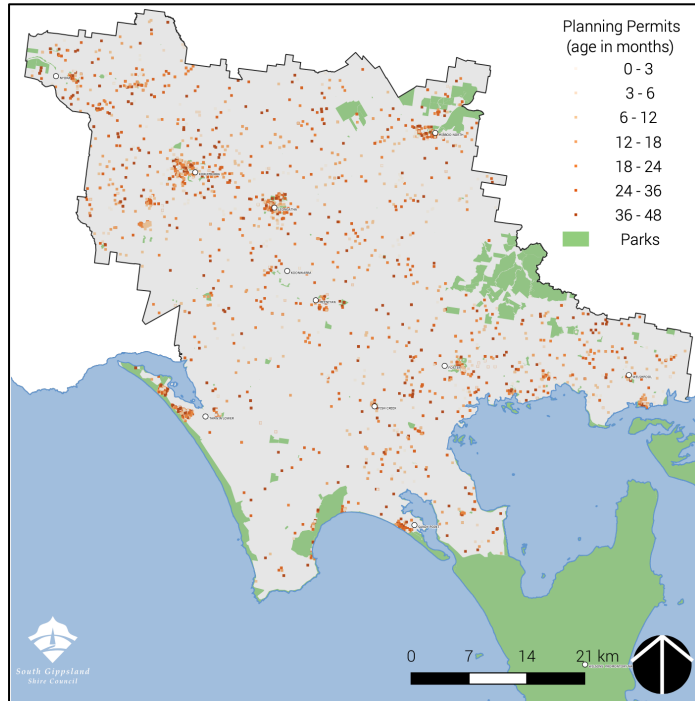
While it is not strictly applicable to each of the Shire's coastal settlements, Planning Practice Note 11 (Applying for a Planning Permit under the Flood Provisions) is instructive when considering the issue of access into and out of settlements impacted by coastal flooding Hazard. Planning Practice Note 11 specifies that development should be refused if (among other matters) it is likely to cause an unacceptable increase in flood risk in situations that rely on low-level access to and from the site.

As is noted in the South Gippsland Coastal Strategy Overview (December 2019):

- Based upon the modelled 1% Average Exceedance Probability (AEP) flood level, there is an immediate risk of road access being cut to Venus Bay, Tarwin Lower, Waratah Bay, Sandy Point and Port Welshpool during current flood events.
- Based upon current modelling of 0.82m sea level rise by 2100, there is an immediate risk of a majority of Port Welshpool and smaller portions of other towns such as Sandy Point, Venus Bay and Tarwin Lower being inundated by flood water during current flood events.

At present the above-mentioned coastal settlements account for approximately 6% of the Shire’s population however these localities generate a substantial proportion of planning permit applications within the Shire, as illustrated in a ‘hot spot’ analysis of the distribution of applications over the last four years (refer to Figure 2).

Figure 2: Hot spot distribution analysis of planning permit applications 2018 - 2022



Source: South Gippsland Shire Council 2022

Council is preparing the South Gippsland Coastal Strategy, which will provide strategic direction for the planning of South Gippsland’s coastal areas and, amongst other matters, respond to climate change risk.

Several the Shire’s coastal settlements are already at risk from the coastal impacts of climate change, and the above-mentioned VCAT decision raises important and urgent questions about the orderly development of those settlements.

Given the frequency and severity of coastal inundation events are projected to increase over time, it is strongly recommended that one of the outcomes of the South Gippsland Coastal Strategy is the development and implementation of planning policy that provides clear and appropriate direction for the future of the Shire’s coastal settlements in the context of known climate change impacts. Supporting further growth and development that would expose additional people and property to climate change risks and associated hazards is not considered to be an appropriate or acceptable planning outcome.

The implications of such a policy could be substantive and may well necessitate significant changes to the Shire’s current settlement hierarchy and directions for growth.

## Findings

- II. **Develop and implement planning policy that provides clear and appropriate direction for the future of the Shire’s coastal settlements in the context of known climate change impacts.**

## 10.1.2. Siting and design in coastal settlements

### Issue

This review has identified that significant tension currently exists between competing objectives and outcomes for the siting and design of development in the Shire's coastal settlements. This has led to a lack of clarity regarding the key or preferred siting and design outcomes that are sought within the coastal settlements.

### Evidence

New dwellings in the coastal settlements were identified through this review as being one of the most common types of applications dealt with by Council, as well as being one of the categories of applications that take the longest time to determine and are regularly the subject of review at VCAT.

The complexity of applications for buildings and works within the Shire's coastal settlements appears to be driven primarily by the range and complexity of Overlays that apply, and in some case the existence of competing objectives between applicable Overlays. For example, Council Officers identified through consultation that tension exists between those provisions of the planning scheme that allow vegetation removal as a bushfire protection measure (i.e., Bushfire Management Overlay, Clause 52.12) and those provisions which seek its retention, specifically in the Shire's coastal settlements (i.e., ESO's & DDO's).

### Discussion

This review has identified that a number of the Overlays that are applicable to the Shire's coastal settlements are poorly drafted and unclear in relation to the specific matters that they seek to control and the planning outcomes they expect to achieve. Recommendations for improving the drafting of these Overlays are addressed separately in section 10 of this report.

Consultation with Council Officers identified an over-arching lack of clarity and clear guidance for decision-makers regarding the key outcomes that are sought be achieved within the coastal settlements, driven in part by a perceived subjectivity in the current controls and the numerous (and not necessarily positive development precedents) that have previously been set. Within this context, Council Officers identified a need for the planning scheme to include clearer guidance in relation to the specific key outcomes that are sought be achieved within the Shire's coastal settlements, to provide clarity for the community and to help Council to refuse inappropriate proposals.

### Findings

- JJ. Undertake further strategic work to prepare a new policy (or policies) at Clause 15.01 (Urban design) to articulate how the current tension between competing objectives and outcomes for the siting and design of buildings and works in the Shire's coastal settlements should be appropriately balanced.**

## 10.2. Planning for urban character

### Issue

Consultation with Council Officers identified a lack of guidance regarding urban design outcomes in development throughout the Shire. Council currently utilises general DDO and ESOs to provide guidance which lacks specific key outcomes to help decision makers and does not respond to current State guidance when implementing urban character controls into the Planning Scheme which

supports implementation of neighbourhood character controls through the schedules to the residential zones and the Neighbourhood Character Overlay. This was a particular issue in coastal areas. It was not raised for the rural townships during the planning scheme review, however the heritage values of Fish Creek and Loch were recognised as being an important contributor to neighbourhood character, and more controls were required.

## **Discussion**

Council officers have identified that there is insufficient guidance for character issues in township areas and if overlay controls apply, there is little in the way of detail and policy direction to enable decision makers.

This was a particular issue in coastal areas. It was not raised for the rural townships during the planning scheme review, however the heritage values of Fish Creek and Loch were recognised as being an important contributor to neighbourhood character, and more controls were required.

A review of the suite of overlays that apply to township areas will consider the placed based objectives to be achieved, however it is likely additional strategic support is required, particularly in areas experiencing development pressure in the west of the Shire. Further, areas such as Fish Creek and Foster, that rely on their existing character to attract tourism and growth, do not have sufficient support to consider existing and preferred character during the assessment of planning proposals.

## **Findings**

- KK. Review existing controls and, where necessary, undertake character assessments to inform new planning controls to manage development, particularly in residentially zoned areas. This should include:**
- LL. Protect the heritage elements of Fish Creek and Loch to preserve the character of the townships.**
- MM. Review of the existing ESOs and DDOs to ensure they are achieving what is expected from them, are applied at the right scale, have the correct permit triggers in them and sufficient detail to better aid applicant and decision makers.**
- NN. Prepare clearer urban design guidance to assist with balancing the tension between competing objectives and outcomes for the siting and design of buildings and works.**

## **10.3. Planning for the Shire's rural hinterland**

### **Issue**

Council deals with a very large number of applications within the Shire's rural hinterland and at least some of those applications may be the result of redundant and / or unnecessary permit triggers. The recent PPF translation has significantly weakened the previous directions of Council's suite of rural policies, which poses a risk for these significant areas. Finally, the landscape and visual amenity of the Shire's rural hinterland is highly valued, but this is not currently recognised or protected in the planning scheme.

### **Evidence**

A significant proportion of all permit applications dealt with by Council relate to the Shire's rural areas. For example, of the 558 total applications received in the 2020/2021 financial year, 156 or 27.95% triggered a permit for buildings and works in the Farming Zone.

Applications relating to the Shire's rural areas also represent a significant proportion of Council's appearances at VCAT; 13 of the 17 key VCAT cases (i.e., 76%) since the previous planning scheme review in 2018 related to matters within the Shire's rural areas.

## Discussion

Council is currently undertaking review of planning permit triggers in the Shire's rural areas. The planning permit trigger review will assess both Zones and Overlay triggers that are currently applicable. This review has the potential to result in the removal of redundant and / or unnecessary permit triggers, thereby reducing the quantum of applications relating to the Shire's Farming Zone areas.

Through consultation Council Officers identified that the pressure for rural lifestyle properties, the fragmentation of agricultural land, the intrusion of non-agricultural uses as well as the protection of agricultural land and agricultural production are some of the main long term land use trends and challenges facing the municipality.

Council Officers also identified that applications in the Shire's rural areas often take the longest time to determine due to conflicting planning considerations and more complex assessments. Existing planning scheme provisions pertaining to the Shire's rural areas are relied upon frequently in decision making, however the absence of strong policy directions in relation to dwellings, outbuildings & subdivision in the Shire's rural areas was identified by Officers as a significant policy gap.

Council Officers highlighted through consultation that the recent policy neutral translation of the South Gippsland Planning Scheme undertaken by the State Government (Amendment C127sgip, gazetted 2 March 2022) resulted in the loss of some previous content that has significantly weakened the previous directions of Council's suite of rural policies.

Similarly, an analysis of recently VCAT cases noted that a previous application requirement (at Clause 22.05) for the submission of a 'whole farm plan' in conjunction with an application to construct a dwelling in association with an agricultural activity had been omitted.

Finally, through consultation Councillors, Council's Executive Management and Council Officers have all emphasised that the Shire's attractive and highly valued rural hinterland areas are not currently afforded any protection (i.e., through significant landscape overlays and/or associated policies) and this was identified as a current and significant policy gap.

## Findings

To address the key issues facing the Shire's rural hinterland areas identified through this review, it is recommended that Council:

- OO. Re-instate important rural policies that were lost through the PPF translation process. Refer to Appendix Six for an assessment of Council-identified potential reinstatements and the Redink teams' recommendations, which have been included in the draft track-changes ordinance.**
- PP. Finalize and implement Council's current review of planning permit triggers in the rural areas.**
- QQ. Undertake further strategic work to identify and protect important landscapes within the Shire's rural hinterland.**

## 10.4. Land-side planning for offshore renewables



## Issue

Victoria's rapidly emerging offshore wind energy industry poses both an opportunity and a challenge for the Shire.

## Evidence

In October 2022, the Victorian Government released the "*Offshore Wind Implementation Statement 1*", which outlines the Government's plans for the establishment of an offshore wind industry in Victoria. The Government has set ambitious targets for offshore wind generation of at least 2 gigawatts (GW) by 2032, 4 GW by 2035 and 9 GW by 2040.

The "*Offshore Wind Implementation Statement 1*" notes that Port of Hastings is likely to be the preferred Victorian port to support offshore wind construction. However, the scale of the proposed Victorian offshore wind industry and its proximity means that the Shire will certainly be impacted by, and have opportunity to benefit from, the establishment of the offshore wind industry. Indeed, the "*Offshore Wind Implementation Statement 1*" identifies that:

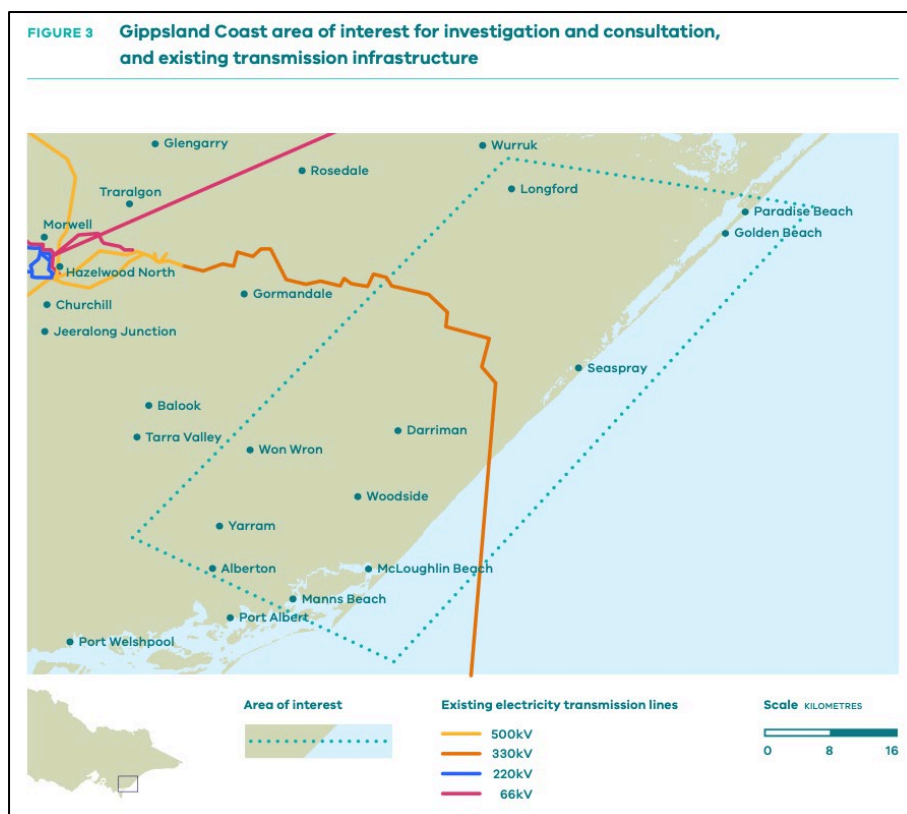
*Many commercial ports in Victoria can benefit from the establishment of the offshore wind sector, including for operations and maintenance services that will be required once the offshore wind sector is established.*

*Many Victorian ports could accommodate the smaller crew transfer vessels and larger service operations vessels for these activities, with proximity to offshore wind developments a primary consideration. Local ports and communities are well situated to benefit economically from ongoing support activities. We encourage all ports to consider how their facilities can support the establishment of the offshore wind sector. (p18)*

## Discussion

While falling outside of the State Government's currently defined "Area of Interest" for transmissions infrastructure (Figure 3), no preferred routes for the requisite infrastructure have yet been defined, with VicGrid and AEMO anticipated to work with stakeholders through 2023 to investigate options. It is not unreasonable to assume that potential routes through the Shire will be explored through that process.

Figure 3: Offshore wind industry transmissions infrastructure areas of interest



Source: Offshore Wind Implementation Statement 1, Government of Victoria, October 2022

Through consultation Council has identified that Barry Beach and Nyora are likely to be the main localities within the Shire that will be best placed to support the rapidly emerging offshore wind energy industry, with Nyora potentially supporting the redevelopment of the Port of Hastings and Barry Beach potentially supporting post-construction operations and maintenance services.

The “*Offshore Wind Implementation Statement 1*” articulates the State Government’s intention to introduce an enabling reforms package to facilitate the development of the offshore wind industry in 2023, with the first power from offshore wind anticipated to be generated in 2028. The State Government is moving extremely fast with this significant project, and Council will need to also move rapidly and (as far as possible) engage actively to ensure the Shire maximises the benefits from, and minimises the potential impacts of, the offshore wind industry.

## Findings

In this context it is recommended that Council:

- RR. Undertake further strategic work to review and update the applicable policy settings for Barry Beach and Nyora (and other settlements and sites as appropriate) to ensure the Shire is best placed to maximise the benefits to the Shire from the establishment of the offshore wind industry.**
- SS. Undertake further strategic work to identify high-value landscapes within the rural hinterland, to enable Council to actively and constructively participate in the process to define preferred routes for requisite transmissions infrastructure.**

## 10.5. The future role and function of Nyora

## **Issue**

Nyora is currently identified as a “small town” in the settlement hierarchy at Clause 02.03-1 (Settlement), however through consultation this review has identified that Nyora has the potential to become Council’s largest township.

## **Evidence**

Council Officers, Internal Staff and Councillors all highlighted that Nyora has and is experiencing significant demand for growth. As discussed previously, the rapid growth in renewables and its locational advantages in relation to Ports is likely to further feed this demand. In recognition, Council is currently undertaking a Structure Plan, however Council officers recognise that some opportunities for influencing land use development outcomes have already been missed.

## **Discussion**

The planning scheme as currently drafted does not reflect this potential for Nyora to grow and develop into the municipalities’ largest township and does not provide policy direction and associated controls that would support and facilitate such a level of growth.

It is recommended that Council undertake further strategic work to define the future role and function of Nyora in the overall settlement hierarchy, and plan for its future growth and development. This may include the preparation of development contributions plans to ensure the timely delivery of necessary supporting infrastructure. Development contributions planning will need to be undertaken in partnership with the Department of Transport and Planning (transport team).

## **Findings**

- TT. Change the designation of Nyora from ‘Small town’ to ‘Emerging district centre’ and update the description of Nyora’s future role at Clause 02.03-1 (Settlement) as shown in Appendix Two.**
- UU. Prepare a structure plan and urban design framework to guide the future development of Nyora, including a development contributions plan.**
- VV. Prepare a new Clause 11.01-1L policy to separate Nyora from the small townships policy.**

## **10.6. The identification and protection of the Shire’s heritage assets**

### **Issue**

Through consultation, this review has identified that a lack of adequate identification and protection of the Shire’s important heritage assets is a current and significant policy gap.

### **Evidence**

The South Gippsland Heritage Study (David Helms, 2004) is a listed Background Document at Clause 72.08. The study assessed over 1,200 place of potential heritage significance throughout the Shire and identified:

- 8 places of State heritage significance
- 335 places of Level 1 local heritage significance
- 12 heritage precincts of Level 1 local heritage significance

- 205 places of Level 2 local heritage significance
- 660 places of Level 3 local heritage significance

Amongst other matters, the 2004 Heritage Study recommended the application of the Heritage Overlay (HO) to all places and precincts that were identified as being of Level 1 local heritage significance.

Council has advised that to date, the Heritage Overlay (HO) has been applied to about 100 of the 374 (i.e., approximately 26%) places and precincts identified as being of Level 1 local heritage significance.

## **Discussion**

At present, the South Gippsland Planning Scheme provides protection for the Shire's heritage assets through a strategic direction at Clause 02.03-5 (Built environment and heritage) and locally specific policy at Clause 15.03-1L (Heritage). However, this protection is only meaningfully afforded to heritage assets to which the Heritage Overlay (HO) applies; almost three quarters of the Shire's heritage assets (which the 2004 Heritage Study recommended should be included within the Heritage Overlay), are currently not afforded any such protection.

While it could be argued that the strategic direction a Clause 02.03-5 (Built environment and heritage) in combination with the inclusion of the 2004 Heritage Study as Background Document at Clause 72.08 affords some protection to heritage assets listed in the 2004 Heritage Study that are not currently included in the Heritage Overlay, this is not an efficient or effective use of the planning system to protect heritage assets. Further, it is considered highly unlikely that a planner would refuse an application (and that VCAT would uphold such as refusal) on this basis.

## **Findings**

- WW. Update the 2004 South Gippsland Heritage Study as necessary and to apply the Heritage Overlay to all heritage places and precincts of local heritage significance.**

## **10.7. Translation of the rural policy through the PPF translation**

### **Issue**

The recent policy neutral translation of the South Gippsland Planning Scheme undertaken by the State Government (Amendment C127sgip, gazetted 2 March 2022) resulted in the loss of some previous content that has significantly weakened the previous directions of Council's suite of rural policies.

### **Evidence**

Existing planning scheme provisions pertaining to the Shire's rural areas are relied upon frequently in decision making, however the absence of former policy was identified by Officers as a significant policy gap.

Council Officers highlighted through consultation that the recent policy neutral translation of the South Gippsland Planning Scheme undertaken by the State Government (Amendment C127sgip, gazetted 2 March 2022) resulted in the loss of some previous content that has significantly weakened the previous directions of Council's suite of rural policies.

Similarly, an analysis of recently VCAT cases noted that a previous application requirement (at Clause 22.05) for the submission of a 'whole farm plan' in conjunction with an application to construct a dwelling in association with an agricultural activity had been omitted.

## **Discussion**

Council Officers provided the Redink Team with a marked-up version of the current ordinance, identifying potential inadvertent omissions. These have been assessed against the pre-PPF translation ordinance and several genuine, strategically justified omissions have been identified. Given their importance to the operation of Council's suite of rural policies and the extent to which pre-PPF translation they were relied upon in decision making, it is entirely appropriate that these inadvertent omissions be rectified.

In addition, Council raised some minor changes to strengthen rural policy which are supported and included as changes in Appendix Two.

See Appendix Six for detail.

## **Findings**

- XX. Reinstate policy that was omitted through the PPF translation process as shown in Appendix Two.**

## **10.8. Drafting of overlays**

### **10.8.1. Issue**

Inadequacies and inappropriate drafting of various overlays, including the DDOs, SLOs, ESOs are an issue that has emerged repeatedly through the planning scheme review.

Multiple issues have been identified and these will be addressed under the following themes:

- Compliance with the MDFC.
- Lack of detail and policy direction.
- Unnecessary permit triggers.
- Complex application in coastal areas.

Some of these issues can be addressed, but the amount of work required to fix the issues identified is outside the scope of this review process.

### **10.8.2. Discussion**

#### **Coastal areas**

The layering of overlay controls in coastal settlements and the coastline is complex. There are often multiple overlays that apply and planners need balance decisions with little assistance from the words in the ordinance (due to a lack of detail and policy direction, discussed above).

It is recommended that the following occur through the coastal strategy work that is being undertaken.

Review the suite of overlays that apply to coastal areas with consideration to the following matters:

- Convert DDOs to schedules to the residential zones where possible. This relates to DDO3 Sandy Point, DDO4 Waratah Bay, DDO5 Venus Bay and DDO6 Tarwin Lower.

- Review the ESOs that apply to coastal areas and ensure that the statement of significance for each is specific and place based to the environmental objectives to be achieved, and there is only one environmental objective for each. This may require splitting the ESOs up into smaller areas. This relates to ESO1 Areas of natural significance, ESO 3 Coastal settlements – non residential areas and ESO7 Coastal settlements.
- Consider whether outstanding issues in the DDO that cannot be put into the schedules to the residential zones can be consolidated into the ESOs.

## Environment Significance Overlays

The ESO's were reviewed at a broad level. There are a range of drafting issues with the ESOs which are outlined in Table 6: Evaluation of ESOs

Table 6: Evaluation of ESOs

|   | Statement of environmental significance  | Objectives  | Summary  |
|---|--|---|--|
| ESO 1 Areas of natural significance               | Far too generic. Does not describe what is significant and should be preserved.  | Contains five objectives.<br>Only one permitted.<br>Objectives too broad.<br>For example, does not specify the identified significant vistas. | Too broad. Should be divided up so that one ESO applies to each of the areas of natural significance, with an appropriate statement and objective.   |
| ESO 2 Special water supply catchment areas        | Para one fits better into the MPS and para two fits better in the State PPF. Statement of significance should be reduced to the third paragraph. | Contains eight objectives.<br>Only one permitted.   | DELWP have been asked if this is the appropriate tool for Special water supply catchment areas. Answer still not received.<br><br>Referrals are inappropriate and have been moved to 66.04s.   |
| ESO 3 Coastal settlements – Non residential zones | Far too generic. Does not describe what is significant and should be preserved.  | Contains four objectives.<br>Only one permitted.  | Heading should have 'non residential zones' deleted as the control applies to residential areas.<br><br>Revisit the Coastal Spaces work to prepare a more specific statement of significance. May require breaking the ESO up into several parts.<br><br><b>ADDRESS THROUGH COASTAL STRATEGY</b> |

|  | <b>Statement of environmental significance</b>   | <b>Objectives</b>  | <b>Summary</b>   |
|--|--|--|--|
| ESO4 Sewage treatment plants and environs              | This is fine but a Buffer Area Overlay is a more appropriate tool  | Contains two objectives.<br><br>Five are permitted in the BAO  | A Buffer area overlay is more appropriate.<br><br><b>TRANSLATE TO BUFFER AREA OVERLAY</b>  |
| ESO5 Areas susceptible to erosion                      | This should be replaced by the EMO as it is focused on risk. The ESO is not the appropriate tools.   |  | <b>TRANSLATE INTO AN EROSION MANAGEMENT OVERLAY</b>  |
| ESO7 Coastal settlements                               | Far too generic. Does not describe what is significant and should be preserved.  | Contains four objectives.<br><br>Only one permitted.           | Revisit the Coastal Spaces work to prepare a more specific statement of significance. May require breaking the ESO up into several parts to address each settlement separately.<br><br><b>ADDRESS THROUGH COASTAL STRATEGY</b> |
| ESO 8 Manufacture of milk products amenity buffer      | The Statement is too long and some fits into the MPS and the State PPF, however Buffer Area Overlay is a more appropriate tool than the ESO. | Contains four objectives.<br><br>Five are permitted in the BAO | A Buffer area overlay is more appropriate.<br><br><b>TRANSLATE TO BUFFER OVERLAY</b>   |
| ESO 9 Giant Gippsland earthworm and habitat protection | Missing. This is required.   | Most of this should be in the statement of significance.       | <b>REARRANGE THE STATEMENT OF SIGNIFICANCE AND OBJECTIVES TO ACCORD WITH MDFC (see Appendix Two).</b>  |

### Significant landscape overlays

The Significant Landscape Overlays are well drafted. The statement of significance is detailed and clear, and the objectives provide excellent guidance what needs to occur to ensure the significance of the area is maintained.

Each of the SLOs has more objectives that is permitted under the MDFC, however it is considered that there is little to be gained in reducing the number of objectives as they are so specific, do not duplicate and provide a clear description of what is expected.

So, despite the fact these controls do not align with the MDFC, it is recommended that they remain as is as they are aiding decision making and there is little to be gained by consolidating them.

## Design and development overlays

As outlined above the DDOs that relate to coastal townships (DDO 3 Sandy Point, DDO 4 Waratah Bay, DDO 5 Venus Bay, DDO6 Tarwin Lower) are poorly drafted as they contain many design objectives that would be better located under buildings and words requirements. Each of these has been redrafted in Appendix Two to ensure they conform to the MDFC.

DDO8 – DDO11 relate to helicopter pathways and the control is designed to ensure buildings do not encroach on development.

Subdivision under each of these overlays currently triggers a permit. This permit trigger should be removed as it is not necessary.

Over time, the DDOs should all be reviewed to ensure that unnecessary permit triggers are removed.

## Recommendations

It is recommended that Council:

- YY. Undertake a comprehensive review of the overlay controls that apply to coastal areas, as part of the development of the Coastal Strategy to utilize the schedules to the residential zones where possible, and articulate more specific environmental and design objectives for each area than the current controls contain.**
- ZZ. Delete the words 'non residential zones' from the heading of ESO3, as the control relates to both residential and non residential areas.**
- AAA. Review ESO1 Areas of natural significance and prepare a detailed statement of significance and reduce the objectives to one. This may require splitting the existing ESO1 into more fine grained ESOs to address the specific issues of environmental significance.**
- BBB. Review ESO3 Coastal Settlements – Non residential areas and ESO7 Coastal settlements through the Coastal Strategy to determine where ESOs should apply, to make the statements of significance more specific and reduce the objectives to one per overlay. This may require splitting the existing ESO3 and ESO7 into more fine grained ESOs to address the specific issues of environmental significance.**
- CCC. Translate ESO4 Sewage treatment plants and environs and ESO 8 Manufacture of milk products amenity buffer into the Buffer Area Overlay.**
- DDD. Translate ESO5 Areas susceptible to erosion into the Erosion Management Overlay.**
- EEE. Review ESO2 (subject to advice from DELWP) move paragraph one into the MPS, delete paragraph two and reduce the objectives from eight to one.**
- FFF. Seek advice from DELWP about the appropriate tool to manage Special Water Catchments (ESO2).**
- GGG. Rearrange the statement of significance and objectives for ESO9 Giant Gippsland earthwork and habitat protection to meet the requirements of the Ministerial Direction on the form and content of planning schemes.**
- HHH. Reduce the design objectives for DDO 3 Sandy Point, DDO 4 Waratah Bay, DDO 5 Venus Bay, DDO6 Tarwin Lower and relocate buildings and work requirements as shown in Appendix Two.**
- III. Remove the subdivision permit trigger from DDO8 – DDO11 as it is not necessary to consider subdivision under the control as shown in Appendix Two.**

## 10.9. Other matters raised through engagement



Through the engagement phase, a number of other matters were raised that require a response. The recommendation for some of these matters is to make minor administrative changes to the planning scheme. Others are noted but no action or change is recommended.

### **10.9.1. Parking in Leongatha**

#### **Issue**

Council Officers noted that Council currently has a Parking Overlay applicable to Leongatha Central Business District, with an ability to collect in-lieu payments for parking waivers. Council Officers have applied the in-lieu requirements on a number of occasions, and these have ultimately been overturned by Councilors at a Council Meeting.

#### **Evidence**

The parking overlay is put in place to manage car parking in an area where there is an identified need for a precinct rather than on a site-by-site basis. Council has put an overlay in place for the Leongatha Central Business District with the following objectives:

- *To provide for the equitable collection and distribution of financial contributions to contribute towards the construction of shared car parking facilities, but only when a reduction in car parking under Clause 52.06-3 is considered appropriate.*
- *To ensure an appropriate level of parking is provided in the CBD.*
- *To ensure that parking supply is efficiently utilised and best services the land uses.*
- *To achieve an appropriate balance between the supply and demand of car parking spaces while allowing new and intensified use.*

#### **Discussion**

There is no evidence that there is no longer a need to manage car parking in Leongatha. If the overlay is removed, Council officers will lose the ability to properly plan for the provision of car parking over time. It is better to retain the overlay and allow Council to waive requirements as permitted by the control at this time. No change is recommended.

### **10.9.2. Council-identified anomalies**

#### **Issue**

Council provided the Redink Team with a list of 73 anomalies within the Planning Scheme which, at the time of writing, had not been resolved.

#### **Evidence**

Of those 73 anomalies, the following 8 are factual or policy neutral in nature and can be resolved as part of the Amendment that implements the findings of the current planning scheme review:

| Township    | Issue   | Proposed change   | Action  |
|-------------|---|---|---|
| Foster      | Lost reference to Foster as preferred location that is safer in translation | Add reference to Foster as a safer alternative to coastal township development.                         | Previous strategy has been inserted into track changes ordinance at (new) 13.01-1L. Wording of previous strategy amended to comply with PG drafting requirements.                     |
| Nyora       | Correct spelling of 'Davis Street' (not David) Nyora in Nyora local policy  |   | Changed   |
| Nyora       | Application Requirements missing and refers to 21.15                        | Add as per original c121sgip amendment approval and update wording to reference 11.02 instead of 21.15. | Changed<br>These application requirements were incorrectly located at 2.0 (Buildings and works). Have been moved to 5.0 application requirements. Reference to former clause deleted. |
| Sandy Point | DDO clause references out of date.  | Update clause references  | Changed   |
| Sandy Point | typo 02.03. Heading has Sandy Bay   | Change heading to Sandy Point   | Changed.  |
| Various     | Refers to a superseded Council Plan   | Updated Clause 21.04-1 to include current Council Plan.   | Changed<br>Reference is to currently adopted Council Plan. Year reference to remain as this confirms PS alignment to current / adopted plan.  |
| Venus Bay   | Residential Expansion areas anomaly   | Policy at Clause 11 states there is expansion area in Estate 2 which is not correct                     | Changed   |

The following two Council-identified anomalies have already been resolved and require no further action:

| Township | Issue   | Proposed change | Action   |
|----------|---|-----------------|--|
| Nyora    | Incorrect reference to Road Zone Category 1 - change to TRZ |                 | None required. This was cleaned up by VC205. No further action required. |

| Township | Issue   | Proposed change   | Action  |
|----------|---|---|---|
| Various  | Conflict between ESO7 and BMO. Drafting of ESO7 provision. Clarify that veg removal related to dwelling construction is. Suggested by Robyn Begg. On face value, this is worth exploring. | Drafting of ESO7 provision. Clarify that veg removal related to dwelling construction is exempt if required to create defensible space. This can remove conflict with the BMO. This wasn't the intention of the ESO7. | None required<br><br>There is no conflict. The provisions in Clause 52.12-5 in regard to native vegetation removal in the BMO override ESO7 provisions. |

The remaining 63 Council-identified anomalies either do not have enough basis or are not policy neutral and are beyond the scope of this review to resolve; however, it has been identified that 3 of those anomalies could *potentially* be resolved subject to further discussion and consultation between Council and the relevant authorities:

| Township | Issue   | Proposed change  | Action  |
|----------|---|--|---|
| Various  | Robyn suggested that we are getting a lot of permits for large sheds and we are adding little to no value. We should try to make more exemptions. | Add exemption for larger sheds provided storm water and construction techniques are still required.  | Further consultation required.<br><br>This requires consultation and discussion between Council and the relevant Water Authority to confirm the exact nature of changes required and the agreement of both parties. Possible this can be achieved through the consultation phase and prior to initiation of the PSR implementing Amendment. |
| Various  | Out of date referral provisions in schedules - refer to DELWP needs to be removed. Service no longer provided                                     | Should be fixed but may need to look at how we assess these matters if we don't have DELWP to rely on. Also, add updated referral provision in relation to Marine and Coastal Act. | Further consultation required<br><br>This requires consultation and discussion between Council and the Department to confirm the exact nature of changes required and the agreement of both parties. Possible this can be achieved through the consultation phase and prior to initiation of the PSR implementing Amendment.                |
| Various  | No permit exemption for buildings and works related to a dwelling   | Add exemption to allow an outbuilding related to a dwelling like a   | Further consultation required<br><br>This requires consultation and discussion between Council and the relevant Water Authority to confirm the exact nature of  |

| Township | Issue                                  | Proposed change   | Action  |
|----------|--|---|---|
|          | that does not have wastewater impacts. | garage or shed (not associated with agriculture). Robyn and Amy advise that some permits have been triggered on small lots with no agriculture where garages or shed ancillary to dwellings are proposed. If no sewer or plumbing connections, no planning permit should be required. | changes required and the agreement of both parties. Possible this can be achieved through the consultation phase and prior to initiation of the PSR implementing Amendment. |

## Recommendations

- JJJ. Update planning provisions to rectify strategically justified anomalies as shown in Appendix Two.**
- KKK. Undertake consultation with the relevant authorities through the Consultation Phase, with a view to resolving the three Council-identified anomalies that could potentially be resolved prior to initiation of the PSR implementing Amendment.**

### 10.9.3. Flooding controls for Foster

#### Issue

Council adopted the *Flood & Drainage Study for Foster and Surrounding Catchments – July 2019*. There are currently no flood controls for Foster and surrounds in the planning scheme. Implementation of the policy is a key priority, with the support of the West Gippsland Catchment Management Authority.

#### Finding

- LLL. Implement the recommendations of the *Flood & Drainage Study for Foster and Surrounding Catchments – July 2019* in partnership with the West Gippsland Catchment Management Authority.**

### 10.9.4. Signage

#### Issue

Prior to the recent PPF the South Gippsland Planning Scheme contained a discrete policy pertaining to signage at Clause 22.01 (Advertising signs). Post PPF translation, Council's discrete policy for signage is contained at Clause 15.01-1L-02 (Signs).

## **Evidence and discussion**

A high-level comparison of the two policies indicates that current policy as drafted picks up on most of the key directions from the previous policy. No further work in relation to this issue is recommended.

Through consultation, Council officers have indicated that a recent VCAT case (P11596/2021 – 54 Anderson Street, Leongatha – case unpublished) has highlighted a need for Council to strengthen its existing local policy in relation to signage. In its reasoning the Tribunal indicated that Council’s local policy as currently drafted was not sufficient to justify the refusal of a major promotion sign.

## **Recommendation**

**MMM. Update Clause 15.01-1L-02 (Signage) to provide clearer guidance in relation to the specific outcomes that are sought be achieved in relation to signage within the Shire, to provide clarity for the community and to help Council to refuse inappropriate proposals.**

### **10.9.5. Settlement hierarchy**

#### **Issue**

Prior to the recent PPF translation the South Gippsland Planning Scheme contained a tabulated settlement hierarchy and strategic framework plans at Clause 21.02 (Settlement). Post PPF translation, the strategic framework plans have been placed at Clause 02.04 (Strategic Framework Plans).

#### **Discussion**

The plans remain relevant however they are better located as a local policy in the planning scheme.

The PPF translation located the strategic framework plans at Clause 02.04 in the MPS. After discussion with Council Officers it is recommended that the most appropriate location for this policy is in Clause 11.03-6L.

## **Recommendation**

**NNN. Re-locate the Strategic Framework Plans from Clause 02.04 of the MPS to Clause 11.03-6L in the planning scheme as shown in Appendix Two.**

### **10.9.6. ‘Localities’**

#### **Issue**

Prior to the recent PPF translation the South Gippsland Planning Scheme contained a range of land use and development directions for ‘Localities’ (Agnes, Arawata, Darlimurla, Hedley, Kardella, Nerrena, Strzelecki and others), which were set out at Clause 21.19. These directions were not carried across as part of the PPF translation.

## **Evidence and discussion**

Council Officers provided the Redink Team with the former Clause 21.19 and it is considered that the former land use and development directions for ‘Localities’ remain relevant to decision-making. It is therefore appropriate that these omissions be rectified.

## **Recommendation**

**OOO. Re-instate land use and development directions for ‘Localities’ that were lost through the PPF translation process as shown in Appendix Two.**

### **10.9.7. Restructure Overlay**

#### **Issue**

There is a high administrative burden associated with the Restructure Overlay, in part because of the way the provision in the planning scheme is structured. This causes confusion for existing and potential property owners as it is hard for them to understand the effect of the controls.

#### **Evidence and discussion**

The Restructure Overlay has been applied in twenty-one locations across the Shire. The Incorporated Document, listed at Clause 72.04, that underpin the application of the Restructure Overlay is called “Restructure Plans for Old and Inappropriate Subdivisions in South Gippsland Shire, August 2017” (the Incorporated Document).

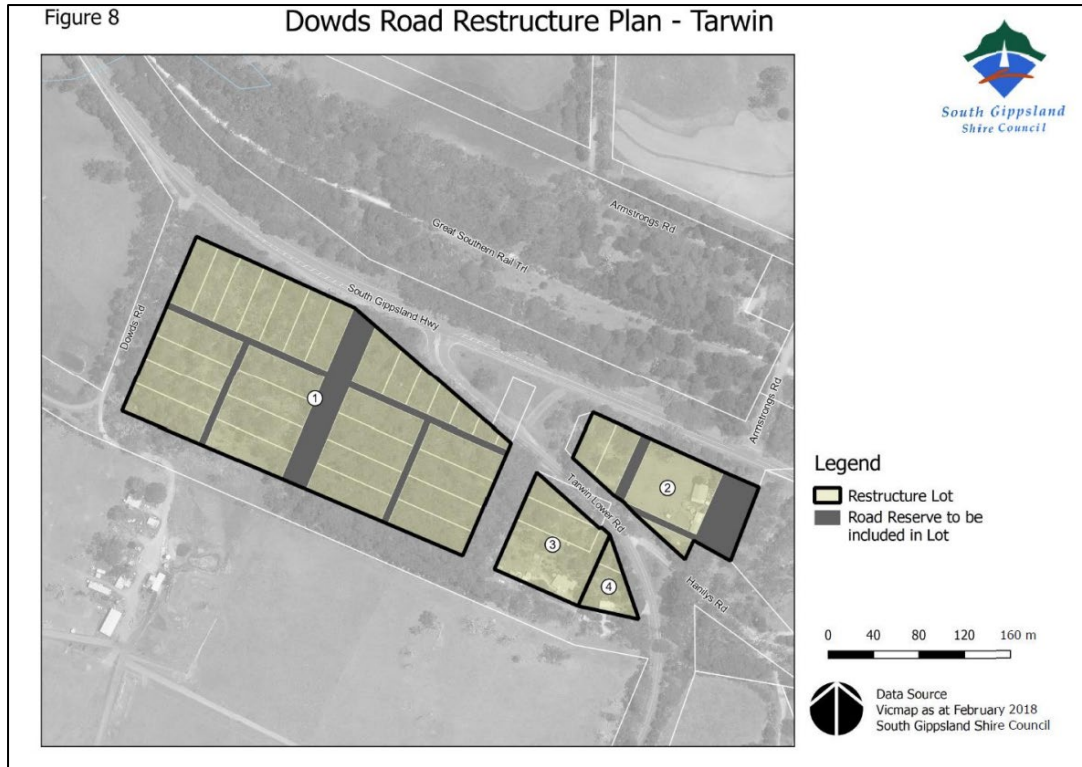
The Restructure Overlay triggers a permit to subdivide land and to construct or extend a dwelling or other building. Any permit issued must be in accordance with the Restructure Plan set out in the Incorporated Document. The Incorporated Document is available on Council’s website.

Within the Incorporated Document the restructure provisions for the twenty-one locations are set out. Essentially, the Restructure Overlay requires consolidation of small lots to form larger lots that are more appropriate for the carrying capacity of the land. The drafting of the Incorporated Document allows one dwelling per consolidated lot to be built.

One example is provided below to give an idea of the way each Restructure Plan works. In the Dowds Road example, sixteen existing lots are to be consolidated into four new lots.

Figure 8

Dowds Road Restructure Plan - Tarwin



Council officers explained that a lot of time is spent on enquiries about the Restructure Overlay. Many unconsolidated parcels of land are available for sale on the real estate market, and Council officers spend a great deal of time explaining that a dwelling will not be permitted on the land if the land is not consolidated, and it causes confusion with prospective purchasers who may have a plan to build on and live on the land.

It is unusual for such large areas of land to be covered by the Restructure Overlay, and by virtue of the way the provision is constructed (relying on an Incorporated Document to outline the restructuring requirements rather than having them contained in the more easily accessible and obvious ordinance) is challenging. This is a function of the VPP structure rather than Council's documents and is placing a large administrative burden on Council for no gain, not to mention confusion in the wider community.

Some options to reduce the administrative burden include:

- Including the Restructure Plans and what they mean for potential purchasers in a much more obvious way on Council's website.
- Working with real estate agents to ensure they are informing potential purchasers of the restrictions on the land, and including the restriction when parcels of land are advertised.

DTP could also be approached to see the twenty-one Restructure Plans could be included in the planning scheme, so that the layout of each subdivision is within the planning scheme ordinance, rather than in a separate document. For example, copies of the Restructure Plans could be included in Clause 2.04 Strategic Framework Plans or a local policy at Clause 11 of the PPF.

**Recommendations:**

- **PPP. Improve the documentation about the Restructure Plans available on Council's website and work with local real estate agents to support better understanding of the implications of the Restructure Overlay to prospective purchasers of land.**

**QQQ. Consult with DTP to identify whether the Restructure Plans can be included in Clause 2.04 Strategic Framework Plans or a new Clause 11 Settlement policy to make them more accessible to the community.**



# 11. Further strategic work

Appendix Six of this report outlines the strategic planning work that has been identified through this planning scheme review. It is sourced from the current Clause 74.02, the previous planning scheme review, strategies and policies that have been adopted by Council since the last review and the findings of this review. Fifty seven pieces of further strategic work have been identified, noting some of them are duplications.

Through the review process, the highest priority tasks for Council to undertake over the next four years to improve the planning scheme has been identified and is included in the recommendations below. Numerous other recommendations for further strategic work have been identified through this review and are included in Appendix Six. Council should review this list and remove any projects that are no longer required.

The list below represents the further strategic work that the consultants believe will have the most positive impact for the South Gippsland community and the efficient functioning of the planning service.

Only work that can be completed in the next four years should be included in Clause 72.04 of the planning scheme. A recommended Clause 72.04 is included in the marked-up ordinance at Appendix Two. This should be considered by Council to ensure that the work is reasonable to complete over the next four years and, if not, the priority projects that should be included in Clause 74.02.

These are the highest priorities from a planning perspective to deal with over the next four years.

- RRR. Finish the coastal strategy and introduce new planning controls to manage development, particularly in residentially zoned areas. This should include:**
  - **Review of the existing ESOs and DDOs to ensure they are achieving what is expected from them, are applied at the right scale, have the correct permit triggers in them and sufficient detail to better aid applicant and decision makers.**
  - **Clearer urban design guidance to assist with balancing the tension between competing objectives and outcomes for the siting and design of buildings and works.**
  - **Guidance about development on laneways.**
- SSS. Prepare a rural landscapes strategy to protect inland and rural hinterlands from inappropriate development and transportation routes. This should address identification and protection of significant landscapes, and preservation of agricultural land.**
- TTT. Review rural dwellings and subdivision policy requirements to ensure consistency with State Planning Policy**
- UUU. Plan Nyora's growth and infrastructure to accommodate the expected growth in the area and transition it successfully to a higher order town in South Gippsland Shire.**
- VVV. Finalise and implement Council's current review of planning permit triggers in the Shires rural areas.**
- WWW. Prepare the industrial strategy to ensure a sufficient, appropriately located supply of industrial land, particularly considering the impacts of off shore energy generation, and the changing needs of the agricultural industry**
- XXX. Update the 2004 South Gippsland Heritage Study as necessary and to apply the Heritage Overlay to all heritage places and precincts of local heritage significance.**

- YYY. Resolve a Memorandum of Understanding between South Gippsland Water and Council to enable South Gippsland Water to be removed as referral authority for unplumbed Domestic Sheds more than 30m from a waterway.**
- ZZZ. Apply the Environmental Audit Overlay to known sites of land contamination in accordance with previous Council initiative.**
- AAAA. Replace the Environmental Significance Overlay Schedule 5 (Areas susceptible to erosion) with the Erosion Management Overlay and introduce design guidelines for development on steep slopes in accordance with Council resolution 25 May 2016.**

# Appendix One

## Engagement outcomes

### Council and Executive - meetings

| Overview of what was discussed    | Main issues raised  | Preliminary comments/ Discussion  |
|-----------------------------------|---|---|
| Coastal strategy                  | Conflict between development and biodiversity   | Township character study is required as an action for the coastal strategy (more character work, rezonings, township zone to neighbourhood character zone (plus industrial, commercial etc) |
| Houses in the FZ                  | Protection of agricultural land   | Identify what was lost as a result of PPF and also broader advocacy work in FZ at State level.  |
| Heritage                          | Restoration and protection of areas of significance   | Implement the heritage work that was updated in 2020.   |
| Sheds in the FZ                   | Sheds often transform into accommodation – need guidance/correlation regarding the size of the ‘shed’ in relation to land use (and size)                    | A justification for the size of the shed is required. The size and use of the shed must be commensurate with the agricultural use of the land.  |
| Leongatha PO                      | Looking at removing the PO in Leongatha – no money has been collected despite being Introduced in 2014. Council should implement it as it is in the scheme. | Undertake car parking study to review application of PO/ tailor to more specific circumstances.   |
| Settlement Planning               | Issues of character in established towns such as Dumbalk, Foster, Fish Creek  | Township character study required to inform better use of controls (Schedules and Overlays)   |
|                                   | Planning for growth in Nyora (infrastructure). Nyora to support growth in renewables (Port of Hastings)   | Infrastructure Plan<br>Include areas of LDRZ/ RLZ in settlement planning as sewer capacity increases  |
|                                   | Development and siting in coastal settlements, particularly Venus Bay   | Coastal Strategy to identify high level issues and tension between development in areas with significant biodiversity and identified risks to life  |
| Significant Landscape Recognition | Areas of biodiversity not significantly recognised - Strzelecki Ranges and the rural hinterland   |   |

|                        |   |                |
|------------------------|---|----------------|
| Further strategic work | <ul style="list-style-type: none"> <li>Stalled projects</li> <li>Contaminated land</li> <li>Industrial uses in the Farming Zone</li> </ul> Significant trees. | Re-list as FSW |
|------------------------|---|----------------|

## Statutory and Strategic Planners – meetings and workshops

### Survey

| Issue  | Feedback from planners  | Commentary                          | Has this been raised elsewhere (e.g. Audit of planning scheme, planning permit data) | Action to take   |
|--|---|-------------------------------------|--|--|
| <b>Dwellings, Outbuildings &amp; Subdivision in FZ</b> | <ul style="list-style-type: none"> <li>The PPF translation was identified as having significantly weakened previous policy / directions in relation to dwellings, outbuildings &amp; subdivision in FZ, which were previously relied upon heavily in decision-making.</li> <li>While existing provisions pertaining to these issues are currently relied upon frequently in decision making, the absence of strong policy / directions in relation to dwellings, outbuildings &amp; subdivision in FZ was identified as a significant policy gap.</li> <li>Dwellings, Outbuildings &amp; Subdivision in FZ are some of the most common application types received.</li> <li>FZ queries were identified as being one of the most common counter, email or phone enquiries dealt with.</li> </ul> | <p><b>PSR</b></p> <p><b>FSW</b></p> | <p>Yes</p> <p>VCAT analysis</p>  | <p>Ken and Chris have been in communication about this. New policy far weaker. All the key words have disappeared. (The musts and the strongly discourage).</p> <p>Probably not having such a bit impact on applications.</p> <p>We need to ensure that the policy guidelines are linked to the MPS or a strategy in the PPF. This component has disappeared. (Esp for lots less than 4.1ha).</p> <p>What if the application is associated with another use (e.g. winery, rural industry, tourism).</p> <p>Subdivision policy is confusing when it relates to excisions where there is a remnant parcel of</p> |

| Issue | Feedback from planners   | Commentary | Has this been raised elsewhere (e.g. Audit of planning scheme, planning permit data) | Action to take   |
|-------|--|------------|--|--|
|       | <ul style="list-style-type: none"> <li>○ Pressure for rural lifestyle properties, the fragmentation of agricultural land, intrusion of non-agricultural uses, protection of agricultural land and agricultural production were identified as being some of the main long term land use trends / challenges for the municipality.</li> <li>○ Rural applications generally were identified as being a class of application which take the longest time to determine due to conflicting planning considerations and more complex assessments.</li> <li>○ Controlling dwellings in the FZ was identified as a type of application that provides the greatest benefit because the Shire is dominated by agriculture and controlling the proliferation of dwellings reduces agricultural conflict, maintains agricultural land in agricultural production, and avoids the introduction of rural residential lifestyle.</li> <li>○ FZ subdivision applications were identified as having long lasting impacts.</li> <li>○ Applications in the FZ were identified as being a class of</li> </ul> |            |  | <p>land more than 40ha to support the application of a S173.</p> <p>Guidance around location of rural dwellings on FZ land. (proliferation of dwellings). Exceptions to the rule – there is a bit of a conflict. Bit of leeway for the exception of the rule would be good.</p> <p>Review outbuildings in the FZ. Dwellings on land under 40ha, ancillary outbuilding and dwelling are granted as one. Often people want to build the shed first so then it becomes an agricultural shed. This is partly driven by the delay in building materials. Creating an unnecessary workload for planners.</p> <p>Lack of correlation between the size of the sheds and the agricultural use of the land. Size of shed should be able to be considered in relation to use.</p> |

| Issue  | Feedback from planners   | Commentary                          | Has this been raised elsewhere (e.g. Audit of planning scheme, planning permit data) | Action to take  |
|--|--|-------------------------------------|--|---|
|  | <p>application appearing regularly before VCAT.</p> <ul style="list-style-type: none"> <li>○ Outbuildings in the FZ were identified as being one of the easiest classes of application to process.</li> <li>○ The FZ currently applies to areas that were identified as possibly being more appropriately zoned RAZ or RCZ.</li> </ul>   |                                     |  |   |
| <p><b>Coastal Settlements &amp; Climate Change Impacts</b></p> | <ul style="list-style-type: none"> <li>○ The impacts of climate change upon coastal settlements was identified as one of the main long term challenges facing the municipality.</li> <li>○ New dwellings in the coastal settlements were identified as one of the most common types of applications received.</li> <li>○ Dwelling applications in coastal settlements were identified as being a class of application taking the longest time to determine.</li> <li>○ Dwellings in coastal settlements were identified as being a class of application regularly appearing before VCAT.</li> <li>○ Dwellings in coastal areas were identified as one of the most</li> </ul> | <p><b>PSR</b></p> <p><b>FSW</b></p> | <p>Yes</p> <p>VCAT analysis</p>  | <p>The length of time to approve is driven by environmental complexities (BMO, LSIO).</p> <p>DDO triggers are in place too. (Acting as an SLO).</p> <p>DDO and BMO conflict. ESO7 then requires a permit for veg that needs to be removed from the BMO.</p> <p>Clearer design guidance is required to help say 'No' once people are applying for a permit. E.g. what does muted and no reflective mean? What colour dwelling do you want depending on the background (veg, or sky). There is a lot of</p> |

| Issue | Feedback from planners  | Commentary | Has this been raised elsewhere (e.g. Audit of planning scheme, planning permit data) | Action to take  |
|-------|---|------------|--|---|
|       | <p>common counter, email or phone enquires dealt with.</p> <ul style="list-style-type: none"> <li>○ It was identified that there is an absence of effective policy that provides appropriate direction for the growth and development of coastal settlements in the context of known climate change impacts.</li> </ul> |            |  | <p>subjectivity here, and the precedent issue.</p> <p>There are also a lot of objections to deal with some of which are not linked to the triggers (Rescode issues).</p> <p>Venus Bay is unsewered, and there are also a lot of bores, so ensuring appropriate setbacks is important.</p> <p>Developments are not prohibited, however expansion into unsewered areas are discouraged. There is a policy gap here.</p> <p>Definition of views – public / private – what views are trying to be protected?</p> <p>There is not a referral to the CMA for single dwellings on a lot.</p> <p>CMA look at formalising the referrals to the CMA.</p> <p>Coastal strategy underway at the moment. May not go so far as to look at design issues. May focus exclusively on risk management.</p> |

| Issue      | Feedback from planners  | Commentary                          | Has this been raised elsewhere (e.g. Audit of planning scheme, planning permit data) | Action to take   |
|------------|---|-------------------------------------|--|--|
|            |   |                                     |  | <p>Some neighbourhood character / housing work is probably required.</p> <p>Lots of precedents have been set in the coastal areas and it is hard to argue why something is not appropriate if the neighbours have had it referred previously.</p> <p>Community has shifted – moved from holiday homes to residences.</p> |
| <b>BMO</b> | <ul style="list-style-type: none"> <li>○ Bushfire in the context of a changing climate was identified as one of the main long term challenges facing the municipality.</li> <li>○ The BMO was identified as being one of the most common planning permit triggers.</li> <li>○ Applications that have BMO triggers and appropriately address environmental constraints were identified as being one of the most beneficial classes of applications.</li> <li>○ Applications dealing with bushfire mitigation issues were identified as one of the classes of applications taking the longest time to determine.</li> </ul> | <p><b>PSR</b></p> <p><b>FSW</b></p> | <p>Yes</p> <p>VCAT analysis</p>  |  |



| Issue        | Feedback from planners  | Commentary                   | Has this been raised elsewhere (e.g. Audit of planning scheme, planning permit data) | Action to take |
|--------------|---|------------------------------|--|----------------|
|              | <ul style="list-style-type: none"> <li>○ Local policy “<i>pushing people closer to the roads</i>” was identified as a potential new local policy that would make decision-making easier.</li> <li>○ The CFA have advised Council that they won’t comment on Clause 13.02 unless specifically asked to. Question raised regarding whether this should be a formal referral.</li> </ul>   |                              |  |                |
| <b>ESO’s</b> | <ul style="list-style-type: none"> <li>○ The ESO Schedules were generally identified as being poorly drafted, not useful for decision making or redundant.</li> <li>○ Triggers under ESO2, ESO3 and ESO5 were identified as not appearing to serve a useful purpose, and the provisions of these Schedules were amongst the most commonly relied upon for decision making.</li> <li>○ Dwellings &amp; dwelling extensions under the ESO’s were identified as one of the most common type of applications received.</li> <li>○ ESO5 floor area trigger was identified as one of the most common permit triggers and also one of the easiest class of permits to process.</li> <li>○ Applications under ESO2 (Special Water Supply</li> </ul> | <b>PSR</b><br><br><b>FSW</b> |  |                |

| Issue        | Feedback from planners   | Commentary                          | Has this been raised elsewhere (e.g. Audit of planning scheme, planning permit data) | Action to take |
|--------------|--|-------------------------------------|--|----------------|
|              | <p>Catchment Areas) were identified as a class of applications providing the greatest benefit.</p> <ul style="list-style-type: none"> <li>○ ESO3 applying to residential land when it is supposed to apply to non-residential zones was identified as a trigger causing unnecessary delays to decision making.</li> <li>○ Existing triggers under ESO5 were identified as potentially being more appropriate as VicSmart provisions.</li> <li>○ DEWLP was identified as an informal referral under the ESO Schedules that should be listed in 66.04 or 66.06.</li> </ul> |                                     |  |                |
| <b>SLO's</b> | <ul style="list-style-type: none"> <li>○ Applications that protect rural landscape significance were identified as being one of the classes of applications providing the greatest benefit. However, the absence of any SLO's in Council's hinterland areas was identified as a current and significant policy gap (<i>"too many high landscape value inland areas are under protected"</i>).</li> <li>○ SLO permit triggers requiring a building to be constructed of muted and non-reflective tones was identified as not appearing</li> </ul>                         | <p><b>PSR</b></p> <p><b>FSW</b></p> |  |                |

| Issue               | Feedback from planners  | Commentary                          | Has this been raised elsewhere (e.g. Audit of planning scheme, planning permit data) | Action to take |
|---------------------|---|-------------------------------------|--|----------------|
|                     | <p>to serve a useful purpose, as there is no clear guidance on what muted and non-reflective tones actually constitutes. Such triggers were also identified as causing unnecessary delays to decision making for this reason.</p>   |                                     |  |                |
| <p><b>DDO's</b></p> | <ul style="list-style-type: none"> <li>○ Dwellings &amp; dwelling extensions under the DDO's were identified as one of the most common type of applications received.</li> <li>○ DDO provisions were identified as being some of the most relied upon provisions for in decision making, and triggers under the DDO's were identified as one of the most common groups of permit triggers.</li> <li>○ All DDO Schedules generally, and DDO1 specifically, were identified as being poorly drafted, not useful for decision making or redundant.</li> <li>○ DDO permit triggers requiring a building to be constructed of muted and non-reflective tones was identified as not appearing to serve a useful purpose, as there is no clear guidance on what muted and non-reflective tones actually constitutes. Such</li> </ul> | <p><b>PSR</b></p> <p><b>FSW</b></p> |  |                |

| Issue        | Feedback from planners   | Commentary                          | Has this been raised elsewhere (e.g. Audit of planning scheme, planning permit data) | Action to take |
|--------------|--|-------------------------------------|--|----------------|
|              | <p>triggers were also identified as causing unnecessary delays to decision making for this reason.</p> <ul style="list-style-type: none"> <li>○ Dwellings in coastal settlements only triggered by DDO's (not under the Zone) were identified as a class of application taking the longest time to determine. No exemption from advertising requirements apply and often objections relate to rescode matters that cannot be considered under the Overlays.</li> <li>○ DDO triggers were identified as regularly appearing before VCAT.</li> <li>○ It was suggested that Walkerville should have a DDO, like the other coastal towns.</li> </ul> |                                     |  |                |
| <b>HO</b>    | <ul style="list-style-type: none"> <li>○ The protection of the Shire's heritage assets as identified as a current and significant policy gap ("<i>Lack of HO's on heritage places is a big policy gap</i>" "<i>we are the third worst in the state for HO application</i>").</li> </ul>  | <p><b>PSR</b></p> <p><b>FSW</b></p> |  |                |
| <b>Nyora</b> | <ul style="list-style-type: none"> <li>○ Nyora was identified as having the potential to become Council's largest township.</li> </ul>   | <p><b>PSR</b></p> <p><b>FSW</b></p> |  |                |

| Issue | Feedback from planners   | Commentary | Has this been raised elsewhere (e.g. Audit of planning scheme, planning permit data) | Action to take |
|-------|--|------------|--|----------------|
|       | <ul style="list-style-type: none"> <li>○ Concern was raised that the planning scheme as currently drafted is not ready for this.</li> <li>○ Existing policy and applicable controls for Nyora (specifically DDO's) were identified as not easy to find and not working well in conjunction with each other.</li> <li>○ The Nyora Development Strategy proposed changes to residential controls that have not yet been implemented.</li> <li>○ Flood studies for Nyora have been completed but not implemented.</li> <li>○ Urban infrastructure provision is considered to be a major issue for Nyora and it was suggested that a DCPO or similar is required.</li> </ul> |            |  |                |

### Meeting One

| Overview of what was discussed                  | Main issues raised   | Draft of recommended changes to the ordinance   |
|---|--|---|
| Dwellings, outbuildings, and subdivision in FZ' | The PPF translation has significantly weakened previous policy – strong language has been replaced by softer wording, would like to see policy strengthened/restored | <p>Identify what was lost as a result of PPF and also broader advocacy work in FZ at State level.</p> <p>Council undertaking a current review of planning permit triggers with RPH that may assist in removing unnecessary applications</p> |

|   |  |  |
|---|--|--|
|   | Sheds often transform into accommodation – need guidance/correlation regarding the size of the 'shed' in relation to land use (and size) | A justification for the size of the shed is required. The size and use of the shed must be commensurate with the agricultural use of the land.               |
| Coastal settlements and climate change impacts<br><b>Identified as a 'big rock'</b> | There are connections and conflicts between the BMO, DDO, and ESO7   | Discussed with Planners to clarify issue and consider the head provision of ESO allows for exemptions consistent with BMO<br>DDO example prepared for review |
|   | There are numerous objections linked to Rescode issues   | Coastal Strategy may influence application of Zoning schedules and overlays.   |
|   | Unsewered and bore water require separation  |  |
|   | Many precedents have been set in coastal areas, which applicants are taking advantage of   | See above  |
|   | It's difficult to assess subjective requirements with existing precedents  | See above  |

## Meeting Two

| <b>Overview of what was discussed</b>            | <b>Main issues raised</b>  | <b>Draft of recommended changes to the ordinance</b>             |
|--|--|--|
| PPF translation                                  | Further discussion regarding dwellings in the FZ and what's been lost through the PPF translation  |  |
| Impacts of rapidly expanding renewables industry | Finding areas to site these industries (including during construction phases)<br>Impact on agricultural land<br>Significant ecological, biodiversity, environmental, cultural and heritage impacts/conflicts on IN1Z, INDZ1, and FZ zoned land | Industrial Strategy underway                                     |
| ESOs   | Require further review<br>ESO content should be in a SLO<br>Remove requirement for a Whole Farm Plan<br>Include an Endorsed range of colours, materials, finishes, and reflectivity in the PPF (in preference to Overlays)                     | Prepare draft ordinance to discuss and extrapolate more broadly. |
| DDOs   | Require further review<br>Carefully consider future application of the PO  | Prepare draft ordinance to discuss and extrapolate more broadly  |

|                                      |   |   |
|--------------------------------------|---|---|
| Residential subdivisions on laneways | Numerous recent applications have identified gaps & a lack of consistency in how Council deals with residential subdivisions on laneways. | Undertake further strategic work to develop a local policy to provide guidance in relation to residential subdivisions on laneways. |
|--------------------------------------|---|---|

### Internal Referral Officers - meetings, workshops, and written feedback

| Overview of what was discussed                   | Main issues raised   | Draft of recommended changes to the ordinance  |
|--|--|--|
| Housing in Rural areas (FZ)                      | Protection of agricultural land<br>Referrals for buildings within 20m of a road reserve serve no purpose   | Permit trigger project with RPH.   |
| Laneway development                              | Mounting pressure to allow development on laneways, but issues regarding access, safety, pedestrian hazards, character, and surrounding impacts, etc.<br>Inadequate controls   | Prepare 'character' study to allow for DDO in these areas  |
| Development vs biodiversity conflicts            | Lack of clear objectives and conflicting policies (Biodiversity/BMO/guidelines) to guide whether development should occur in sensitive areas<br>Roadside vegetation at risk due to adjacent property development over/into drip zones          | Local policy<br><br>Part of process improvement where applications properly referred prior to decision making (to allow for consideration of trees/ Environmental Health up front) |
| Impacts of rapidly expanding renewables industry | Finding areas to site these industries (including during construction phases)<br>Impact on agricultural land<br>Significant ecological, biodiversity, environmental, cultural and heritage impacts/conflicts on IN1Z, INDZ1, and FZ zoned land | Coastal Strategy/ Industrial Land Use Strategy/ significant Landscape Study  |
| Affordable housing                               | Lack of appropriate, affordable housing contributing to a shortage of key permanent and seasonal workers (of all professions)  |  |
| FZ conflicts                                     | Increasing problem of aggregation of land by fewer owners for larger businesses conflicting with the development of small value adding enterprises such as local abattoirs   | Update to Rural Land Use Strategy but also acknowledgement of issue at state level.  |

| Overview of what was discussed | Main issues raised   | Draft of recommended changes to the ordinance  |
|--------------------------------|--|--|
| Commercial 1 Zone              | Permit requirements for parking are prohibitive for business development (particularly existing businesses hoping to expand)<br>Toora C1Z converted to housing, but now more commercial is being sought                                  | Update to Parking Overlay via Parking Study. Consider parking requirements triggered by new, more intensive uses         |
| Subdivision controls           | Applicants proposing large developments on unsuitable lots (insufficient wastewater capability, character, vegetation protection exclusion zone, etc)<br>Old and inappropriate subdivisions purchased with the expectation of developing | Review referrals policies, particularly EH, biodiversity and Building Restructure Overlay in some areas that were missed |

Internal referral Officers were invited to provide written feedback, but none was received.

## External Stakeholder feedback

| Table 1: Referral Agents that provided feedback and requested a change:   |  |   |  |  |
|---|--|---|--|--|
| Referral Agent  | Permit trigger                           | Changes requested   | Strategic justification (or administrative change) | Draft of recommended changes to the ordinance (including cl66.04s and 66.06s inclusions) |
| <b>Clause 66.04 External Referral Authorities (no clause 66.06 Referral Authorities were identified in I3):</b> |  |   |  |  |
| Gippsland Water   | Clause 1.0 of Schedule 1 to Clause 66.04 | Add the Central Gippsland Region Water Corporation (Gippsland Water) to Clause 1.0 of Schedule 1 to Clause 66.04 (but only applicable for the Mirboo North catchment, as this is the only catchment managed by Gippsland Water within an ESO2 in South Gippsland) | None provided                                      | Agree to requested change. Draft ordinance amended to reflect.                           |



**Table 1: Referral Agents that provided feedback and requested a change:**

| <b>Referral Agent</b>    | <b>Permit trigger</b>   | <b>Changes requested</b>   | <b>Strategic justification (or administrative change)</b>                             | <b>Draft of recommended changes to the ordinance (including cl66.04s and 66.06s inclusions)</b>  |
|--------------------------|---|--|---|--|
| South Gippsland Water    | Clauses 3.0 and 5.0 of Schedule 2 to Clause 42.01 (ESO)<br>Clause 4.0 of Schedule 5 of Clause 37.01 (SUZ) | Remove SGW as referral authority for unplumbed Domestic Sheds more than 30m from a waterway                    | SGW do not place specific conditions on permit applications of this nature            | Support this change but requires further strategic work; there needs to be an MOU in place between the authority and Council.  |
|                          |   | Restrict multi-unit tourist accommodation (glamping tents or cabins, etc) on a single property                 | Over loading and consequential risk when systems fail                                 | In accordance with MD and PG requirements, the ESO Schedule cannot include the requested restriction. It is for the authority to assess such applications and approve / reject as appropriate. |
|                          |   | Clearly define the acceptable accreditations/qualifications of a 'suitably qualified person' to produce an LCA | There is no formal accreditation or consensus to define a 'suitably qualified person' | This is a State Government matter beyond the scope of this review.   |
|                          |   | Add requirement to revegetate waterways where works have been undertaken                                       | None provided   | Agree to change. Appropriate to include as a new application requirement.  |
|                          |   | Add requirement to upgrade septic systems where works have been undertaken                                     | None provided   | No change required. This is already covered by the existing application requirements.  |
| DELWP (now DTP or DEECA) | Clause 5.0 of Schedules 1, 3, 5, 7, and 9 to Clause 42.01 (ESO)   | Numerous changes requested.  |   | All changes agreed. See Appendix Two for changes that have been made and Appendix 4 for detailed assessment.<br>Some further work added.   |

**Table 1: Referral Agents that provided feedback and requested a change:**

| Referral Agent                    | Permit trigger  | Changes requested  | Strategic justification (or administrative change)  | Draft of recommended changes to the ordinance (including cl66.04s and 66.06s inclusions)   |
|-----------------------------------|---|--|---|--|
| Environment Protection Agency     | Clause 5.0 of Schedule 4 to Clause 42.01 (ESO)<br>Clauses 3.0 and 5.0 of Schedule 8 of Clause 42.01 (ESO) | Transition relevant ESO's to the BAO (including ESO4 and ESO8)   | The BAO is the fit for purpose planning tool used for the management of buffers and can be used to identify areas where there is the potential for offsite impacts on safety and human health or significant offsite impacts on amenity. In applying the BAO, particular criteria must be met, and certain information must be provided. PPN92 contains guidance and sets out steps to be taken when considering the application. | Agree to requested change. This is identified as further strategic work  |
|                                   |   | Apply the exemptions from ESO8 to ESO4                           | ESO8 contains some logical exemptions from permit requirements (such as office and retail land use). As such, Council may wish to consider including similar exemptions in the ESO4.  | Council to advise.<br>We support this on first reading.  |
| Leongatha Aerodrome Users Pty Ltd | Schedule 2 to Clause 45.02 (AEO)  | Identify the 'Airport Owner' as a Determining Referral Authority | Many justifications provided, refer to 17/10/22 email submission  | Council to advise.<br>Airport owners is a private associated and affording the status of a determining authority is not generally supported. |
|                                   |   | Rezone the airfield to Special Use Zone                          | Special Use Zoning better reflects current and future uses (including commercial, industrial and residential uses)  | Council to advise.<br>This is beyond the scope of this review and if it was supported by Council, would be further strategic work.           |

**Table 1: Referral Agents that provided feedback and requested a change:**

| Referral Agent                                   | Permit trigger                                  | Changes requested  | Strategic justification (or administrative change)  | Draft of recommended changes to the ordinance (including cl66.04s and 66.06s inclusions)              |
|--|---|--|---|---|
| West Gippsland Catchment Management Authority    | Clause 4.0 of Schedule 1 to Clause 44.04 (LSIO) | Remove Coastal Development Application requirements from Clause 4.0 of Schedule 1 to Clause 44.04 (LSIO)   | These requirements are now adequately addressed by policy introduced at Clause 13.01-2S (Coastal Inundation and Erosion) of the Planning Policy Framework | Agree to this change. Draft ordinance amended to reflect.   |
| Department of Transport (Transport for Victoria) | Clause 2.0 of Schedule 6 to Clause 37.01 (SUZ)  | Delete the word 'major' from 'major arterial road' reference (Application requirements, dot-point 5)   |   | Agree to this change. Draft ordinance amended to reflect.   |
|  | Clause 3.0 of Schedule 9 to Clause 43.04 (DPO)  | Amend the final paragraph of Clause 3.0 to read, 'Planning permit applications for each residential subdivision stage must consider the views of DoT regarding the potential impact of additional traffic movements on the arterial road network'. | Update VicRoads reference to DoT.<br>Delete the word 'major' from 'major arterial road' reference   | Agree to this change. Draft ordinance amended to reflect.   |
|  |   | Make reference in the PS that Development Planning Overlays will be developed to cover growth areas: <ul style="list-style-type: none"> <li>• Leongatha South Precinct</li> <li>• Jumbunna Road Precinct</li> <li>• Nyora Township</li> </ul>      | To provide a clear indication that Council intends to undertake work around important growth areas in the municipality                                    | Council to advise.<br><br>This is a strategic planning decision and outside the scope of this review. |
| <b>Registered Aboriginal Parties:</b>            |   |  |   |   |
|  | None specified                                  |  |   |   |
| <b>Other stakeholders:</b>                       |   |  |   |   |
|  | None specified                                  |  |   |   |

**Table 2: Referral Agents that provided feedback, but didn't request a change:**

| Referral Agent  | Permit trigger | Comments made | Response |
|---|----------------|---------------|----------|
| Referral Agents either provided feedback requesting changes (Table 1), or did not respond (Table 3) |                |               |          |

**Table 3: Referral Agents that were invited to provide comment, but did not respond:**

| Referral Agent   | Permit trigger   | Comment |
|--|--|---------|
| <b>External Referral Authorities</b>   |  |         |
| Department of Health and Human Services  | Clause 5.0 of Schedules 8, 9, 10, and 11 of Clause 43.02 (DDO)   |         |
| Country Fire Authority   | Clause 3.0 of Schedule 4 to Clause 43.04 (DPO)<br>Clause 11.0 of Schedules 1 and 2 of Clause 44.06 (BMO)<br>Clause 3.0 of Schedule 4 of Clause 43.04 (DPO) |         |
| Melbourne Water Corporation  | Clause 4.0 of Schedule 1 to Clause 44.04 (LSIO)  |         |
| Secretary to the Department administering the Mineral Resources (Sustainable Development) Act 1990 | Clause 7.0 of Schedules 1 and 2 of Clause 44.07 (SRO)  |         |
| <b>Registered Aboriginal Parties</b>   |  |         |
| First Peoples State Relations  | 02.03 Strategic Directions<br>15.03-2S<br>Land developments within culturally sensitive areas.   |         |
| Gunaikurnai Land and Waters Aboriginal Corporation   | 02.03 Strategic Directions<br>15.03-2S<br>Land developments within culturally sensitive areas.   |         |
| Bunurong Land Council Aboriginal Corporation   | 02.03 Strategic Directions<br>15.03-2S<br>Land developments within culturally sensitive areas.   |         |

**Table 3: Referral Agents that were invited to provide comment, but did not respond:**

| Referral Agent             | Permit trigger  | Comment |
|----------------------------|---|---------|
| <b>Other stakeholders:</b> |   |         |
| Victrack                   | Land along Rail Trail   |         |
| Parks Victoria             | Interfaces with public land, particularly the Cape Liptrap Coastal and Marine Park.<br>Clause 12.05-2L-01 & 12.05-2L-02 |         |
| Gippsland Ports            | Areas in Port Welshpool and Port Franklin   |         |

# Appendix Two

## Marked up ordinance with recommendation changes

See separate document

# Appendix Three

## Clause 14 Rural policies: Analysis and track changes

Through the PPF translation, Council officers feel that important policy was not translated into the new scheme. Council officers were requested to identify the parts of the former policy that should be reinstated into the planning scheme and why.

The suggestions have been reviewed, and consultant’s recommendations made about changes to the planning scheme.

Most of the changes suggested by officers do indeed demonstrate that the PPF translation stripped too much out. Considering this was done as a policy neutral planning scheme amendment this removal of relied upon policy wasn’t accurate and the policy should be reinstated.

Council officers also identified some additional minor changes to the policy (such as consolidation of small and inappropriate lots in the rural zones) and these changes are supported a part of the planning scheme review process where it is from evidence provided by officers, planning permit review and VCAT review that there is benefit in introducing the policy clarification.

| # | Clause and provision as currently drafted   | Council suggested change  | Basis in pre PPF translation scheme  | Consultant recommendation  |
|---|---|---|--|--|
| 1 | <b>Clause 14.01-1L-01 (Rural Dwellings)</b><br>Avoid dwellings in association with Grazing animal production or calf rearing. | <b>Clause 14.01-1L-01 (Rural Dwellings)</b><br>Avoid dwellings in association with small scale grazing animal production or calf rearing. | <b>Clause 22.05 (Rural Dwellings)</b><br>Dwellings in association with Extensive Animal Husbandry (grazing), and calf rearing, on lots between 4.1 to 40 hectares are strongly discouraged.<br><b>Clause 22.07 (Rural Activity Zone)</b><br>Dwellings in association with Extensive Animal Husbandry (grazing), and calf rearing, on lots between 4.1 and 40 hectares will not be supported. | <b>Suggested change not supported</b><br>Scheme does not define small scale grazing animals. |
| 2 | <b>Clause 14.01-1L-01 (Rural Dwellings)</b>   | <b>Clause 14.01-1L-01 (Rural Dwellings)</b><br>Policy guidelines  | <b>Clause 22.08 (Rural Dwellings)</b><br>Application requirements<br>An application for a dwelling must include:   | <b>Modified change supported</b><br>Appears to be a genuine omission.                        |

| # | Clause and provision as currently drafted                                  | Council suggested change   | Basis in pre PPF translation scheme  | Consultant recommendation   |
|---|--|--|--|---|
|   |  | Add an additional policy guideline at the end as follows:<br>A Farm Staging and Management Plan prepared by a suitably qualified person to the satisfaction of Council.  | A Whole Farm Plan with any application to use and develop a lot for a dwelling in association with an agricultural activity.   |   |
| 3 | <b>Clause 14.01-1L-02 (Second and subsequent dwellings in rural areas)</b> | <b>Clause 14.01-1L-02 (Second and subsequent dwellings in rural areas)</b><br>Policy guidelines<br>Add an additional policy guideline at the end as follows:<br>A Farm Staging and Management Plan prepared by a suitably qualified person to the satisfaction of Council. | <b>Clause 22.08 (Rural Dwellings)</b><br>Application requirements<br>An application for a dwelling must include:<br>A Whole Farm Plan with any application to use and develop a lot for a dwelling in association with an agricultural activity.   | <b>Modified change supported</b><br>As above – considered to be a genuine omission.   |
| 4 | <b>14.01-1L-05 (Subdivision in the Farming and Rural Activity Zones)</b>   | <b>14.01-1L-05 (Subdivision in the Farming and Rural Activity Zones)</b><br>New strategy proposed.<br>Encourage the consolidation of small and inappropriate lots.   | <b>Clause 22.09 (Rural Subdivision)</b><br>Policy basis<br>South Gippsland already has a considerable supply of lots at a range of sizes, such that further subdivision for genuine agricultural reasons will rarely be necessary. Many areas that have experienced high levels of fragmentation <u>may require consolidation</u> or re-structure through boundary realignments in order to create economically competitive land units. Likewise, expanding farming businesses may find it necessary to remove surplus dwellings from the land through house lot excisions. There is a compelling need for clear and robust planning criteria around such practices in order to ensure the fair, | <b>Modified change supported</b><br>Appears to be a partial omission.<br>Former 22.09 (Rural Subdivision) applied only to FZ and included a specific objective (supported by policy basis) to encourage the consolidation of rural lots.<br>There was no explicit policy in 22.10 (Rural Activity Zone Policy) that sought to encourage consolidation of small and inappropriate lots in the RAZ.<br>Given this context, suggest the following alternative wording:<br>“Encourage the consolidation of rural lots in the Farming Zone”. |



| # | Clause and provision as currently drafted   | Council suggested change  | Basis in pre PPF translation scheme  | Consultant recommendation  |
|---|---|---|--|--|
|   |   |   | sustainable and economic use and development of rural land.<br>Objectives<br>To encourage the consolidation of rural lots.   |  |
| 5 | <b>14.01-1L-05 (Subdivision in the Farming and Rural Activity Zones)</b><br>Consider as relevant:<br>The use of a Section 173 Agreement for the excision of dwelling(s) that prevents the development of any additional dwelling on a balance lot(s) with an area of less than 40 hectares. | <b>14.01-1L-05 (Subdivision in the Farming and Rural Activity Zones)</b><br>Consider as relevant:<br>The use of a Section 173 Agreement for the excision of dwelling(s) that prevents the development of any additional dwelling.   | <b>Clause 22.09 (Rural Subdivision) Policy</b><br>Subdivision of land to accommodate an existing dwelling<br>A permit that approves the excision of an existing dwelling by re-subdivision where the balance (remaining) lot is less than 40 ha will contain a condition requiring that the land owner enter into an Agreement under s.173 of the Act that prevents the development of any additional dwelling on the balance lot. | <b>Suggested change not supported</b><br>Proposed change is not considered policy neutral and is not supported / justified by the pre-PPF translation policy.<br>Officers have not provided a strategic justification.   |
| 6 | <b>14.01-1L-05 (Subdivision in the Farming and Rural Activity Zones)</b><br>Subdivision to accommodate existing dwellings policy guidelines<br>Consider as relevant:  | <b>14.01-1L-05 (Subdivision in the Farming and Rural Activity Zones)</b><br>Subdivision to accommodate existing dwellings policy guidelines<br>Consider as relevant:<br>A Farm Staging and Management Plan prepared by a suitably qualified person to the satisfaction of Council | N/A  | <b>Modified change supported</b><br>Proposed change is not supported / justified by the pre-PPF translation policy but has been raised in consultation and is considered reasonable based on this review.<br>Suggested wording is:<br>"The use of a Whole Farm Plan relating to any application to use and develop a lot for a dwelling in association with an agricultural activity". |
| 7 | <b>14.01-1L-05 (Subdivision in the Farming and Rural Activity Zones)</b>  | <b>14.01-1L-05 (Subdivision in the Farming and Rural Activity Zones)</b>  | <b>Clause 22.09 (Rural Subdivision Policy)</b><br>Objectives   | <b>Suggested change not supported</b><br>Proposed change is not considered policy neutral and is not supported /   |

| # | Clause and provision as currently drafted  | Council suggested change   | Basis in pre PPF translation scheme  | Consultant recommendation   |
|---|--|--|--|---|
|   | Avoid subdivision of existing lots that create lots that are not viable for agricultural uses.   | Avoid subdivision of existing lots that create lots where there is no agricultural merit on the balance lot.   | <p>To ensure that lots resulting from subdivision are of a sufficient size to be of benefit to agricultural production.</p> <p><b>Clause 22.10 (Rural Activity Zone Policy)</b></p> <p>Objectives</p> <p>To encourage the retention of productive agricultural land</p>  | <p>justified by the pre-PPF translation policy.</p> <p>Officers have not provided a strategic justification.</p>  |
| 8 | <p><b>14.01-1L-05 (Subdivision in the Farming and Rural Activity Zones)</b></p> <p>Re-subdivision of existing lots without a dwelling strategies</p> | <p><b>14.01-1L-05 (Subdivision in the Farming and Rural Activity Zones)</b></p> <p>Re-subdivision of existing lots without a dwelling strategies</p> <p>Encourage the consolidation of small and inappropriate lots.</p> | <p><b>Clause 22.09 (Rural Subdivision)</b></p> <p>Policy basis</p> <p>South Gippsland already has a considerable supply of lots at a range of sizes, such that further subdivision for genuine agricultural reasons will rarely be necessary. Many areas that have experienced high levels of fragmentation <u>may require consolidation</u> or re-structure through boundary realignments in order to create economically competitive land units. Likewise, expanding farming businesses may find it necessary to remove surplus dwellings from the land through house lot excisions. There is a compelling need for clear and robust planning criteria around such practices in order to ensure the fair, sustainable and economic use and development of rural land.</p> <p>Objectives</p> <p>To encourage the consolidation of rural lots.</p> | <p><b>Modified change supported</b></p> <p>Appears to be a partial omission. Former 22.09 (Rural Subdivision) applied only to FZ and included a specific objective (supported by policy basis) to encourage the consolidation of rural lots.</p> <p>There was no explicit policy in 22.10 (Rural Activity Zone Policy) that sought to encourage consolidation of small and inappropriate lots in the RAZ.</p> <p>Given this context, suggest the following alternative wording:</p> <p>“Encourage the consolidation of rural lots in the Farming Zone”.</p> |

| # | Clause and provision as currently drafted   | Council suggested change   | Basis in pre PPF translation scheme   | Consultant recommendation  |
|---|---|--|---|--|
| 9 | <p><b>14.01-1L-05 (Subdivision in the Farming and Rural Activity Zones)</b><br/> Re-subdivision of existing lots without a dwelling policy guidelines<br/> Consider as relevant:<br/> The use of a Section 173 Agreement that prevents the development of any dwelling on a lot under 4.1 hectares.</p> | <p><b>14.01-1L-05 (Subdivision in the Farming and Rural Activity Zones)</b><br/> Re-subdivision of existing lots without a dwelling policy guidelines<br/> Consider as relevant:</p> | <p><b>Clause 22.09 (Rural Subdivisions Policy)</b><br/> Policy<br/> Re-subdivision of existing lots without a dwelling<br/> An application to create a lot under 4.1ha is not permitted unless for the purposes of a non residential use. A permit that approves a lot under 4.1ha shall contain a condition requiring that the land owner enter into an Agreement under s.173 of the Act that prevents the development of any dwelling on the lot.</p> <p><b>Clause 22.10 (Rural Activity Zone Policy)</b><br/> RAZ Subdivision Policy<br/> Re-subdivision of existing lots without a dwelling<br/> An application to create a lot under 4.1ha is not permitted unless for the purposes of a non residential use. A permit that approves a lot under 4.1ha shall contain a condition requiring that the land owner enter into an Agreement under s.173 of the Act that prevents the development of any additional dwelling on the lot.</p> | <p><b>Suggested change not supported.</b><br/> Proposed change is not considered policy neutral and not supported / justified by the pre-PPF translation policy. Officers have not provided a strategic justification.</p> |



# Appendix Four

## Referral authority responses seeking change

See separate document

# Appendix Five

## Environmental Audit Overlay - Council Resolution

See following Meeting Minutes Extract

### 3. OBJECTIVE 2 - ECONOMIC PROSPERITY

#### 3.1. PLANNING SCHEME AMENDMENT - ENVIRONMENTAL AUDIT OVERLAY - CONTAMINATED LAND

Economic & Community Development

##### **Council Plan**

*Objective 2 - Economic Prosperity - Strategy 2.2 Develop plans that balance and utilise the natural values of the environment and improve liveability in the Shire.*

*The Environmental Audit Overlay aims to identify potentially contaminated land requiring further investigation or works before sensitive land uses can occur, protecting the environment, human health and improving liveability in the Shire.*

##### **EXECUTIVE SUMMARY**

Council is a statutory Planning Authority responsible for considering planning applications and amendments to the South Gippsland planning scheme.

Included in the matters Council must consider when making planning decisions are “any significant effects” the environment may have on a proposed land use or development. This includes the potential for land contamination from past uses such as service stations and factories.

In 2019 the planning department identified approximately 900 potentially contaminated sites when investigating current and former land uses in the Shire. The identification of these sites does not mean that the land is contaminated only that the land use is/was of a type recognised by the Environment Protection Authority (EPA) as having the potential to contaminate land.

This report recommends to include approximately 78 sites in the Environmental Audit Overlay (EAO) of the South Gippsland Planning Scheme see **Confidential Attachment [13.1.1]**.

A review of the 2019 work determined the EAO candidate sites based on the following land use types and criteria:

- Former petrol stations and industrial uses in planning scheme zones that allow sensitive land uses to occur;
- Public utility sites where fuel and chemical storage is known to have occurred; and
- Sites where land contamination investigations have previously confirmed land contamination.

The EAO requires that before a planning permit approves a sensitive land use (e.g. dwelling, child care, school) soil testing must demonstrate the site is safe

for a sensitive use or alternatively remediation is completed before the use can commence.

It is proposed to exhibit the amendment for six weeks and to consult with the affected land owners to consider any new information before proceeding with application of the EAO.

### **RECOMMENDATION**

That Council:

1. In consultation with the Environment Protection Authority (EPA) and the Department of Environment, Land, Water and Planning (DELWP) finalises site selection for the application of the Environmental Audit Overlay generally in accordance with the lands identified in Confidential Attachment [13.1.1];
2. Seeks authorisation from the Minister for Planning to prepare a Planning Scheme Amendment to apply the Environmental Audit Overlay;
3. Makes public the Confidential Attachment [13.1.1] for exhibiting the Planning Scheme Amendment for a period of not less than six weeks;
4. Provides a minimum of two months between the close of exhibition and a Panel Hearing to allow consideration of new evidence / information submitted to Council during exhibition of the Planning Scheme Amendment; and
5. Refers submissions to the Planning Scheme Amendment that cannot be resolved by negotiation to an Independent Planning Panel for consideration.



**MOVED:** Administrator Zahra  
**SECONDED:** Administrator Brown

**THAT COUNCIL:**

- 1. IN CONSULTATION WITH THE ENVIRONMENT PROTECTION AUTHORITY (EPA) AND THE DEPARTMENT OF ENVIRONMENT, LAND, WATER AND PLANNING (DELWP) FINALISES SITE SELECTION FOR THE APPLICATION OF THE ENVIRONMENTAL AUDIT OVERLAY GENERALLY IN ACCORDANCE WITH THE LANDS IDENTIFIED IN CONFIDENTIAL ATTACHMENT [13.1.1];**
- 2. SEEKS AUTHORISATION FROM THE MINISTER FOR PLANNING TO PREPARE A PLANNING SCHEME AMENDMENT TO APPLY THE ENVIRONMENTAL AUDIT OVERLAY;**
- 3. MAKES PUBLIC THE CONFIDENTIAL ATTACHMENT [13.1.1] FOR EXHIBITING THE PLANNING SCHEME AMENDMENT FOR A PERIOD OF NOT LESS THAN SIX WEEKS;**
- 4. PROVIDES A MINIMUM OF TWO MONTHS BETWEEN THE CLOSE OF EXHIBITION AND A PANEL HEARING TO ALLOW CONSIDERATION OF NEW EVIDENCE / INFORMATION SUBMITTED TO COUNCIL DURING EXHIBITION OF THE PLANNING SCHEME AMENDMENT; AND**
- 5. REFERS SUBMISSIONS TO THE PLANNING SCHEME AMENDMENT THAT CANNOT BE RESOLVED BY NEGOTIATION TO AN INDEPENDENT PLANNING PANEL FOR CONSIDERATION.**

**CARRIED UNANIMOUSLY**

[Link to next Agenda Item.](#)

## **REPORT**

Land potentially contaminated from historic activities presents a risk to Council and prospective land purchasers as planning permission for inappropriate uses could be issued. For example, sensitive uses including dwellings, childcare, or food processing could be approved on potentially contaminated sites. Some Councils have approved sensitive land uses on contaminated land, resulting in legal action and compensation. A recent case in Melbourne involved the demolition of a new residential unit development on land the council suspected was contaminated but did not properly investigate before approving the development. Brimbank City Council is currently responding to issues surrounding the development of dwellings on a former landfill site that operated until the late 1970s.

The Brookland Greens residential development in the City of Casey is a high-profile example of soil contamination affecting a new residential development. While the circumstances surrounding this example are complex, soil contamination resulted in dangerous levels of methane gas accumulating inside dwellings to an extent that the dwellings became uninhabitable. The development was the subject of an Ombudsman Report which demonstrated the financial and emotional impact that can occur when sensitive land uses are impacted by contamination.

In 2019 the planning department identified approximately 900 potentially contaminated sites based on current and former land uses in the Shire. The identification of these sites does not mean that the land is contaminated and should be included in the EAO, only that the land use is/was of a type recognised by the EPA as having the potential to contaminate land.

A review of the 2019 work has refined the EAO candidate sites based on the following land use types and criteria:

- Former petrol stations and industrial uses in planning scheme zones that allow sensitive land uses to occur;
- Public utility sites where fuel and chemical storage is known to have occurred; and
- Sites where land contamination investigations have already identified the presence of levels of contamination that warrant concern.

How Council communicates its knowledge of potential contamination is benefitted by applying the EAO. The EAO ensures that information is publicly available and provided in vendor statements which are used to inform land sale and development decisions.

## **CONSULTATION / COMMUNITY ENGAGEMENT**

Consultation with the EPA and the Department of Environment, Land, Water and Planning (DELWP) continues to finalise the amendment. Some of the EAO

candidate sites identified in **Confidential Attachment [13.1.1]** may be removed from the amendment before exhibition if recommended by the EPA and DELWP.

A planning scheme amendment is required to apply the EAO. Consultation with landowners will occur as part of the amendment process. The amendment proposes to apply the EAO to those sites known to be, or highly likely to be contaminated.

### **RESOURCES / FINANCIAL VIABILITY**

The project has been undertaken within existing resource allocations. It is not anticipated that Council will undertake any soil testing as part of the project.

It may be necessary for Council to present independent expert evidence at a Panel Hearing.

### **RISKS**

Application of the EAO intends to address the public health, financial and reputational risks associated with Council being complicit to the inappropriate development or use of contaminated land. Application of the EAO safeguards the community against inappropriate land use or development.

Having a robust planning scheme with publicly accessible information about potentially contaminated land better informs decision making and promotes good governance.

### **STAFF DISCLOSURE**

All officers involved in the preparation of this report have considered and determined that they do not have a conflict of interest in the matter.

### **CONFIDENTIAL ATTACHMENTS**

The consideration of confidential information in a closed session of Council is in accordance with s.66(2)(a) and s.66(5)(a) and (b) of the *Local Government Act 2020*.

**Confidential Attachment [13.1.1] – Planning Scheme Amendment – Environmental Audit Overlay – Contaminated Land – Candidate Sites** is designated confidential information pursuant to the Local Government Act 2020, s.3(1)(c) - land use planning information, being information that if prematurely released is likely to encourage speculation in land values.

The grounds for designation have been made to protect the privacy of properties listed and the recommendations being put forward for this planning scheme amendment. Application of the Environmental Audit Overlay can affect how land is used and developed, which can affect its value or perceived value. To avoid unnecessary concern, public knowledge of the proposal should occur after Ministerial Authorisation to exhibit the amendment has been given.

## **REFERENCE DOCUMENTS**

### **Council's Good Governance Framework**

Pillar 1. Direction & Leadership

Pillar 3. Decision Making

### **Council Policy / Strategy / Plans**

*Documents are available on Council's website: [www.southgippsland.vic.gov.au](http://www.southgippsland.vic.gov.au)*

Open Space Strategy

Rural Land Use Strategy

South Gippsland Housing and Settlement Strategy

Sustainability Strategy

Waste Management Strategy

Council Plan 2020-24

Domestic Wastewater Management Plan

South Gippsland's Good Governance Framework

South Gippsland's Planning Scheme

### **Legislative Provisions**

Catchment and Land Protection Act 1994

Country Fire Authority Act 1958

Crown Land (Reserves) Act 1978

Environment Protection Act 1970

Environment Protection Act 1994

Local Government Act 1989

Local Government Act 2020

Marine and Coastal Act 2018

Planning and Environment (Planning Schemes) Act 1996

Planning and Environment Act 1987

Regional Development Victoria Act 2002

Water Act 1989

### **Regional, State and National Plan and Policies**

Gippsland Regional Growth Plan, State Government Victoria

Gippsland Regional Plan 2020-2025

# Appendix Six

## Consolidated list of further strategic work

| Project Number | Project Name  | Project sources   |
|----------------|---|---|
| 1              | Identify land where further restructure investigation is required.  | Clause 74.02  |
| 2              | Identify further heritage places, precincts and features that exist in the Shire to those that are currently identified.  | Clause 74.02  |
| 3              | Investigate application of a Special Use Zone in the Bulky Goods Retail Area identified on the Leongatha Framework Plan.  | Clause 74.02  |
| 4              | Investigate the application of the Rural Activity Zone.   | Clause 74.02  |
| 5              | Prepare and implement master plans for the commercial town centres of Venus Bay, Waratah Bay, Sandy Point and Tarwin Lower.   | Clause 74.02  |
| 6              | Review the residential development growth options in the Mirboo North Structure Plan Refresh to provide increased certainty around future land releases.  | Clause 74.02  |
| 7              | Investigate the application of a planning scheme overlay to protect and enhance the built and landscape character of residential land in Mirboo North.  | Clause 74.02  |
| 8              | Investigate the application of the Neighbourhood Residential Zone as a preferred residential zoning for land currently identified as General Residential Zone.  | Clause 74.02  |
| 9              | Investigate the preparation of a 'Strzelecki-Alpine Biolink' local policy to improve native animal habitat corridors between Wilsons Promontory and the Alpine region.                                | Clause 74.02  |
| 10             | Prepare a coastal areas land use and development strategy to guide long term planning in environmentally dynamic townships.   | Clause 74.02  |
| 11             | Investigate the preparation of a development contributions scheme.  | Clause 74.02  |
| 12             | Review the application of the Parking Overlay and the payment schedule.   | Clause 74.02  |
| 13             | Investigate the rezoning of the Farming Zone land at Burrows Way Tarwin Lower.  | Clause 74.02  |
| 14             | Investigate the zoning of the Township Zone land south of Fairbank Road Arawata.  | Clause 74.02  |
| 15             | Investigate the application of the Road Zone adjoining Kardella township.   | Clause 74.02  |
| 16             | Continue to implement practices to reduce the number of applications requiring Further Information Requests.  | Previous 12B Review   |
| 17             | Consider additional resourcing for planning enforcement duties so that proactive auditing of planning permit conditions, especially for bushfire risk reduction, can be undertaken.                   | Previous 12B Review   |
| 18             | Resource upgrading of Pathways planning modules to support processing of planning applications.   | Previous 12B Review   |
| 19             | Undertake and implement a Shire-wide industrial land supply assessment.   | Current Review: Council Plan 2022-2026 (South Gippsland Shire Council, 2022, p34) |
| 20             | Prepare a development plan (including developer contributions) for the South Western precinct of Nyora, as part of the Nyora Development Strategy.  | Current Review: Council Plan 2022-2026 (South Gippsland Shire Council, 2022, p34) |
| 21             | Prepare a Coastal Strategy to inform any future Planning Scheme provisions that will seek to guide sustainable land use and development in South Gippsland Shire's coastal townships and communities. | Current Review: Council Plan 2022-2026 (South Gippsland Shire Council, 2022, p34) |
| 22             | Prepare and implement new planning scheme guidelines that seek to protect the character of coastal townships.   | Current Review: South Gippsland Integrated  |

| Project Number | Project Name   | Project sources  |
|----------------|--|--|
|                |  | Planning Engagement Report (SGSC, 2022, 29)  |
| 23             | Implement the Industrial Land Supply Study.  | Current Review: South Gippsland Integrated Planning Engagement Report (SGSC, 2022, p29)                |
| 24             | Develop and implement a solutions-focussed Industrial Land Supply Strategy to support new development  | Current review: South Gippsland Environmental Sustainability Framework (SGSC, p32)                     |
| 25             | Re-draft the table of uses for SUZ4 and SUZ7 to comply with the Ministerial Direction.   | Current Review: Planning Scheme Audit  |
| 26             | Convert ESO4 and ESO8 to the Buffer Area Overlay (BAO).  | Current Review: Planning Scheme Audit  |
| 27             | Re-draft ESO1, ESO2, ESO3, ESO4, ESO8, SLO1, SLO2, SLO3, DDO3, DDO4, DDO5, DDO6 to clarify the statement of significance, clarify the objectives and comply with the Ministerial Direction and to clearly articulate the planning objective(s) that are sought to be achieved under each Overlay.      | Current Review: Planning Scheme Audit  |
| 28             | Amend Section 3.0 or the Parking Overlay (PO) to comply with the Ministerial Direction.  | Current Review: Planning Scheme Audit  |
| 29             | Undertake a review of the efficiency and effectiveness of ESO2, ESO3 and ESO5 with a view to removing any redundant and unnecessary permit triggers.   | Current Review: Planning Performance Audit   |
| 30             | Undertake further strategic work to justify the rezoning of land to facilitate the future expansion of the Mirboo North town centre.   | Current Review: Panels Analysis  |
| 31             | Develop and implement planning policy that provides clear and appropriate directions for the growth and development of the Shire's coastal settlements in the context of known climate change impacts  | Current review: VCAT Analysis, Consultation, Key Issues identification                                 |
| 32             | Re-evaluate the S173 Agreement requirements detailed in the South Gippsland Rural Strategy 2011 and, where appropriate, introduce them into the planning scheme.   | Current review: VCAT Analysis, Consultation.   |
| 33             | Resolve a Memorandum of Understanding between South Gippsland Water and Council to enable South Gippsland Water to be removed as referral authority for unplumbed Domestic Sheds more than 30m from a waterway.  | Current review: Authority Consultation   |
| 34             | Transition relevant Environmental Significance Overlays to the Buffer Area Overlay.  | Current review: Authority Consultation   |
| 35             | Prepare and implement a new policy (or policies) to articulate how the current tension between competing objectives and outcomes for the siting and design of buildings and works in the Shire's coastal settlements should be appropriately balanced.   | Current review: Planning Scheme Audit, Consultation, Key Issues identification                         |
| 36             | Finalise and implement the review of planning permit triggers in the rural zones.  | Current review: Planning performance analysis, VCAT analysis, Consultation, Key Issues Identification. |
| 37             | Identify and protect important landscapes within the Shire's rural hinterland.   | Current review: Consultation, Key Issues Identification  |
| 38             | Review and update the applicable policy settings for Barry Beach (and other settlements / sites as appropriate) to ensure the Shire is best placed to maximise the benefits to the Shire from the establishment of the offshore wind industry  | Current review: Consultation, Key Issues Identification  |
| 39             | As a priority, undertake further strategic work to identify high-value landscapes within the rural hinterland, to enable Council to actively and constructively participate in the process to define preferred routes for requisite transmissions infrastructure for the offshore renewables industry. | Current review: Consultation, Key Issues Identification  |

| Project Number | Project Name   | Project sources  |
|----------------|--|--|
| 40             | Define the future role and function of Nyora in the overall settlement hierarchy, and plan for its future growth and development. This may include the preparation of development contributions plans to ensure the timely delivery of necessary supporting infrastructure.  | Current review:<br>Consultation, Key Issues Identification |
| 41             | Prepare a structure plan to guide the future development of Nyora, including a development contributions plan.   | Current review:<br>Consultation, Key Issues Identification |
| 42             | Update the 2004 South Gippsland Heritage Study as necessary and to apply the Heritage Overlay to all heritage places and precincts of local heritage significance.   | Current review:<br>Consultation, Key Issues Identification |
| 43             | Undertake further strategic work to update Clause 15.01-1L-02 (Signage) to provide clearer guidance in relation to the specific outcomes that are sought be achieved in relation to signage within the Shire, to provide clarity for the community and to help Council to refuse inappropriate proposals.  | Current review:<br>Consultation, Key Issues Identification |
| 44             | Undertake further strategic work to develop a local policy to provide guidance in relation to residential subdivisions on laneways.  | Consultation   |
| 45             | Undertake a comprehensive review of the overlay controls that apply to coastal areas, as part of the development of the Coastal Strategy to utilize the schedules to the residential zones where possible, and articulate more specific environmental and design objectives for each area than the current controls contain.   | Current review:<br>Consultation, Key Issues Identification |
| 46             | Review ESO1 Areas of natural significance and prepare a detailed statement of significance and reduce the objectives to one. This may require splitting the existing ESO1 into more fine grained ESOs to address the specific issues of environmental significance.  | Current review:<br>Consultation, Key Issues Identification |
| 47             | Review ESO3 Coastal Settlements – Non residential areas and ESO7 Coastal settlements through the Coastal Strategy to determine where ESOs should apply, to make the statements of significance more specific and reduce the objectives to one per overlay. This may require splitting the existing ESO3 and ESO7 into more fine grained ESOs to address the specific issues of environmental significance. | Current review:<br>Consultation, Key Issues Identification |
| 48             | Translate ESO4 Sewage treatment plants and environs and ESO 8 Manufacture of milk products amenity buffer into the Buffer Area Overlay.  | Current review: Planning Scheme Analysis                   |
| 49             | Translate ESO5 Areas susceptible to erosion into the Erosion Management Overlay.   | Current review: Key Issues Identification                  |
| 50             | Review ESO2 (subject to advice from DELWP) move paragraph one into the MPS, delete paragraph two and reduce the objectives from eight to one.  | Current review: Key Issues Identification                  |
| 51             | Seek advice from DELWP about the appropriate tool to manage Special Water Catchments (ESO2).   | Current review:<br>Consultation, Key Issues Identification |
| 52             | Resolve a Memorandum of Understanding between South Gippsland Water and Council to enable South Gippsland Water to be removed as referral authority for unplumbed Domestic Sheds more than 30m from a waterway.  | Current review:<br>Consultation                            |
| 53             | Transition Environmental Significance Overlays 4 Sewage Treatment Plants and Environments and ESO8 Manufacture of Milk Products Amenity Buffer to the Buffer Area Overlay.   | Current review:<br>Consultation, Overlay Review            |
| 54             | Develop an offset framework to enable appropriate relocation or replacement of habitat of the Giant Gippsland Earthworm resulting from planning decision and determine whether the impacts of hydrology changes on colonies and habitat should be undertaken as part of the assessment process to strengthen 42.01 ESO9 Giant Gippsland Earthworm and Habitat Protection.                                  | Current review:<br>Consultation                            |
| 55             | Quantify drainage, access and buffer planting on interface requirements between private land and Crown land to strengthen 42.01 ESO7 Coastal settlements.  | Current review:<br>Consultation                            |
| 56             | Review rural dwelling and subdivision policy requirements to ensure consistency with State Planning Policy and to protect local values   | Key issue identification                                   |

| Project Number | Project Name   | Project sources                 |
|----------------|--|---------------------------------|
| 57             | Apply the Environmental Audit Overlay (EAO) to known sites of land contamination in accordance with previous Council resolution on 25 November 2020, to implement the findings of Council's audit of potentially contaminated land.            | Previous Council Resolution     |
| 58             | Replace the Environmental Significance Overlay Schedule 5 (Areas susceptible to erosion) with the Erosion Management Overlay and introduce design guidelines for development on steep slopes in accordance with Council resolution 25 May 2016 | Previous Council Resolution     |
| 59             | Complete implementation of Council's Significant Trees Register (Amendment C118) by application of an Environmental Significance Overlay per Council resolution on 27 June 2018  | Previous Council Resolution     |
| 60             | Implement the 'Flood & Drainage Study for Foster and Surrounding Catchments – July 2019' in partnership with the West Gippsland Catchment Management Authority.  | Current review:<br>Consultation |