



South Gippsland
Shire Council

Come for the beauty, Stay for the lifestyle

COUNCIL MINUTES

**ORDINARY MEETING NO. 387
WEDNESDAY 17 DECEMBER 2014
COUNCIL CHAMBER, LEONGATHA
COMMENCED AT 2PM**

PRESENT:

Mayor: Cr Jeanette Harding
Deputy Mayor: Cr Nigel Hutchinson-Brooks
Councillors: James Fawcett, Mohya Davies, Kieran Kennedy, Robert Newton,
Lorraine Brunt, Andrew McEwen and Don Hill.

OFFICERS:

Mr Tim Tamlin	Chief Executive Officer
Anthony Seabrook	Director Engineering Services
Jan Martin	Director Community Services
June Ernst	Director Corporate Services
Bryan Sword	Director Development Services
Luke Anthony	Manager Governance Services
Natasha Berry	Governance Officer
Heather Williams	Council Support Officer

MISSION

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

SOUTH GIPPSLAND SHIRE COUNCIL

**ORDINARY MEETING NO. 387
WEDNESDAY 17 DECEMBER 2014
COUNCIL CHAMBER, LEONGATHA
COMMENCED AT 2PM**

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Tim Tamlin
Chief Executive Officer

SECTION A - PRELIMINARY MATTERS

A.1 WELCOME

Please ensure Mobile phones remain 'off' during the Council Meeting.

A.2 OPENING PRAYER

We pray to God to guide us so that the thoughts we have and the decisions made this day, are in the best interests of the people of the South Gippsland Shire.

Amen

A.3 ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS

The South Gippsland Shire Council respectfully acknowledges the Traditional Custodians of this Land, Elders past and present, their Spirits and Ancestors.

A.4 APOLOGIES

Nil

A.5 CONFIRMATION OF MINUTES

RECOMMENDATION

That the Minutes of the South Gippsland Shire Council Ordinary Meeting No. 386, held on 26 November 2014 in the Council Chamber, Leongatha be confirmed.

MOVED: Cr Newton

SECONDED: Cr Kennedy

**THAT THE MINUTES OF THE SOUTH GIPPSLAND SHIRE COUNCIL
ORDINARY MEETING NO. 386, HELD ON 26 NOVEMBER 2014 IN THE
COUNCIL CHAMBER, LEONGATHA BE CONFIRMED.**

CARRIED UNANIMOUSLY

A.6 REQUESTS FOR LEAVE OF ABSENCE

MOVED: Cr Hutchinson-Brooks

SECONDED: Cr Kennedy

**THAT COUNCILLOR HUTCHINSON-BROOKS REQUEST LEAVE OF ABSENCE
FOR COUNCIL MEETING 25 FEBRUARY 2015.**

CARRIED UNANIMOUSLY

A.7 DECLARATION OF CONFLICT OF INTEREST FOR COUNCILLORS

Any interest that a Councillor or staff member has deemed to be significant and has disclosed as either a direct or an indirect interest is now considered to be a conflict of interest. Conflict of interest legislation is in sections 77A, 77B, 78, 78A-D and 79 of the Local Government Act 1989. This legislation can be obtained by contacting the Council's Corporate Services Directorate (Governance Services) or by accessing the Victorian Legislation and Parliamentary Documents website at www.legislation.vic.gov.au. An interest may be by close association, financial, conflicting duties or receipt of gifts.

If a Councillor or staff member discloses any interest in an item discussed at any Council Meeting (whether they attend or not) they must:

- Complete a disclosure of interest form prior to the Meeting (forms are available from the Organisational Development Department – Governance).
- Advise the Chair of the interest immediately before the particular item is considered (if attending the Meeting).
- Leave the Council Chamber or Meeting room while the item is being discussed and during any vote taken (if attending the Meeting).

The Councillor or staff member will be advised to return to the Council Chamber or Meeting room immediately after the item has been considered and the vote is complete.

Councillors should check the Minutes of the Council Meeting to ensure their disclosure is recorded accurately.

Councillors are not required to disclose conflict of interest in relation to matters only considered at Meetings they do not attend.

Detailed information is available in Conflict of Interest – A Guide for Councillors June 2011.

Type of Interest		Example of Circumstance
Direct Interest		Reasonably likely that your benefits, obligations, opportunities or circumstances will be directly altered. Reasonably likely to receive a direct benefit or loss measurable in money. Reasonably likely that your residential amenity will be directly affected.
Indirect Interest	Close Association	A member of your family has a direct interest or an indirect interest. A relative has a direct interest. A member of your household has a direct interest.
	Indirect financial Interest	Likely to receive a benefit or loss, measurable in money, resulting from a change to another person's interest. Holding shares in a company or body that has a direct interest (subject to threshold) When a person with a direct interest owes money to you.
	Conflict of Duty	Manager or member of the governing body of an organisation with a direct interest. Trustee for a person with a direct interest. Past dealings in relation to the matter as duty to another person or body.
	Applicable Gift	Gifts valued at \$500 in previous 5 years. Election donations valued at or above \$500 in previous 5 years. Gifts other than election campaign donations that were received more than 12 months before a person became a Councillor are exempt.
	Party to the Matter	Initiated or became party to civil proceedings in relation to the matter.

Privacy

Council is required to keep minutes of each Council meeting. The minutes contain details of proceedings which may include personal information about community members disclosed as part of presentations, submissions and questions. The minutes of Council meetings are a public record and can be inspected by members of the public.

Council undertakes audio recordings of Council Meetings as a contribution to good governance and accuracy of minutes. An audio recording of this meeting is being made for the purpose of verifying the accuracy of minutes of the meeting. In some circumstances the recording may be disclosed, such as where Council is compelled to do so by court order, warrant, and subpoena or by any other law such as the Freedom of Information Act 1982. It should be noted that other people present at the meeting may be recording the meeting and Council has limited power to regulate this. Council has developed a policy to regulate recordings, "Sound Recording of Council Meetings". A copy of this policy is located on Council's website www.southgippsland.vic.gov.au. Further information or a copy of the policy or can be obtained by contacting Council's Organisational Development Department (Governance).

Nil

A.8 Declaration of Conflict of Interest for Staff

Sections 80B and 80C of the Local Government Act 1989 require members of Council staff who have delegated functions and /or provide advice to Council or a Special Committee to disclose conflicts of interest. If Council staff have written, provided information/advice or approved a Council Report and have a conflict of interest it is the responsibility of that staff member to disclose the interest. Guidance to identifying and disclosing a conflict of interest is contained in Department of Planning and Community Development in '*Conflict of Interest A Guide for Council staff*', October 2011.

The Chief Executive Officer addressed Council by noting a disclosure of interest in Council Reports Item E.3 PLANNING PERMIT APPLICATION 2014/188 - 390 FOLEY ROAD YANAKIE - VEGETATION REMOVAL as Council is the applicant and the manager of the Yanakie Caravan Park.

A.9 PETITIONS

Petitions (and Joint letters) are written requests that have been signed by a number of community members. According to the Local Law No.3 2010 petitions may be presented to Council by a Councillor. A petition presented to the Council must lay on the table until the next Ordinary Meeting of the Council and no motion, other than to receive the petition, may be accepted by the Chair unless the Council agrees to deal with it earlier.

The lead petitioner or person organising the petition may in presenting the petition to a Councillor at the Council Meeting speak briefly to its contents. At the same meeting a Councillor would accept the petition and introduce it to Council for formal noting and actioning by Council.

The Councillor presenting the petition is responsible for ensuring that they are familiar with the contents and purpose of the petition and that it is not derogatory or defamatory.

Cr McEwen presented a Petition to Council (the prayer is outlined below), containing approximately 11 signatures from the residents of Kongwak in relation to the Kongwak Sunday Market parking and traffic management.

Every Sunday of the past 12 years the main road through Kongwak is rendered un-safe as a result of uncontrolled parking associated with the Kongwak market. We also have to contend with cars parked across our driveways, nature strips and access routes which create a muddy eye sore when the grass is wet.

Patrons of the market park illegally on both sides of the main road resulting in a narrow lane for through traffic, including large milk tankers, to negotiate. It is only a matter of time before someone is injured. We demand the Council take immediate action to ensure adequate traffic control and a traffic management plan is implemented NOW.

RECOMMENDATION

That Council:

1. Receive the petition; and,
2. Agree to deal with the petition rather than having it lay on the table until the next Ordinary Meeting of Council by writing to the lead petitioner confirming that the Market Organisers have a Planning Permit Application with Council and this petition will be considered as a submission to that application.

MOVED: Cr McEwen

SECONDED: Cr Kennedy

THAT COUNCIL:

1. **RECEIVE THE PETITION; AND,**
2. **AGREE TO DEAL WITH THE PETITION RATHER THAN HAVING IT LAY ON THE TABLE UNTIL THE NEXT ORDINARY MEETING OF COUNCIL BY WRITING TO THE LEAD PETITIONER CONFIRMING THAT THE MARKET ORGANISERS HAVE A PLANNING PERMIT APPLICATION WITH COUNCIL AND THIS PETITION WILL BE CONSIDERED AS A SUBMISSION TO THAT APPLICATION.**

CARRIED UNANIMOUSLY

A.10 COUNCILLOR REPORTS

Cr Kennedy addressed Council regarding attendance at a conference in Melbourne regarding Modern Cities and Rural Centres and encouraged relevant Officers to attend and may benefit Korumburra Town Centre Plan and generally showing infrastructure ideas in new and innovative ways. The next conference is anticipated sometime in the New Year, 2015.

Cr Kennedy wished all a happy festive season.

Cr Fawcett also wished all a happy festive season.

Cr Davies addressed Council regarding attendance at Great Southern Rail Trail branding project presentations in Port Welshpool and Foster and commented positively on the outcomes of the project including; style of branding, very detailed signage and markers and relevant future infrastructure. Cr Davies also noted the rejuvenation of the 'Friends of the Great Southern Rail Trail' group and working bees/ BBQ at each station each second Sunday of the month. Notification will be made via press release and facebook and will provide the community with the opportunity to be involved and make plans for the work that needs to be done. It was also noted that a register of volunteers would add value and allow for future management of maintenance work. In conclusion Cr Davies noted that it is pleasing to see this hard working committee improving infrastructure in our community.

Cr Hutchinson-Brooks addressed Council regarding attendance at:

- **Southern Health Annual General Meeting (AGM) at Hillside Facility behind the Korumburra Hospital and noted a presentation from nursing staff regarding skin related issues and elderly people.**
- **Destination Gippsland AGM and congratulated the new Chair, Mr Steven Hibbard.**
- **Committee for Gippsland AGM and noted Mr Ken Lay, Chief Commissioner of Police speech regarding violence against women and a quote by *General Morrison*, 'The standard you walk past is the standard you accept'. Cr Hutchinson-Brooks commented that it is profound in that if 'we' don't speak out 'we' accept the behaviour.**
- **Ice forum in Inverloch hosted by Bass Coast and South Gippsland Shire Council, it was aimed at sporting groups and how they can assist young people to avoid ice. Cr Hutchinson-Brooks noted a forthcoming forum at Memorial Hall, Leongatha in the New Year and that it is important that Council shows leadership in both these issues.**

Cr Newton addressed Council regarding attendance at Community Grants Presentation Night and congratulated Penni Ellicott, Grants Officer for her role.

Cr Newton wished all a happy Christmas and a safe and prosperous New Year.

The Mayor, Cr Harding addressed Council regarding the variety and number of Volunteers that work with and support the Shire and thanked them sincerely and noted appreciation by the community.

Cr Harding wished all the compliments of the season and to take care.

SECTION B - NOTICES OF MOTION AND/OR RESCISSION

Nil

SECTION C - COMMITTEE REPORTS

Nil

SECTION D – PROCEDURAL REPORTS

D.1 REPORT ON ASSEMBLY OF COUNCILLORS - NOVEMBER 2014

Corporate Services Directorate

EXECUTIVE SUMMARY

As part of Council's ongoing efforts to enhance community engagement in Council processes, matters discussed at Councillor Briefing Sessions (other than those matters designated to be of a confidential nature) are reported on at Ordinary Council Meetings.

The matters listed in this report were presented or considered, at either an Advisory Committee Meeting, Councillor Strategic Briefing Session or Public Presentation Session in November 2014.

Copies of responses to written questions presented and asked, that were not answered at the meetings, will be either provided as an attachment to this report or to a subsequent Council Meeting, as is practicable, to enable the development of a proper and informed response.

Document/s pertaining to this Council Report

- Nil

LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES

Local Government Act 1989, Section 3D and Section 80A

COUNCIL PLAN

Outcome:	4.0	A Leading Organisation
Objective:	4.2	Pursue best practice in organisational development and operations of the organisation.
Strategy:	4.2.2	We will monitor corporate governance processes, including risk management and skills development with the aim of ongoing improvement.

REPORT

Meeting Title		Councillors Attending and Disclosures of Conflict of Interest	Topics Discussed
Wednesday 5 November 2014			
Municipal Study	Precinct	<p>Councillors Attending: Crs Fawcett, McEwen, Brunt, Newton, Harding, Hutchinson-Brooks, Davies, Hill and Kennedy.</p> <p>Conflict of Interest: Nil disclosed.</p>	<p>Topics Discussed: Councillors were provided information on the background and services specifications that form part of the Municipal Precinct Plan Tender document and project documentation.</p>
Planning Committee		<p>Councillors Attending: Crs Fawcett, McEwen, Brunt, Newton, Harding, Hutchinson-Brooks, Davies, Hill and Kennedy.</p> <p>Conflict of Interest: Cr Nigel Hutchinson-Brooks left the room with a declared Conflict of Interest with respect to the Koonwarra Commercial Precinct.</p>	<p>Topics Discussed:</p> <ul style="list-style-type: none"> • VCAT Decisions September 2014 • Statutory Planning Applications of Significance • Strategic Planning & Development Projects • Public Open Space Location • General Business
Council Timetable for November - December 2014		<p>Councillors Attending: Crs Fawcett, McEwen, Brunt, Newton, Harding, Hutchinson-Brooks, Davies, Hill and Kennedy.</p> <p>Conflict of Interest: Nil disclosed.</p>	<p>Topics Discussed: Councillors were provided information on the Councillor timetable for November and December 2014.</p>
Executive Update		<p>Councillors Attending: Crs Fawcett, McEwen, Brunt, Newton, Harding, Hutchinson-Brooks, Davies, Hill and Kennedy.</p> <p>Conflict of Interest: Nil disclosed.</p>	<p>Topics Discussed:</p> <ul style="list-style-type: none"> • Caravan Parks – Update • Advancing Country Towns Project – Evaluation and Promotion • Unsealed Roads Briefing

Meeting Title	Councillors Attending and Disclosures of Conflict of Interest	Topics Discussed
Wednesday 5 November 2014		
Social Community Infrastructure Committee	<p>Councillors Attending: Crs Harding, Fawcett, Davies, Brunt, McEwen, Kennedy and Hill.</p> <p>Conflict of Interest: Nil disclosed.</p>	<p>Topics Discussed:</p> <ul style="list-style-type: none"> • Project Scope changes • Two projects to commence in the Foster Township • Existing community consultation opportunities for Council's Community Strengthening Department and Social Planner. • Two submissions considering project scope • Andrew Nixon appointed as Community Facilitator for Stage 2 of the project.
Financial Sustainability Steering Committee	<p>Councillors Attending: Crs Hill, Harding, Brunt, Davies, Kennedy, Fawcett, McEwen, Newton and Hutchinson-Brooks.</p> <p>Conflict of Interest: Nil disclosed.</p>	<p>Topics Discussed: Councillor and Officer proposed initiatives for budget consideration.</p>
Friday 7 November 2014		
Yanakie Caravan Park Committee	<p>Councillors Attending: Crs Harding, Fawcett, Hutchinson-Brooks, McEwen, Hill.</p> <p>Conflict of Interest: Nil disclosed.</p>	<p>Topics Discussed:</p> <ul style="list-style-type: none"> • Park Improvements • Security • Works To Achieve Compliance • Arborist report – Cypress Trees • Relocation of Annuals • Future Improvement Work • Benchmarking • Future price increase

Meeting Title	Councillors Attending and Disclosures of Conflict of Interest	Topics Discussed
Wednesday 19 November 2014		
<p>Ordinary Council Agenda Topics Discussion 26 November 2014</p>	<p>Councillors Attending: Crs Fawcett, Brunt, Harding, Hutchinson-Brooks, Davies, Hill and Kennedy.</p> <p>Conflict of Interest: Cr Fawcett and left the room has a conflict of interest with Council Agenda Item E.1 PETITION RESPONSE – POOWONG LOCH NYORA SEWERAGE SCHEME PAYMENT PLAN FOR VOLUNTARY SERVICE AREAS as he has an indirect interest in that he has a conflicting duty as he is a Director of South Gippsland Water.</p>	<p>Topics Discussed:</p> <ul style="list-style-type: none"> • Ordinary Council Meeting Agenda Topics 26 November 2014.
<p>Financial Sustainability Steering Committee</p>	<p>Councillors Attending: Crs Hill, Harding, Brunt, Davies, McEwen Hutchinson-Brooks, Kennedy and Fawcett.</p> <p>Conflict of Interest: Nil disclosed.</p>	<p>Topics Discussed:</p> <ul style="list-style-type: none"> • Financial Strategies for 2015-2016 • Community engagement ‘Our Say’ outcomes • Community workshops • Aquatic Strategy Review – Stage 2 update
<p>Audit Committee Chair – Annual Update Theresa Glabb</p>	<p>Councillors Attending: Crs Fawcett, McEwen, Harding, Hutchinson-Brooks, Davies, Hill and Kennedy.</p> <p>Conflict of Interest: Nil disclosed.</p>	<p>Topics Discussed: Councillors were provided information on the annual report from Council’s Audit Committee Chair.</p>

Meeting Title	Councillors Attending and Disclosures of Conflict of Interest	Topics Discussed
Wednesday 19 November 2014		
<p>Public Presentations OPEN DAY SESSION</p>	<p>Councillors Attending: Crs Fawcett, McEwen, Brunt, Harding, Hutchinson-Brooks, Davies, Hill and Kennedy.</p> <p>Conflict of Interest: Nil disclosed.</p> <p>Presentations were made to Council by the following community members: Mr David Amor regarding Council Public Submission Item: Proposed Road Discontinuance, Part of Flinders Street, Korumburra and Burra Foods. Ms Kerry Spoke President and Ms Catherine McGlade Secretary, representing Fish Creek Memorial Hall Committee regarding the Master Plan for the Hall. Mr Syd White, representing the Korumburra Showground Society regarding an appeal towards recently purchased land adjacent the Showgrounds for parking. Mr Paul Norton regarding Leongatha Heavy Vehicle by-pass. Mr Neil Olsen regarding Council Public Submission Item: Proposed Road Discontinuance, Part of Flinders Street, Korumburra.</p>	
<p>Rate Rise Levels – Cr Hill</p>	<p>Councillors Attending: Crs Fawcett, McEwen, Brunt, Harding, Hutchinson-Brooks, Davies, Hill and Kennedy.</p> <p>Conflict of Interest: Nil disclosed.</p>	<p>Topics Discussed: Cr Hill provided a presentation to Councillors on rate rises.</p>
<p>Executive Update</p>	<p>Councillors Attending: Crs Fawcett, McEwen, Brunt, Harding, Hutchinson-Brooks, Davies, Hill and Kennedy.</p> <p>Conflict of Interest: Nil disclosed.</p>	<p>Topics Discussed:</p> <ul style="list-style-type: none"> • National Stronger Regions Fund • AusCamp

Meeting Title	Councillors Attending and Disclosures of Conflict of Interest	Topics Discussed
Wednesday 19 November 2014		
<p>Public Presentations OPEN EVENING SESSION</p>	<p>Councillors Attending: Crs Fawcett, Brunt, Harding, Hutchinson-Brooks, Davies, Hill and Kennedy.</p> <p>Conflict of Interest: Nil disclosed.</p> <p>Presentations were made to Council by the following community members: Mr Fred Couper, representing 'Friends of Mirboo North Swimming Pool' regarding the presentation of a Swimming Pool development proposal.</p>	
Thursday 20 November 2014		
<p>Australia Day Awards Selection Panel</p>	<p>Councillors Attending: Crs Harding, Hutchinson-Brooks and Davies.</p> <p>Conflict of Interest: Nil disclosed.</p>	<p>Topics Discussed: Councillors were provided information on and made selections on award recipients.</p>
Wednesday 26 November 2014		
<p>Ordinary Council Agenda Topics Discussion 26 November 2014</p>	<p>Councillors Attending: Crs Fawcett, Kennedy, Brunt, Newton, Harding, Hutchinson-Brooks and McEwen.</p> <p>Conflict of Interest: Nil disclosed.</p>	<p>Topics Discussed:</p> <ul style="list-style-type: none"> • Ordinary Council Meeting Agenda Topics 26 November 2014.
<p>Public Presentation Session OPEN DAY SESSION</p>	<p>Councillors Attending: Crs Fawcett, Kennedy, Brunt, Newton, Harding, Hutchinson-Brooks, McEwen and Davies.</p> <p>Conflict of Interest: Nil disclosed.</p> <p>Presentations were made to Council by the following community members: Mr Ian Lyon representing the Foster Swimming Pool Working Group regarding the future of Foster Swimming Pool. Mr David Amor representing the Korumburra Business Association regarding the Korumburra Town Centre Framework and parking.</p>	<p>Presentations were made to Council by the following community members:</p>

Meeting Title	Councillors Attending and Disclosures of Conflict of Interest	Topics Discussed
Wednesday 26 November 2014		
Unsealed Road Maintenance Techniques	<p>Councillors Attending: Crs Fawcett, Kennedy, Newton, Harding and McEwen.</p> <p>Conflict of Interest: Nil disclosed.</p>	<p>Topics Discussed: Councillors were provided information on maintenance practices and techniques for Council's unsealed road network.</p>
Compliance and Enforcement Policy	<p>Councillors Attending: Crs Fawcett, Kennedy, Newton, Harding, Hutchinson-Brooks and McEwen.</p> <p>Conflict of Interest: Nil disclosed.</p>	<p>Topics Discussed: Councillors were provided the Compliance and Enforcement Policy prior to adoption by Council.</p>
Executive Update	<p>Councillors Attending: Crs Fawcett, Kennedy, Newton, Harding, Hutchinson-Brooks, McEwen and Brunt.</p> <p>Conflict of Interest: Nil disclosed.</p>	<p>Topics Discussed:</p> <ul style="list-style-type: none"> • Korumburra Showground Committee • Yanakie Caravan Park • Manager Positions at Council
Ordinary Council Agenda Topics Discussion 26 November 2014	<p>Councillors Attending: Crs Fawcett, Kennedy, Brunt, Newton, Harding, and Hill.</p> <p>Conflict of Interest: Nil disclosed.</p>	<p>Topics Discussed:</p> <ul style="list-style-type: none"> • Ordinary Council Meeting Agenda Topics 26 November 2014
Rating Strategy Implementation Review	<p>Councillors Attending: Crs Fawcett, Kennedy, Brunt, Newton, Harding, Hutchinson-Brooks, Hill and McEwen.</p> <p>Conflict of Interest: Nil disclosed.</p>	<p>Topics Discussed: Councillors were provided information on the implementation on the 2014-2018 Rating Strategy.</p>

Meeting Title	Councillors Attending and Disclosures of Conflict of Interest	Topics Discussed
Wednesday 26 November 2014		
Social Community Infrastructure Steering Committee	<p>Councillors Attending: Crs Harding, Davies, Brunt, Hill, McEwen and Kennedy.</p> <p>Conflict of Interest: Nil disclosed.</p>	<p>Topics Discussed:</p> <ul style="list-style-type: none"> • Consultant's update on the progress of Stage 2 of the Social Community Infrastructure Project • Community consultation • Utilisation of existing facilities in the two clusters under review, Venus Bay/Tarwin Lower and Tarwin Valley, and the opportunities for future social infrastructure development • Community foundation based around a cluster that will enable the community to generate revenue • Revolving service delivery to a local level to be managed by a community foundation
Thursday 27 November 2014		
Korumburra Round Table	<p>Councillors Attending: Crs Brunt and McEwen.</p> <p>Conflict of Interest: Nil disclosed.</p>	<p>Topics Discussed:</p> <ul style="list-style-type: none"> • Korumburra community update • Council Update • Gateway Signage Project • Planning for futures Workshop • Planning for Korumburra Community Christmas activities • Council's Korumburra Town Centre Framework Plan • New litter bins • Event Management and communication • Sale of Saleyards and clearing premises • Laneway access to parking

RECOMMENDATION

That Council receive and note this report.

STAFF DISCLOSURE OF INTEREST

Nil

MOVED: Cr Newton

SECONDED: Cr Davies

**THAT THE RECOMMENDATIONS IN ITEMS D.1, D.2, D.3 AND D.4 BE
ADOPTED.**

CARRIED UNANIMOUSLY

D.2 COUNCILLOR DISCRETIONARY FUND ALLOCATION REPORT

Corporate Services Directorate

EXECUTIVE SUMMARY

Each Councillor, subject to an annual budget and in accordance with the Councillor Discretionary Fund Policy, has the discretion to nominate Council funds to community groups and / or individuals in accordance with the guidelines developed for this purpose.

This report details Councillors allocations for the period between 30 October 2014 and 21 November 2014.

INTERNAL POLICIES / STRATEGIES / DOCUMENTS

Councillor Discretionary Fund Policy 2014

COUNCIL PLAN

Outcome:	2.0	Closely Connected Communities
Objective:	2.1	Engage and work collaboratively with our community
Strategy:	2.1.3	We aim to minimise barriers and find ways to support our volunteers, community groups and committees to provide services beyond those that Council, by itself, can provide.

REPORT

The following applications have been allocated funding from the Councillor's 2014/2015 Discretionary Fund for the period between 30 October 2014 and 21 November 2014.

- Toora Swimming Pool: To cover costs of hiring a Jumping Castle for the Toora Community Christmas Party at the Pool.

Cr Mohya Davies - \$100

Cr Jeanette Harding - \$150
- South Coast Board Riders Club Inc.: To assist with costs of purchasing two shade tents.

Cr Mohya Davies - \$200
- Toora Tennis Club: Sponsorship for a presentation party for the Toora Tennis Club and Bocce Group.

Cr Jeanette Harding - \$200

- Korumburra Community Development and Action Inc.: To assist with the costs of running the Celebrate Christmas for Children Program.

Cr Lorraine Brunt - \$334

Cr Andrew McEwen - \$333

Cr Robert Newton - \$333
- Korumburra & District Agricultural & Pastoral Society: Sponsorship for prize money for Battle of the Bands open class at the 2015 Korumburra Show.

Cr Lorraine Brunt - \$134

Cr Andrew McEwen - \$134
- Loch Community Development Association: To assist with costs of hosting a joint community commemoration of the ANZAC Centenary on ANZAC Eve 2015.

Cr Lorraine Brunt - \$200

Cr Andrew McEwen - \$200
- Dumbalk & District Progress Association Inc.: For the purchase of a First Aid Kit for the Dumbalk Community Centre.

Cr James Fawcett - \$120
- Mirboo North Swimming Pool Committee: To assist with costs of holding a New Release Movie Night during the 2015 Australia Day celebrations.

Cr Don Hill - \$1,000

FINANCIAL CONSIDERATIONS

Each Councillor is allocated \$4,000 from the Councillor Discretionary Fund in the 2014/2015 Financial Budget. An additional \$2,000 has been allocated to the Mayor to cover a broader focus across the entire Municipality.

CONCLUSION

The unexpended Councillor Discretionary Funds for the 2014/2015 Financial Year as at 21 November 2014 is as follows:

- Cr Mohya Davies - \$3,020
- Cr Jeanette Harding - \$2,550
- Cr Kieran Kennedy - \$250

- Cr Lorraine Brunt - \$421
- Cr Robert Newton - \$1,351
- Cr Andrew McEwen - \$1,116
- Cr James Fawcett - \$2,800
- Cr Don Hill - \$2,520
- Cr Hutchinson-Brooks - \$3,520
- Mayoral Fund - \$1,800

RECOMMENDATION

That Council receive and note this report.

STAFF DISCLOSURE OF INTEREST

Nil

NOTE: The recommendation was CARRIED UNANIMOUSLY as part of a single motion, refer to page 18.

D.3 DOCUMENTS SEALED AND CONTRACTS AWARDED UNDER CHIEF EXECUTIVE OFFICER DELEGATION - NOVEMBER 2014

Corporate Services Directorate

EXECUTIVE SUMMARY

Under the Victorian Local Government Act, each Council is a body corporate and a legal entity in its own right. Each Council must have a common seal (like any corporate entity) that is an official sanction of that Council.

Sealing a document makes it an official document of Council as a corporate body. Documents that require sealing include agreements, contracts, leases or any other contractual or legally binding document that binds Council to another party.

Council's Procurement Policy requires that Council be advised of the award of contracts after a public tender process that fall within the Chief Executive Officer's delegation.

LEGISLATIVE/ ACTION PLANS/ STRATEGIES/ POLICIES

- Local Government Act 1989 - Section 5 and 186
- Local Law No. 3 2010
- South Gippsland Shire Council Procurement Policy
- South Gippsland Shire Council Instrument of Delegation to the Chief Executive Officer

COUNCIL PLAN

Outcome:	4.0	A Leading Organisation.
Objective:	4.2	Pursue best practice in organisational development and operations of the organisation.
Strategy:	4.2.2	We will monitor corporate governance processes, including risk management and skills development with the aim of ongoing improvement.

REPORT

Documents Sealed

The Local Government Act 1989 requires that every Council must have a common seal and all courts, judges and persons acting judicially must take judicial notice of the imprint of the common seal of a Council on any document.

Local Law No. 3 2010, Part 9, Section 107 (f) (iv) – The Common Seal of Council, states that ‘If the Chief Executive uses the Common Seal in a manner prescribed by sub-clause (c) then he/she must advise Council of such use on a regular basis.’

In accordance with the Local Law, the following are presented to Council as documents sealed in the month of November 2014.

1. Section 45 Transfer of Land Act Execution between South Gippsland Shire Council and the Transferees of 8 McDonald Street, Meeniyah – Seal Applied 5 November 2014.
2. Deed of Novation – Contract No. SGC15/03 Supply and Delivery Quarry Products between South Gippsland Shire Council, Fulton Hogan Construction Pty Ltd and Fulton Hogan Quarries Pty Ltd – Seal Applied 11 November 2014.

Contracts

Contracts Awarded Under Chief Executive Officer Delegation

The Chief Executive Officer's delegation of power from the Council allows the Chief Executive Officer to award contracts up to the value of \$250,000 (inclusive of GST) after a public tender process, subject to the exercise of this power being reported to the Council meeting after the contract is awarded.

All of the legislative requirements of section 186 of the Local Government Act 1989 and the requirements of Council's Procurement Policy are met in respect of the tender/s.

Procurement Policy requires recording in the Council Minutes all contracts over the statutory threshold set out in the Local Government Act 1989 (\$150,000 inclusive of GST for goods and services and \$200,000 inclusive of GST for works) for a public tender which shows the contracts purpose, a brief description of the goods, services and works that is being procured, the successful tenderer and the total contract price.

No contracts have been awarded under the Chief Executive Officer's delegation this month.

Contract variations approved by the Chief Executive

The following variations to contracts are reported to Council in accordance with a requirement of Council's Procurement Policy for variations which either exceed the total contract budget or involve significant changes to a contract scope or timelines in respect of contracts approved by Council.

There are no contract variations to report.

RECOMMENDATION

That Council receive and note this report.

STAFF DISCLOSURE OF INTEREST

Nil

NOTE: The recommendation was CARRIED UNANIMOUSLY as part of a single motion, refer to page 18.

D.4 FINANCE PERFORMANCE REPORT JULY - NOVEMBER 2014

Corporate Services Directorate

EXECUTIVE SUMMARY

The financial performance to November 2014 shows the following high level outcomes:

- Operating result: \$64,000 deficit which is \$647,000 unfavourable compared to the year to date budget projection of \$583,000 surplus.
- Capital works: \$2.566 million expenditure which is \$1.082 million behind year to date budget of \$3.648 million.
- Cash assets: Projected 30 June \$13.593 million (original budget \$9.657 million)
- Underlying working capital ratio: Projected 30 June 1.79 to 1 (original budget 1.56 to 1)
- The projected financial outcome for 2014/15 is a \$5.363 million surplus. This is \$726,000 unfavourable than the original \$6.089 million budgeted surplus.
- The longer term financial performance indicators show that the financial plan (adjusted for budget carry forward and other budget adjustments) is financially sustainable.

Document/s pertaining to this Council Report

- **Appendix 1** - Financial Performance Report to 30 November 2014

A copy of **Appendix 1** - Financial Performance Report to 30 November 2014 is available on Council's website: www.southgippsland.vic.gov.au or by contacting 5662 9200.

LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES

Local Government Act 1989 - Part 7 Financial Management

INTERNAL POLICIES / STRATEGIES / DOCUMENTS

Long Term Financial Strategies

COUNCIL PLAN

Outcome:	4.0	A Leading Organisation.
Objective:	4.1	Improve the financial sustainability of Council, including diversifying revenue streams.
Strategy:	4.1.1	We will explore innovative ways of increasing revenue and reducing expenditure.

CONSULTATION

Not Applicable

REPORT

Background

Council each year sets an Annual Budget within a 15 year Long Term Financial Plan framework. Guidance is provided by the Long Term Financial Strategies when developing annual and longer term budgets. The financial integrity of the budgeted financial statements in the annual and forward budgets can be assessed by reference to financial performance indicators.

Throughout the course of the financial year the actual financial performance is managed by:

- Comparing year to date actual financial performance with the year to date budgets.
- Monitoring the financial impact of changes made to budget projections on the forecast financial results at year end; and
- Monitoring the longer term financial ramifications and comparing to the originally adopted long term financial plan's budgeted financial statements.

The financial performance indicators that were used to develop the annual and longer term budgets are used to monitor projected financial outcomes at year end and the longer term financial ramifications.

The Financial Performance Reports are purposefully prepared outside traditional quarterly cycles. The timelines better align with strategic events that occur throughout the financial year. This enables important information financial updates to be provided to Council and the community in a timely manner.

The reporting timelines include:

- August: Report picks up financial implications of previous year's financial results as well the budget impact of funding projects carried forward that were not completed by 30 June.

- November: Report picks up financial implications of any changes made to operational or capital budgets during the commencement of the annual process.
- February: Report aligns with annual budget process.
- May: Report provides Council with likely financial outcome for year end including picking up budgets being carried forward for projects that are not expected to be completed by 30 June.

At financial year end comprehensive financial statements and performance statements are produced, subject to external audit and form part of the Annual Report.

Discussion

Appendix 1 - Financial Performance Report contains detailed reporting on:

Section 1 - Year to date financial performance and projected financial results.

This section discusses variations in year to date performance and budget projections. The information is presented in the budgeted financial statements format.

Section 2 – Annual year to date financial analysis.

This section analyses the implications of the year to date performance and the projected outcome for the financial year end.

Section 3 – Long Term Financial Plan analysis.

This section benchmarks and strategically analyses the financial impact of the year's projected financial results against the adopted Annual Budget, Long Term Financial Plan and the Long Term Financial Strategies key performance indicators.

FINANCIAL CONSIDERATIONS

Activities within the Council 2014-2015 Annual Plan are funded through the 2014-2015 Budget.

The Financial Performance Report provides a high level analysis of Council's position for the July to November period.

The longer term financial performance indicators show that the financial plan is financially sustainable.

RISK FACTORS

Transparency in reporting is a risk management control measure that allows the community and Council to view and assess the financial management of

year to date results as well as the annual and longer term financial implications.

CONCLUSION

It is recommended that Council receive and note the Financial Performance Report. The Report provides an overview of Council's financial performance for the period July to November 2014.

RECOMMENDATION

That Council receive and note the Financial Performance Report (Appendix 1) for the period July to November 2014.

STAFF DISCLOSURE OF INTEREST

Nil

NOTE: The recommendation was CARRIED UNANIMOUSLY as part of a single motion, refer to page 18.

SECTION E - COUNCIL REPORTS

E.1 INVESTIGATION INTO A PROPOSED HIGH JUMP FACILITY

Community Services Directorate

EXECUTIVE SUMMARY

At the September 2014 Council meeting Council resolved to:

1. *Liaise with the appropriate coaches within the local community to determine needs and requirements for local athletes who compete in high jump and how the high jump pit should be managed by the local community; and*
2. *Prepare a report identifying the best location and cost for a high jump pit built to a suitable standard to enable local athletes to train within the shire rather than having to travel outside the shire to access a suitable facility.*

This report presents the results of the investigation into the proposed development of a high jump facility within the Shire. Construction costs for a synthetic rubber surface and a grass surface for the high jump area have been identified. Due to a construction cost estimated at \$180,000 for a synthetic surface, it is recommended that Council support the Leongatha Little Athletics to investigate the development of a grass high jump area.

INTERNAL POLICIES / STRATEGIES / DOCUMENTS

Recreation Strategy 2007

COUNCIL PLAN

Outcome:	1.0	Closely Connected Communities
Objective:	1.1	Engage and work collaboratively with our community.
Strategy:	1.1.1	We will develop a continually evolving Vision for the Shire that encourages community participation in defining what it wants, needs and can afford to guide rationalisation, consolidation and achievement of desired community outcomes.

CONSULTATION

A meeting was held at the Leongatha Recreation Reserve in September 2014 with David Green coach of Eleanor Patterson to discuss the notice of motion from Cr Hill regarding the development of a suitable high jump facility.

The discussion identified the location below at the Leongatha Recreation Reserve as the most suitable due to its proximity to the other Little Athletics infrastructure



Cardinia Shire Council provided information about a recent project where a new synthetic surface was laid on a high jump area in Pakenham.

A company that specialise in synthetic athletic surfaces provided general information on construction requirements and anticipated costs.

REPORT

Background

At the 2014 Glasgow Commonwealth Games Leongatha local Eleanor Patterson won a gold medal in the high jump clearing 1.94m.

Eleanor began Little Athletics in Leongatha at age six and has competed at national and international events during her teens, culminating in her success in Glasgow.

The Leongatha Little Athletics Club operates track events within the velodrome at the Leongatha Recreation Reserve, with field events conducted in various areas outside the cycling track. The activities of the club are slightly impeded by the shared and dispersed nature of the facilities, but they have successfully introduced children to athletics over many years.

As these children improve and compete at State, National and higher levels of competition their training is limited by the standard of local facilities. Higher level athletics events are held on dedicated synthetic athletics tracks. Therefore athletes wanting to improve their performance need access to training facilities of equivalent standard to competition venues. Currently

athletes at this level have to travel to Casey Fields in Cranbourne or to the Latrobe Valley to access dedicated synthetic athletics facilities.

At the September 2014 Council meeting Cr Hill raised a notice of motion that resulted in the following resolution;

That Council:

- 1. Liaise with the appropriate coaches within the local community to determine needs and requirements for local athletes who compete in high jump and how the high jump pit should be managed by the local community; and*
- 2. Prepare a report identifying the best location and cost for a high jump pit built to a suitable standard to enable local athletes to train within the shire rather than having to travel outside the shire to access a suitable facility.*

Discussion

The Leongatha Little Athletics Club has a long held desire for a dedicated athletic facility to be developed in Leongatha. In 2008 the club commissioned a feasibility study into the development of a synthetic athletics track. Due to a development cost of several million dollars for a synthetic track and land acquisition costs the project has not progressed.

Strategic plans for future residential development in Leongatha do provide allowances for large areas of public open space potentially suitable for the development of athletics facilities. The biggest obstacle to the development of a synthetic athletics facility is the cost. The 2008 study identified construction cost at approximately \$2 million but the Casey Fields athletics track which opened in 2011 was built at a cost of over \$6 million.

The significant capital investment for a full synthetic facility is difficult to justify in South Gippsland even with the very strong participation in Little Athletics. The development of a grass track and facilities on new areas of open space acquired by Council as residential areas in Leongatha expand may be more achievable.

The success Eleanor experienced in winning Commonwealth Gold would certainly rank as one of the greatest sporting achievements from a local athlete. The lack of a facility suitable for training at such a high level while living locally makes the feat even more remarkable.

Across the majority of sports South Gippsland does not provide facilities that are focused at elite level athletes. Our facilities are generally suitable for local and regional level competition and are provided to maximise local community usage. It is common for talented local athletes to have to travel to access higher level training and competition venues across a variety of sports such as AFL, soccer, hockey, tennis, swimming, cricket, basketball and netball.

Construction of a synthetic rubber high jump area requires a suitable drained site, a crushed rock base with and asphalt seal then the synthetic granular rubber surface is laid to a concrete edge.

If a suitable asphalt or concrete base area existed, covering with synthetic granular rubber would cost approximately \$100 per square meter or \$65,000.

Construction of the facility from a green field site is estimated at \$233 per square metre or \$151,500. Paths, bollards to prevent vehicle access and a removable cover for high jump mat bring the estimated full construction cost to \$180,000.

This cost reflects the development of a high jump facility to accommodate elite level training. An alternative approach may be to create a grass high jump facility suitable for local level use in recognition of Eleanor efforts rather than a venue for her to continue elite level participation in the sport. Preparing a high quality grass high jump area on the identified site is estimated at \$40,000.

Some opportunities for external funding towards this project may be available. Under the guidelines of existing sport and recreation programs securing support for a high level single purpose facility maybe a challenge.

Options

Council has the following options available;

1. Support the development of synthetic high jump facility with the allocation of resources to complete the project;
2. Decline to further progress the development of a synthetic high jump facility; or
3. Investigate the development of a lower level grass high jump facility in recognition of Eleanor's achievements to date.

Proposal

That Council decline to further progress the development of a synthetic high jump facility but support the Leongatha Little Athletics Club in pursuing external funding for a grass high jump facility, should they determine it to be a local priority.

FINANCIAL CONSIDERATIONS

There are no funds allocated to the design or construction of this project within Council's current or future budgets. However if the grass high jump facility is determined a priority for the Leongatha Little Athletics Club funding options that could be pursued include Council's community grants program or other external funding programs.

RISKS

Providing adequate justification to external grant funding organisations for a synthetic rubber high jump facility in Leongatha would be a challenge.

There is a risk that Council may be expected to contribute to the ongoing maintenance and eventual replacement cost of the surface. The maintenance cost would be low in years following construction but would gradually increase until replacement of the surface is required after approximately 20 years.

CONCLUSION

Eleanor's performance at the Glasgow Commonwealth Games was an exceptionally proud moment for the entire South Gippsland community.

While her achievement should be applauded and recognised, Council can best serve the broader community's needs through the provision of facilities for local level participation rather than elite level competition.

RECOMMENDATION

That Council:

1. Not pursue the development of a synthetic high jump facility in Leongatha.
2. Support the Leongatha Little Athletics Club in pursuing external funding for a grass high jump facility, should they determine such a facility to be a local priority.

STAFF DISCLOSURE OF INTEREST

Nil

MOVED: Cr Hill

SECONDED: Cr Kennedy

THAT COUNCIL:

1. **NOT PURSUE THE DEVELOPMENT OF A SYNTHETIC HIGH JUMP FACILITY IN LEONGATHA.**
2. **SUPPORT THE LEONGATHA LITTLE ATHLETICS CLUB IN PURSUING EXTERNAL FUNDING FOR A GRASS HIGH JUMP FACILITY, SHOULD THEY DETERMINE SUCH A FACILITY TO BE A LOCAL PRIORITY.**

CARRIED UNANIMOUSLY

E.2 PLANNING APPLICATION 2013/249 - USE AND DEVELOPMENT OF A DWELLING, USE OF THE LAND FOR A RURAL INDUSTRY AND DEVELOPMENT OF A SHED- 20 LYREBIRD LANE WOORARRA WEST

Development Services Directorate

EXECUTIVE SUMMARY

This report is to consider a planning permit application for the use and development of land for a dwelling, use of the land for rural industry and development of a shed. The land is located at 20 Lyrebird Lane, Woorarra West and has an area of 22.24 hectares. The land is in the Farming Zone (FZ), Environmental Significance Overlays (Water Catchments - ESO2 and Areas Susceptible to Erosion - ESO5) and the Bushfire Management Overlay (BMO).

The application was referred to South Gippsland Water (SGW) pursuant to Section 55 of the Planning and Environment Act 1987 and Clause 66.02-5 of the Planning Scheme because the application is within the declared Deep Creek Open Potable Water Supply Catchment. SGW withdrew its original objection to the proposal because there is an existing approved septic system on the land.

This application has been referred to Council for a decision as twelve (12) objections were received. The decision before Council is to consider whether to issue a Notice of Decision to Grant a Permit or to issue a Notice of Decision to Refuse to Grant a Permit.

On balance of the competing considerations, this report recommends that Council should issue a Notice of Decision to Grant a Permit.

Document/s pertaining to this Council Report

- **Attachment 1** - Aerial Photography
- **Attachment 2** - Planning Property Report
- **Attachment 3** - Proposed Site Plan
- **Attachment 4** - Detailed Planning Assessment
- **Confidential Appendix 1** - Copies of Objections (12)

A copy of **Confidential Appendix 1** has been distributed separately to Councillors and the Executive Leadership Team.

LEGISLATIVE/ ACTION PLANS/ STRATEGIES/ POLICIES

- Planning and Environment Act 1987 (the Act)
- South Gippsland Planning Scheme (the Scheme)

- Planning permit applications in open, potable water supply catchment areas guidelines, November 2012 (the Guidelines)
- Environment Protection Act 1970 (EP Act)
- Catchment and Land Protection Act 1994 (CLM Act)
- The State Environment Protection Policy (Waters of Victoria) (the SEPP)

INTERNAL POLICIES / STRATEGIES / DOCUMENTS

- Rural Land Use Strategy, August 2011 (RLUS)

COUNCIL PLAN

Outcome:	1.0	A Prosperous Shire
Strategy:	1.1.2	We will protect and retain the unique identity of towns, villages and farming districts.
Strategy	1.1.3	We will actively encourage sustainable development and growth of agriculture, industry and commercial business.

CONSULTATION

The application was notified by postal notice to adjoining property owners/occupiers in accordance with Section 52 of the Act. Council received twelve (12) written objections. The objections can be summarised as;

1. The farming operation does not require a permanent on-site presence and therefore a dwelling is not required.
2. The farming of poultry on the land is attracting foxes to the area which threatens local wildlife.
3. Domestic animals, livestock and poultry are not being contained within the property.
4. The poultry operation causes noise, light and odour nuisance to nearby properties which reduces visual appeal, peace and quiet.
5. The poultry operation will cause degradation to and removal of topsoil.
6. The poultry operation impacts the water quality in the Deep Creek Catchment.

The application was referred internally to Environmental Health. Conditional support for the waste water and food business components of the application was provided.

The application was referred to the Country Fire Authority (CFA) and South Gippsland Water (SGW) under Section 55 of the Act. The CFA provided

conditional support and SGW has provided unconditional support for the proposal.

REPORT

Background

The land is commonly known as 20 Lyrebird Lane Woorarra West. It is located on the intersection of Lyrebird Lane and Nippards Track. The land is 22.24 Ha in area and a substantial proportion of the land is steep. There are a number of water courses and dams on the land. There is also scattered native vegetation.

(Refer **Attachment 1** - Aerial photography).

The land is zoned Farming Zone (FZ) and is covered by the Bushfire Management Overlay (BMO), Environmental Significance Overlay - Water Catchments (ESO2) and Environmental Significance Overlay - Areas Susceptible to Erosion (ESO5). The land is within the Deep Creek Catchment, which is a Declared Special Water Supply Catchment under the Catchment and Land Protection Act 1994.

(Refer **Attachment 2** - Planning property report).

An existing shed was illegally converted to a dwelling by the current owners. Following investigation of a complaint, a Building Notice was issued by Council on 31 July 2013. This Notice required the owner to show cause as to why they should not demolish the building and return the building to its original use as a shed. The owner then applied for a planning permit to seek approval to use land for the purpose of a dwelling and rural industry. A farm management plan has been submitted in support of the application.

The land is currently being used to farm free range poultry (chickens, ducks, geese, turkeys, quails and guinea fowl), a small number of sheep and beef calves, and to grow vegetables. The owners have planted a large orchard including fruit and hazelnut trees. Eggs collected from the poultry are being sold at local markets. These uses are defined as 'extensive animal husbandry' and 'horticulture' by the Planning Scheme and they do not require a planning permit in the Farming Zone.

Only a limited number of properties in the area are being actively farmed, with many being used for rural lifestyle purposes and some grazing.

Proposal

The application seeks a planning permit for the use and development of a dwelling, use for a rural industry and development of a shed.

The dwelling is proposed to support the agricultural use of the land. The dwelling is already constructed and is a modestly designed two storey, four bedroom, two bathroom dwelling. It is connected to water tanks and an approved septic tank system. A building permit is required for the dwelling but

can't be issued before planning approval is obtained. It is largely screened from both roads by vegetation and by the topography of the land.

The rural industry will include the processing of food produced on the land into jams, pickles, sausages, cheeses, pasta, smoked meats, and frozen cooked meals. This processing is to be undertaken in the kitchen within the dwelling.

The shed is located within 100m of a waterway and its ancillary water tanks are located within 20m of a road.

(Refer **Attachment 3** - Proposed site plan).

Discussion

Section 60 of the Act requires the responsible authority to consider the following;

- The relevant planning scheme;
- The objectives of planning in Victoria;
- All objections and other submissions which it has received;
- Any decision and comments of a referral authority which it has received;
- Any significant effects which the responsible authority considers the use or development may have on the environment or which the responsible authority considers the environment may have on the use or development;
- Any significant social effects and economic effects which the responsible authority considers the use or development may have; and
- Any other strategic plan, policy statement, code or guideline which has been adopted by a Minister.

Council has considered all of the above matters and a detailed assessment against all relevant provisions is provided at **Attachment 4**.

Options

Council has three options to determine this application. They are:

- Issue a notice of decision to grant a planning permit in accordance with the recommendations and conditions detailed in this report;
- Issue a notice of decision to grant a planning permit differing to the recommendations and subject to alternate conditions; or
- Issue a refusal to grant a permit.

RISKS

An appeal could be lodged to the Victorian Civil and Administrative Tribunal (VCAT) by either the applicant or the objectors.

CONCLUSION

It is considered that there are effectively two primary issues to determine in this application. They are:

- Is the use and development of a dwelling on the land appropriate having regard to the SPPF, Farming Zone and Clause 22.05 - Rural Dwellings; and
- Should the use and development of a dwelling on the land be supported having regard to the Minister for Water's 'Planning permit applications in open, potable water supply catchment areas' guideline?

Council considers that the use and development of a dwelling on the land can be supported with respect to the objectives of the SPPF and the decision guidelines of the Farming Zone and Clause 22.05. It is considered the submitted Farm Management Plan requires minor amendment, but that it generally demonstrates that a dwelling would be beneficial to agricultural productivity on the land. A recommended condition would address the balance of Council's concerns with respect to the Farm Management Plan.

The application does not satisfy Guideline 1 of the Minister for Water's 'Planning permit applications in open, potable water supply catchment areas' guideline. That is, it would result in a dwelling density greater than 1:40ha. However, in this particular instance there is an existing approved septic system on the land approved under the Environment Protection Act 1970. Due to the presence of an existing approved septic system it is recommended that the application be supported, as the approval the dwelling will not result in additional risk to the existing quality of water in the catchment. Had the existing system been installed without the relevant approval or not been present, then the recommendation would likely be for refusal of the application in accordance with numerous decisions of VCAT and the Supreme Court relating to 'open, potable water supply catchments'.

Objections relating to amenity as a result of the existing and proposed agricultural activities on the land are not considered relevant to the assessment of this application. Each of the existing and proposed agricultural uses do not trigger a planning permit. The proposed rural industry will be minor in nature and not likely to have any adverse effect on the environment or adjoining properties. The applicant may have even been able to justify the rural industry as a 'home occupation'. Concerns that have been raised are best investigated under Council's local laws or under the nuisance provisions of the Public Health and Wellbeing Act 2008.

On balance of the relevant considerations it is recommended that Council issue a notice of decision to grant a permit, subject to appropriate conditions.

RECOMMENDATION

That Council issue a Notice of Decision to Grant a Permit for the use and development of a dwelling, use of the land for rural industry and development of a shed, all in accordance with the endorsed plans and subject to the following conditions:

1. Before any further building or works commence an amended Farm Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Farm Management Plan will be endorsed and then form part of the permit. The plan must be generally in accordance with the plan submitted with the application/other specified plans but modified to:
 - a. Remove reference from the document, which states that Council considers the existing agricultural uses to be intensive farming.
2. The building, works and layout as shown on the endorsed plan(s) must not be altered or modified except with the written consent of the Responsible Authority.
3. Once the development has started it must be continued and completed in a timely manner to the satisfaction of the Responsible Authority.
4. Prior to the issue of an Occupancy Permit for the dwelling, an Agreement under Section 173 of the Planning and Environment Act must be entered into which ensures that the:
 - a. The land shall not be subdivided so as to create any additional lots.
 - b. A rural industry business must be established on the land to the satisfaction of the Responsible Authority, generally in accordance with the Farm Management Plan submitted with the permit application and endorsed as part of this permit.
 - c. The dwelling on the land must be occupied by the person(s) operating and managing the farming activities on the land
 - d. The requirements of (b) and (c) above can be varied by substitution of an alternative use if approved under Condition 3 of the Permit.
 - e. In the event that the establishment of a rural industry business on the land as described in the particulars and statements submitted with the application ceases, the dwelling must continue to be utilised in association with a bona fide agricultural land use that requires a dwelling on the land, and a new Farm Management Plan must be prepared all to the satisfaction of the Responsible Authority.

The Agreement must be registered on title pursuant to Section 181 of the Planning and Environment Act. All costs relating to the preparation

and registration of the Agreement must be borne by the applicant. The agreement must be registered prior to the issue of an Occupancy Permit.

RURAL INDUSTRY CONDITIONS

5. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:
 - a. transport of materials, goods or commodities to or from the land
 - b. appearance of any building, works or materials
 - c. emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil
 - d. presence of vermin.

All waste material or other refuse must be obscured from the view of the public and must be disposed of in a manner to the satisfaction of the Responsible Authority.

6. The property must be maintained in a neat and tidy condition to the satisfaction of the Responsible Authority.
7. The loading and unloading of vehicles and delivery of goods must at all times be within the boundaries of the site.

DWELLING CONDITIONS

8. Downpipe water from the dwelling must be suitably directed into water tank(s), soakwell(s), or otherwise discharged, so as not to cause erosion to the subject or surrounding land, to the satisfaction of the Responsible Authority. The external finishes and materials of water tank(s) (if required) must be colour treated in muted low-reflective tones.
9. The external finishes of the dwelling, including walls and roof materials, must be colour treated and maintained in muted non-reflective tones to the satisfaction of the Responsible Authority.
10. Care must be taken to ensure that the construction of the dwelling and ancillary works, and their ongoing use, does not cause erosion or degradation to the subject or surrounding land to the satisfaction of the Responsible Authority.
11. Building construction must be carried out in accordance with Construction Techniques for Sediment Pollution Control (EPA May 1991) and Control of Erosion on Construction Sites (Soil Conservation Authority) to the satisfaction of the Responsible Authority.

- 12.** All works must be undertaken in a manner that minimises soil erosion, and any exposed areas of soil must be stabilised to prevent soil erosion, to the satisfaction of the Responsible Authority.
- 13.** Any access road, clearings and banks resulting from excavation must be stabilised by the use of retaining walls, terracing, revegetation and other means of slope stabilisation due to the steepness of the block and must be to the satisfaction of the Responsible Authority.
- 14.** The owner/applicant must comply with the following South Gippsland Shire Engineering Department conditions:
 - a.** Access and layout of the driveway must be constructed in accordance with Council's standard drawing SD 255 (Copy attached).
 - b.** The driveway must have a minimum consolidated pavement depth of 100 mm thick crushed rock or 2nd grade gravel on a suitably prepared and firm subgrade between the road and the property boundary.
 - c.** The remainder of the driveway must be constructed, and thereafter maintained, to an all-weather standard (gravel, crushed rock or equivalent).
 - d.** The owner/applicant must check with the relevant authorities before any excavation work is undertaken.
 - e.** All work must be to the satisfaction of the Responsible Authority.
- 15.** The dwelling must be connected to reticulated sewerage, if available. If reticulated sewerage is not available all wastewater from the dwelling must be treated and retained within the boundaries of the lot in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.

CFA CONDITIONS

- 16.** The owner/applicant must comply with the following Country Fire Authority conditions:

Defendable Space

Before the occupation of the dwelling starts, and at all times thereafter, vegetation on the land must be maintained to at least the following standard:

- a.** Inner Zone – extending from the dwelling to the south-west for 41 metres and in all other directions for at least 25 metres
 - i.** Within 10 metres of a building, flammable objects such as plants, mulches and fences must not be located close to vulnerable parts of the dwelling such as windows, decks and eaves.
 - ii.** Trees must not overhang the roofline of the dwelling, touch walls or other elements of a building.
 - iii.** Grass must be no more than 5 centimetres in height and all leaves and vegetation debris are to be removed at regular intervals.
 - iv.** Shrubs must not be planted under trees and separated by at least 1.5 times their mature height.
 - v.** Plants greater than 10 centimetres in height at maturity must not be placed directly in front of a window or other glass feature.
 - vi.** Tree canopy separation of 2 metres and the overall canopy cover of no more than 15 per cent at maturity.
 - vii.** Tree branches below 2 metres from ground level must be removed.
 - b.** Outer Zone – extending from the perimeter of the inner zone in the south-west for at least 19 metres (or to the property boundary – whichever is the lesser distance)
 - i.** Grass must be no more than 10 centimetres in height and leaf and other debris mowed, slashed or mulched.
 - ii.** Shrubs and/or trees must not form a continuous canopy with unmanaged fuels.
 - iii.** Tree branches below 2 metres from ground level must be removed.
-

- iv. Trees may touch each other with an overall tree canopy cover of no more than 30 per cent at maturity.
- v. Shrubs must be in clumps of no greater than 10 square metres, which are separated from each other by at least 10 metres.

Construction

- c. A site assessment for the purpose of determining the bushfire attack level for the site has been considered as part of the application for the planning permit. The construction of the dwelling must be to a bushfire attack level of BAL-12.5 in accordance with the relevant sections to AS3959-2009.

Static Water Supply

- d. Prior to the initial occupation of the dwelling a static water supply must be provided on the land and must meet all of the following requirements:
 - i. The water supply must have a minimum capacity of 10,000 litres that is maintained solely for fire fighting purposes.
 - ii. The water supply must be stored in an above ground water tank constructed of concrete, steel or corrugated iron.
 - iii. The water supply must be located within 60 metres of the outer edge of the dwelling (including any obstructions).
 - iv. The water supply outlet/s must be attached to the water tank and must face away from the building if located less than 20 metres from the building to enable access during emergencies.
 - v. All pipework between the water supply and the outlet/s must be a minimum of 64 mm nominal bore.
 - vi. All fixed above-ground water pipelines and fittings must be of non-corrodible and non-combustible materials.
 - vii. The water supply must:
 - Be located so that fire brigade vehicles are able to get to within 4 metres of the water supply outlet.
 - Incorporate an additional 64 mm (minimum) gate or ball valve and 64mm (fixed size), 3 threads per inch, male fitting to suit a CFA coupling.
 - Incorporate a vortex inhibitor or additional water must be provided to ensure that the volume of water available is

not restricted by a vortex. Refer to Section 5 of AS.2419 for requirements for vortex inhibitors.

- Incorporate an additional ball or gate valve to provide access to the water by the resident of the dwelling.
- e.** The water supply outlet must not be obstructed by vegetation, buildings, fences or other structures.
- f.** All below-ground water pipelines must be installed to at least the following depths:
- i.** Subject to vehicle traffic: 300 mm
 - ii.** Under dwellings or concrete slabs: 75 mm
 - iii.** All other locations: 225 mm
- g.** The water supply must be readily identifiable from the building or appropriate signage must be provided which:
- i.** Has an arrow pointing to the location of the water supply.
 - ii.** Has dimensions of not less than 310 mm high and 400 mm long.
 - iii.** Is red in colour, with a blue reflective marker attached.
 - iv.** Is labelled with a 'W' that is not less than 15 cm high and 3 cm thick.

Access

- h.** Before the occupation of the dwelling starts access to the static water supply outlet and the dwelling must be provided and must be designed to allow emergency vehicle access. The design of the access (including gates, bridges and culverts) must comply with the following minimum requirements:
- i.** Curves in driveway must have a minimum inner radius of 10 metres.
 - ii.** The average grade must be no more than 1 in 7 (14.4 per cent) (8.1 degrees) with a maximum of no more than 1 in 5 (20 per cent) (11.3 degrees) for no more than 50 metres.
 - iii.** Dips must have no more than a 1 in 8 (12.5 per cent) (7.1 degrees) entry and exit angle.
 - iv.** Designed, constructed and maintained for a load limit of at least 15 tonnes and be of all-weather construction.

- v. Have a minimum trafficable width of 3.5 metres and be substantially clear of encroachments for at least 0.5 metres on each side.
- vi. Be clear of encroachments at least 4 metres vertically.
- vii. Incorporate a turning area for fire fighting vehicles close to the building must be provided, by either:
 - A turning circle with a minimum radius of eight metres; or
 - The driveway encircling the dwelling; or
 - A T head or Y head with a minimum formed surface of each leg being eight metres in length measured from the centre point of the head, and four metres trafficable width.

Mandatory Condition – Maintenance of bushfire mitigation measures

- i. The bushfire mitigation measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defensible space, water supply, and access, must be maintained to the satisfaction of the responsible authority and the relevant fire authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.

17. This permit will expire if either of the following applies:

- a. The development is not completed within two (2) years of the date of this permit.
- b. The use of the land for a dwelling or rural industry does not start within two (2) years after the completion of the development.

Notes

- 1. Pursuant to the provisions of Section 69 of the Planning and Environment Act 1987, The Responsible Authority may extend the time to complete the development under part (a) of the expiry condition if:
 - a. the request for an extension of time is made within 12 months after the permit expires; and
 - b. the development or stage started lawfully before the permit expired.

The Responsible Authority may extend the time to start the use of the land under part (b) of the expiry condition if the request is made before the permit expires or within 6 months afterwards.

2. This permit allows the above land to be used or developed for the purpose specified. It is the permit holder's responsibility to ensure that any other relevant approvals are obtained prior to the commencement of the use or development. A building permit is required for the completion of the dwelling, in order for it to comply with the Building Act 1993.
3. The owner/applicant is encouraged to check with the relevant service authorities before any excavation work is undertaken (e.g. Telstra, SP Ausnet and South Gippsland Water).
4. A Consent to Work Within the Road Reserve Permit must be obtained from Council's Engineering Department for the construction and/or alteration of the driveway.

STAFF DISCLOSURE OF INTEREST

Nil

MOVED: Cr Hill

SECONDED: Cr Davies

THAT COUNCIL ISSUE A NOTICE OF DECISION TO GRANT A PERMIT FOR THE USE AND DEVELOPMENT OF A DWELLING, USE OF THE LAND FOR RURAL INDUSTRY AND DEVELOPMENT OF A SHED, ALL IN ACCORDANCE WITH THE ENDORSED PLANS AND SUBJECT TO THE FOLLOWING CONDITIONS:

- 1. BEFORE ANY FURTHER BUILDING OR WORKS COMMENCE AN AMENDED FARM MANAGEMENT PLAN TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY MUST BE SUBMITTED TO AND APPROVED BY THE RESPONSIBLE AUTHORITY. WHEN APPROVED, THE FARM MANAGEMENT PLAN WILL BE ENDORSED AND THEN FORM PART OF THE PERMIT. THE PLAN MUST BE GENERALLY IN ACCORDANCE WITH THE PLAN SUBMITTED WITH THE APPLICATION/OTHER SPECIFIED PLANS BUT MODIFIED TO:
 - a. REMOVE REFERENCE FROM THE DOCUMENT, WHICH STATES THAT COUNCIL CONSIDERS THE EXISTING AGRICULTURAL USES TO BE INTENSIVE FARMING.****
- 2. THE BUILDING, WORKS AND LAYOUT AS SHOWN ON THE ENDORSED PLAN(S) MUST NOT BE ALTERED OR MODIFIED EXCEPT WITH THE WRITTEN CONSENT OF THE RESPONSIBLE AUTHORITY.**
- 3. ONCE THE DEVELOPMENT HAS STARTED IT MUST BE CONTINUED AND COMPLETED IN A TIMELY MANNER TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.**
- 4. PRIOR TO THE ISSUE OF AN OCCUPANCY PERMIT FOR THE DWELLING, AN AGREEMENT UNDER SECTION 173 OF THE PLANNING AND ENVIRONMENT ACT MUST BE ENTERED INTO WHICH ENSURES THAT THE:
 - a. THE LAND SHALL NOT BE SUBDIVIDED SO AS TO CREATE ANY ADDITIONAL LOTS.**
 - b. A RURAL INDUSTRY BUSINESS MUST BE ESTABLISHED ON THE LAND TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY, GENERALLY IN ACCORDANCE WITH THE FARM MANAGEMENT PLAN SUBMITTED WITH THE PERMIT APPLICATION AND ENDORSED AS PART OF THIS PERMIT.**
 - c. THE DWELLING ON THE LAND MUST BE OCCUPIED BY THE PERSON(S) OPERATING AND MANAGING THE FARMING ACTIVITIES ON THE LAND****

- d. **THE REQUIREMENTS OF (B) AND (C) ABOVE CAN BE VARIED BY SUBSTITUTION OF AN ALTERNATIVE USE IF APPROVED UNDER CONDITION 3 OF THE PERMIT.**
- e. **IN THE EVENT THAT THE ESTABLISHMENT OF A RURAL INDUSTRY BUSINESS ON THE LAND AS DESCRIBED IN THE PARTICULARS AND STATEMENTS SUBMITTED WITH THE APPLICATION CEASES, THE DWELLING MUST CONTINUE TO BE UTILISED IN ASSOCIATION WITH A BONA FIDE AGRICULTURAL LAND USE THAT REQUIRES A DWELLING ON THE LAND, AND A NEW FARM MANAGEMENT PLAN MUST BE PREPARED ALL TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.**

THE AGREEMENT MUST BE REGISTERED ON TITLE PURSUANT TO SECTION 181 OF THE PLANNING AND ENVIRONMENT ACT. ALL COSTS RELATING TO THE PREPARATION AND REGISTRATION OF THE AGREEMENT MUST BE BORNE BY THE APPLICANT. THE AGREEMENT MUST BE REGISTERED PRIOR TO THE ISSUE OF AN OCCUPANCY PERMIT.

RURAL INDUSTRY CONDITIONS

- 5. **THE USE AND DEVELOPMENT MUST BE MANAGED SO THAT THE AMENITY OF THE AREA IS NOT DETRIMENTALLY AFFECTED, THROUGH THE:**
 - a. **TRANSPORT OF MATERIALS, GOODS OR COMMODITIES TO OR FROM THE LAND**
 - b. **APPEARANCE OF ANY BUILDING, WORKS OR MATERIALS**
 - c. **EMISSION OF NOISE, ARTIFICIAL LIGHT, VIBRATION, SMELL, FUMES, SMOKE, VAPOUR, STEAM, SOOT, ASH, DUST, WASTE WATER, WASTE PRODUCTS, GRIT OR OIL**
 - d. **PRESENCE OF VERMIN.**

ALL WASTE MATERIAL OR OTHER REFUSE MUST BE OBSCURED FROM THE VIEW OF THE PUBLIC AND MUST BE DISPOSED OF IN A MANNER TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.

- 6. **THE PROPERTY MUST BE MAINTAINED IN A NEAT AND TIDY CONDITION TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.**
- 7. **THE LOADING AND UNLOADING OF VEHICLES AND DELIVERY OF GOODS MUST AT ALL TIMES BE WITHIN THE BOUNDARIES OF THE SITE.**

DWELLING CONDITIONS

- 8. DOWNPIPE WATER FROM THE DWELLING MUST BE SUITABLY DIRECTED INTO WATER TANK(S), SOAKWELL(S), OR OTHERWISE DISCHARGED, SO AS NOT TO CAUSE EROSION TO THE SUBJECT OR SURROUNDING LAND, TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY. THE EXTERNAL FINISHES AND MATERIALS OF WATER TANK(S) (IF REQUIRED) MUST BE COLOUR TREATED IN MUTED LOW-REFLECTIVE TONES.**
- 9. THE EXTERNAL FINISHES OF THE DWELLING, INCLUDING WALLS AND ROOF MATERIALS, MUST BE COLOUR TREATED AND MAINTAINED IN MUTED NON-REFLECTIVE TONES TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.**
- 10. CARE MUST BE TAKEN TO ENSURE THAT THE CONSTRUCTION OF THE DWELLING AND ANCILLARY WORKS, AND THEIR ONGOING USE, DOES NOT CAUSE EROSION OR DEGRADATION TO THE SUBJECT OR SURROUNDING LAND TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.**
- 11. BUILDING CONSTRUCTION MUST BE CARRIED OUT IN ACCORDANCE WITH CONSTRUCTION TECHNIQUES FOR SEDIMENT POLLUTION CONTROL (EPA MAY 1991) AND CONTROL OF EROSION ON CONSTRUCTION SITES (SOIL CONSERVATION AUTHORITY) TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.**
- 12. ALL WORKS MUST BE UNDERTAKEN IN A MANNER THAT MINIMISES SOIL EROSION, AND ANY EXPOSED AREAS OF SOIL MUST BE STABILISED TO PREVENT SOIL EROSION, TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.**
- 13. ANY ACCESS ROAD, CLEARINGS AND BANKS RESULTING FROM EXCAVATION MUST BE STABILISED BY THE USE OF RETAINING WALLS, TERRACING, REVEGETATION AND OTHER MEANS OF SLOPE STABILISATION DUE TO THE STEEPNESS OF THE BLOCK AND MUST BE TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.**
- 14. THE OWNER/APPLICANT MUST COMPLY WITH THE FOLLOWING SOUTH GIPPSLAND SHIRE ENGINEERING DEPARTMENT CONDITIONS:**
 - a. ACCESS AND LAYOUT OF THE DRIVEWAY MUST BE CONSTRUCTED IN ACCORDANCE WITH COUNCIL'S STANDARD DRAWING SD 255 (COPY ATTACHED).**
 - b. THE DRIVEWAY MUST HAVE A MINIMUM CONSOLIDATED PAVEMENT DEPTH OF 100 MM THICK CRUSHED ROCK OR 2ND GRADE GRAVEL ON A SUITABLY PREPARED AND FIRM SUBGRADE BETWEEN THE ROAD AND THE PROPERTY BOUNDARY.**

- c. **THE REMAINDER OF THE DRIVEWAY MUST BE CONSTRUCTED, AND THEREAFTER MAINTAINED, TO AN ALL-WEATHER STANDARD (GRAVEL, CRUSHED ROCK OR EQUIVALENT).**
 - d. **THE OWNER/APPLICANT MUST CHECK WITH THE RELEVANT AUTHORITIES BEFORE ANY EXCAVATION WORK IS UNDERTAKEN.**
 - e. **ALL WORK MUST BE TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.**
15. **THE DWELLING MUST BE CONNECTED TO RETICULATED SEWERAGE, IF AVAILABLE. IF RETICULATED SEWERAGE IS NOT AVAILABLE ALL WASTEWATER FROM THE DWELLING MUST BE TREATED AND RETAINED WITHIN THE BOUNDARIES OF THE LOT IN ACCORDANCE WITH THE STATE ENVIRONMENT PROTECTION POLICY (WATERS OF VICTORIA) UNDER THE ENVIRONMENT PROTECTION ACT 1970.**

CFA CONDITIONS

16. **THE OWNER/APPLICANT MUST COMPLY WITH THE FOLLOWING COUNTRY FIRE AUTHORITY CONDITIONS:**

DEFENDABLE SPACE

BEFORE THE OCCUPATION OF THE DWELLING STARTS, AND AT ALL TIMES THEREAFTER, VEGETATION ON THE LAND MUST BE MAINTAINED TO AT LEAST THE FOLLOWING STANDARD:

- a. **INNER ZONE – EXTENDING FROM THE DWELLING TO THE SOUTH-WEST FOR 41 METRES AND IN ALL OTHER DIRECTIONS FOR AT LEAST 25 METRES**
 - i. **WITHIN 10 METRES OF A BUILDING, FLAMMABLE OBJECTS SUCH AS PLANTS, MULCHES AND FENCES MUST NOT BE LOCATED CLOSE TO VULNERABLE PARTS OF THE DWELLING SUCH AS WINDOWS, DECKS AND EAVES.**
 - ii. **TREES MUST NOT OVERHANG THE ROOFLINE OF THE DWELLING, TOUCH WALLS OR OTHER ELEMENTS OF A BUILDING.**
 - iii. **GRASS MUST BE NO MORE THAN 5 CENTIMETRES IN HEIGHT AND ALL LEAVES AND VEGETATION DEBRIS ARE TO BE REMOVED AT REGULAR INTERVALS.**
 - iv. **SHRUBS MUST NOT BE PLANTED UNDER TREES AND SEPARATED BY AT LEAST 1.5 TIMES THEIR MATURE HEIGHT.**

- v. **PLANTS GREATER THAN 10 CENTIMETRES IN HEIGHT AT MATURITY MUST NOT BE PLACED DIRECTLY IN FRONT OF A WINDOW OR OTHER GLASS FEATURE.**
 - vi. **TREE CANOPY SEPARATION OF 2 METRES AND THE OVERALL CANOPY COVER OF NO MORE THAN 15 PER CENT AT MATURITY.**
 - vii. **TREE BRANCHES BELOW 2 METRES FROM GROUND LEVEL MUST BE REMOVED.**
- b. **OUTER ZONE – EXTENDING FROM THE PERIMETER OF THE INNER ZONE IN THE SOUTH-WEST FOR AT LEAST 19 METRES (OR TO THE PROPERTY BOUNDARY – WHICHEVER IS THE LESSER DISTANCE)**
- i. **GRASS MUST BE NO MORE THAN 10 CENTIMETRES IN HEIGHT AND LEAF AND OTHER DEBRIS MOWED, SLASHED OR MULCHED.**
 - ii. **SHRUBS AND/OR TREES MUST NOT FORM A CONTINUOUS CANOPY WITH UNMANAGED FUELS.**
 - iii. **TREE BRANCHES BELOW 2 METRES FROM GROUND LEVEL MUST BE REMOVED.**
 - iv. **TREES MAY TOUCH EACH OTHER WITH AN OVERALL TREE CANOPY COVER OF NO MORE THAN 30 PER CENT AT MATURITY.**
 - v. **SHRUBS MUST BE IN CLUMPS OF NO GREATER THAN 10 SQUARE METRES, WHICH ARE SEPARATED FROM EACH OTHER BY AT LEAST 10 METRES.**

CONSTRUCTION

- c. **A SITE ASSESSMENT FOR THE PURPOSE OF DETERMINING THE BUSHFIRE ATTACK LEVEL FOR THE SITE HAS BEEN CONSIDERED AS PART OF THE APPLICATION FOR THE PLANNING PERMIT. THE CONSTRUCTION OF THE DWELLING MUST BE TO A BUSHFIRE ATTACK LEVEL OF BAL-12.5 IN ACCORDANCE WITH THE RELEVANT SECTIONS TO AS3959-2009.**

STATIC WATER SUPPLY

- d. **PRIOR TO THE INITIAL OCCUPATION OF THE DWELLING A STATIC WATER SUPPLY MUST BE PROVIDED ON THE LAND AND MUST MEET ALL OF THE FOLLOWING REQUIREMENTS:**

- i. **THE WATER SUPPLY MUST HAVE A MINIMUM CAPACITY OF 10,000 LITRES THAT IS MAINTAINED SOLELY FOR FIRE FIGHTING PURPOSES.**
 - ii. **THE WATER SUPPLY MUST BE STORED IN AN ABOVE GROUND WATER TANK CONSTRUCTED OF CONCRETE, STEEL OR CORRUGATED IRON.**
 - iii. **THE WATER SUPPLY MUST BE LOCATED WITHIN 60 METRES OF THE OUTER EDGE OF THE DWELLING (INCLUDING ANY OBSTRUCTIONS).**
 - iv. **THE WATER SUPPLY OUTLET/S MUST BE ATTACHED TO THE WATER TANK AND MUST FACE AWAY FROM THE BUILDING IF LOCATED LESS THAN 20 METRES FROM THE BUILDING TO ENABLE ACCESS DURING EMERGENCIES.**
 - v. **ALL PIPEWORK BETWEEN THE WATER SUPPLY AND THE OUTLET/S MUST BE A MINIMUM OF 64 MM NOMINAL BORE.**
 - vi. **ALL FIXED ABOVE-GROUND WATER PIPELINES AND FITTINGS MUST BE OF NON-CORRODIBLE AND NON-COMBUSTIBLE MATERIALS.**
 - vii. **THE WATER SUPPLY MUST:**
 - **BE LOCATED SO THAT FIRE BRIGADE VEHICLES ARE ABLE TO GET TO WITHIN 4 METRES OF THE WATER SUPPLY OUTLET.**
 - **INCORPORATE AN ADDITIONAL 64 MM (MINIMUM) GATE OR BALL VALVE AND 64MM (FIXED SIZE), 3 THREADS PER INCH, MALE FITTING TO SUIT A CFA COUPLING.**
 - **INCORPORATE A VORTEX INHIBITOR OR ADDITIONAL WATER MUST BE PROVIDED TO ENSURE THAT THE VOLUME OF WATER AVAILABLE IS NOT RESTRICTED BY A VORTEX. REFER TO SECTION 5 OF AS.2419 FOR REQUIREMENTS FOR VORTEX INHIBITORS.**
 - **INCORPORATE AN ADDITIONAL BALL OR GATE VALVE TO PROVIDE ACCESS TO THE WATER BY THE RESIDENT OF THE DWELLING.**
 - e. **THE WATER SUPPLY OUTLET MUST NOT BE OBSTRUCTED BY VEGETATION, BUILDINGS, FENCES OR OTHER STRUCTURES.**
-

- f. ALL BELOW-GROUND WATER PIPELINES MUST BE INSTALLED TO AT LEAST THE FOLLOWING DEPTHS:**
 - i. SUBJECT TO VEHICLE TRAFFIC: 300 MM**
 - ii. UNDER DWELLINGS OR CONCRETE SLABS: 75 MM**
 - iii. ALL OTHER LOCATIONS: 225 MM**
- g. THE WATER SUPPLY MUST BE READILY IDENTIFIABLE FROM THE BUILDING OR APPROPRIATE SIGNAGE MUST BE PROVIDED WHICH:**
 - i. HAS AN ARROW POINTING TO THE LOCATION OF THE WATER SUPPLY.**
 - ii. HAS DIMENSIONS OF NOT LESS THAN 310 MM HIGH AND 400 MM LONG.**
 - iii. IS RED IN COLOUR, WITH A BLUE REFLECTIVE MARKER ATTACHED.**
 - iv. IS LABELLED WITH A 'W' THAT IS NOT LESS THAN 15 CM HIGH AND 3 CM THICK.**

ACCESS

- h. BEFORE THE OCCUPATION OF THE DWELLING STARTS ACCESS TO THE STATIC WATER SUPPLY OUTLET AND THE DWELLING MUST BE PROVIDED AND MUST BE DESIGNED TO ALLOW EMERGENCY VEHICLE ACCESS. THE DESIGN OF THE ACCESS (INCLUDING GATES, BRIDGES AND CULVERTS) MUST COMPLY WITH THE FOLLOWING MINIMUM REQUIREMENTS:**
 - i. CURVES IN DRIVEWAY MUST HAVE A MINIMUM INNER RADIUS OF 10 METRES.**
 - ii. THE AVERAGE GRADE MUST BE NO MORE THAN 1 IN 7 (14.4 PER CENT) (8.1 DEGREES) WITH A MAXIMUM OF NO MORE THAN 1 IN 5 (20 PER CENT) (11.3 DEGREES) FOR NO MORE THAN 50 METRES.**
 - iii. DIPS MUST HAVE NO MORE THAN A 1 IN 8 (12.5 PER CENT) (7.1 DEGREES) ENTRY AND EXIT ANGLE.**
 - iv. DESIGNED, CONSTRUCTED AND MAINTAINED FOR A LOAD LIMIT OF AT LEAST 15 TONNES AND BE OF ALL-WEATHER CONSTRUCTION.**

- v. **HAVE A MINIMUM TRAFFICABLE WIDTH OF 3.5 METRES AND BE SUBSTANTIALLY CLEAR OF ENCROACHMENTS FOR AT LEAST 0.5 METRES ON EACH SIDE.**
- vi. **BE CLEAR OF ENCROACHMENTS AT LEAST 4 METRES VERTICALLY.**
- vii. **INCORPORATE A TURNING AREA FOR FIRE FIGHTING VEHICLES CLOSE TO THE BUILDING MUST BE PROVIDED, BY EITHER:**
 - **A TURNING CIRCLE WITH A MINIMUM RADIUS OF EIGHT METRES; OR**
 - **THE DRIVEWAY ENCIRCLING THE DWELLING; OR**
 - **A T HEAD OR Y HEAD WITH A MINIMUM FORMED SURFACE OF EACH LEG BEING EIGHT METRES IN LENGTH MEASURED FROM THE CENTRE POINT OF THE HEAD, AND FOUR METRES TRAFFICABLE WIDTH.**

MANDATORY CONDITION – MAINTENANCE OF BUSHFIRE MITIGATION MEASURES

- i. **THE BUSHFIRE MITIGATION MEASURES FORMING PART OF THIS PERMIT OR SHOWN ON THE ENDORSED PLANS, INCLUDING THOSE RELATING TO CONSTRUCTION STANDARDS, DEFENDABLE SPACE, WATER SUPPLY, AND ACCESS, MUST BE MAINTAINED TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY AND THE RELEVANT FIRE AUTHORITY ON A CONTINUING BASIS. THIS CONDITION CONTINUES TO HAVE FORCE AND EFFECT AFTER THE DEVELOPMENT AUTHORISED BY THIS PERMIT HAS BEEN COMPLETED.**
- 17. THIS PERMIT WILL EXPIRE IF EITHER OF THE FOLLOWING APPLIES:**
- a. **THE DEVELOPMENT IS NOT COMPLETED WITHIN TWO (2) YEARS OF THE DATE OF THIS PERMIT.**
 - b. **THE USE OF THE LAND FOR A DWELLING OR RURAL INDUSTRY DOES NOT START WITHIN TWO (2) YEARS AFTER THE COMPLETION OF THE DEVELOPMENT.**

NOTES

- 1. **PURSUANT TO THE PROVISIONS OF SECTION 69 OF THE PLANNING AND ENVIRONMENT ACT 1987, THE RESPONSIBLE AUTHORITY MAY EXTEND THE TIME TO COMPLETE THE DEVELOPMENT UNDER PART (A) OF THE EXPIRY CONDITION IF:**
-

- a. **THE REQUEST FOR AN EXTENSION OF TIME IS MADE WITHIN 12 MONTHS AFTER THE PERMIT EXPIRES; AND**
- b. **THE DEVELOPMENT OR STAGE STARTED LAWFULLY BEFORE THE PERMIT EXPIRED.**

THE RESPONSIBLE AUTHORITY MAY EXTEND THE TIME TO START THE USE OF THE LAND UNDER PART (B) OF THE EXPIRY CONDITION IF THE REQUEST IS MADE BEFORE THE PERMIT EXPIRES OR WITHIN 6 MONTHS AFTERWARDS.

2. **THIS PERMIT ALLOWS THE ABOVE LAND TO BE USED OR DEVELOPED FOR THE PURPOSE SPECIFIED. IT IS THE PERMIT HOLDER'S RESPONSIBILITY TO ENSURE THAT ANY OTHER RELEVANT APPROVALS ARE OBTAINED PRIOR TO THE COMMENCEMENT OF THE USE OR DEVELOPMENT. A BUILDING PERMIT IS REQUIRED FOR THE COMPLETION OF THE DWELLING, IN ORDER FOR IT TO COMPLY WITH THE BUILDING ACT 1993.**
3. **THE OWNER/APPLICANT IS ENCOURAGED TO CHECK WITH THE RELEVANT SERVICE AUTHORITIES BEFORE ANY EXCAVATION WORK IS UNDERTAKEN (E.G. TELSTRA, SP AUSNET AND SOUTH GIPPSLAND WATER).**
4. **A CONSENT TO WORK WITHIN THE ROAD RESERVE PERMIT MUST BE OBTAINED FROM COUNCIL'S ENGINEERING DEPARTMENT FOR THE CONSTRUCTION AND/OR ALTERATION OF THE DRIVEWAY.**

CARRIED UNANIMOUSLY

Attachment 1 - Aerial photography



Attachment 2 - Planning Property Report

Department of
Transport, Planning and
Local Infrastructure

Planning Property Report

from www.dtpli.vic.gov.au/planning on 26 August 2014 10:36 AM

Address: 20 LYREBIRD LANE WOORARRA WEST 3960

Lot and Plan Number: Lot 2 LP210474

Local Government (Council): SOUTH GIPPSLAND Council Property Number: 191335

Directory Reference: VicRoads 103 D3

Planning Zone

FARMING ZONE (FZ)

SCHEDULE TO THE FARMING ZONE



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0 800m

Note: labels for zones may appear outside the actual zone - please compare the labels with the legend.

Zones Legend

ACZ - Activity Centre	IN12 - Industrial 1	R1Z - General Residential
B1Z - Commercial 1	IN22 - Industrial 2	R2Z - General Residential
B2Z - Commercial 1	IN32 - Industrial 3	R3Z - General Residential
B3Z - Commercial 2	LDRZ - Low Density Residential	RAZ - Rural Activity
B4Z - Commercial 2	MLZ - Mixed Use	RCZ - Rural Conservation
B5Z - Commercial 1	NRZ - Neighbourhood Residential	RDZ1 - Road - Category 1
C1Z - Commercial 1	PCRZ - Public Conservation & Resource	RDZ2 - Road - Category 2
C2Z - Commercial 2	PDZ - Priority Development	RGZ - Residential Growth
CA - Commonwealth Land	PPRZ - Public Park & Recreation	RLZ - Rural Living
CCZ - Capital City	PUZ1 - Public Use - Service & Utility	RLZ - Rural
CDZ - Comprehensive Development	PUZ2 - Public Use - Education	SLZ - Special Use
DZ - Dockland	PUZ3 - Public Use - Health Community	TZ - Township
ERZ - Environmental Rural	PUZ4 - Public Use - Transport	UFZ - Urban Floodway
FZ - Farming	PUZ5 - Public Use - Cemetery/Crematorium	UGZ - Urban Growth
GRZ - General Residential	PUZ6 - Public Use - Local Government	
GWAZ - Green Wedge A	PUZ7 - Public Use - Other Public Use	
GWZ - Green Wedge		-- Urban Growth Boundary

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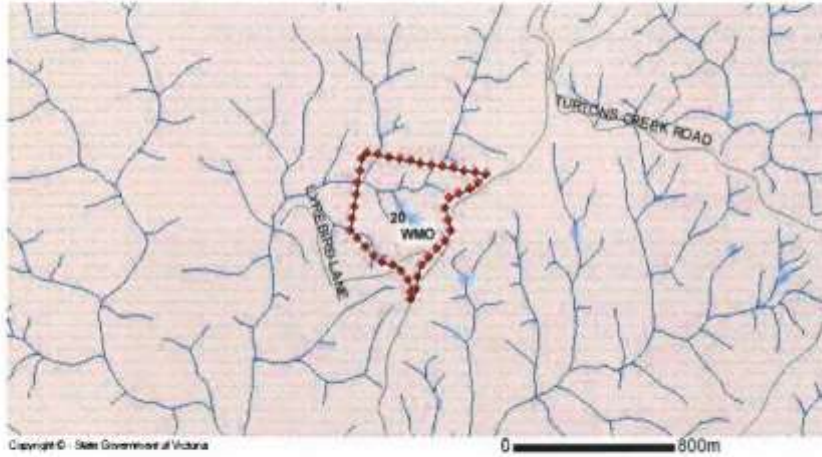
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Department of
Transport, Planning and
Local Infrastructure

Planning Overlays

BUSHFIRE MANAGEMENT OVERLAY (BMO OR WMO)



ENVIRONMENTAL SIGNIFICANCE OVERLAY (ESO)

ENVIRONMENTAL SIGNIFICANCE OVERLAY - SCHEDULE 2 (ESO2)

ENVIRONMENTAL SIGNIFICANCE OVERLAY - SCHEDULE 5 (ESO5)



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Department of
Transport, Planning and
Local Infrastructure

Planning Overlays Legend

Overlays Legend

	AEO - Airport Environs		LSIO - Land Subject to Inundation
	BMD - Bushfire Management (also WMD)		MAEO1 - Melbourne Airport Environs 1
	CLPD - City Link Project		MAEO2 - Melbourne Airport Environs 2
	DCPD - Development Contributions Plan		NCD - Neighbourhood Character
	DDO - Design & Development		PO - Parking
	DDOPT - Design & Development Part		PAO - Public Acquisition
	DPO - Development Plan		RO - Restructure
	EAO - Environmental Audit		RCD - Road Closure
	EMD - Erosion Management		SBO - Special Building
	ESO - Environmental Significance		SLO - Significant Landscape
	FO - Floodway		SMO - Salinity Management
	HO - Heritage		SRD - State Resource
	IPO - Incorporated Plan		VPO - Vegetation Protection

Note: due to overlaps some colours on the maps may not match those in the legend.

Further Planning Information

Planning scheme data last updated on 21 August 2014.

A **planning scheme** sets out policies and requirements for the use, development and protection of land.

This report provides information about the zone and overlay provisions that apply to the selected land.

Information about the State, local, particular and general provisions of the local planning scheme that may affect the use of this land can be obtained by contacting the local council or by visiting [Planning Schemes Online](#)

This report is NOT a **Planning Certificate** issued pursuant to Section 199 of the Planning & Environment Act 1987.

It does not include information about exhibited planning scheme amendments, or zonings that may affect the land.

To obtain a Planning Certificate go to [Titles and Property Certificates](#)

For details of surrounding properties, use this service to get the Reports for properties of interest

To view planning zones, overlay and heritage information in an interactive format visit [Planning Maps Online](#)

For other information about planning in Victoria visit www.dpod.vic.gov.au/planning

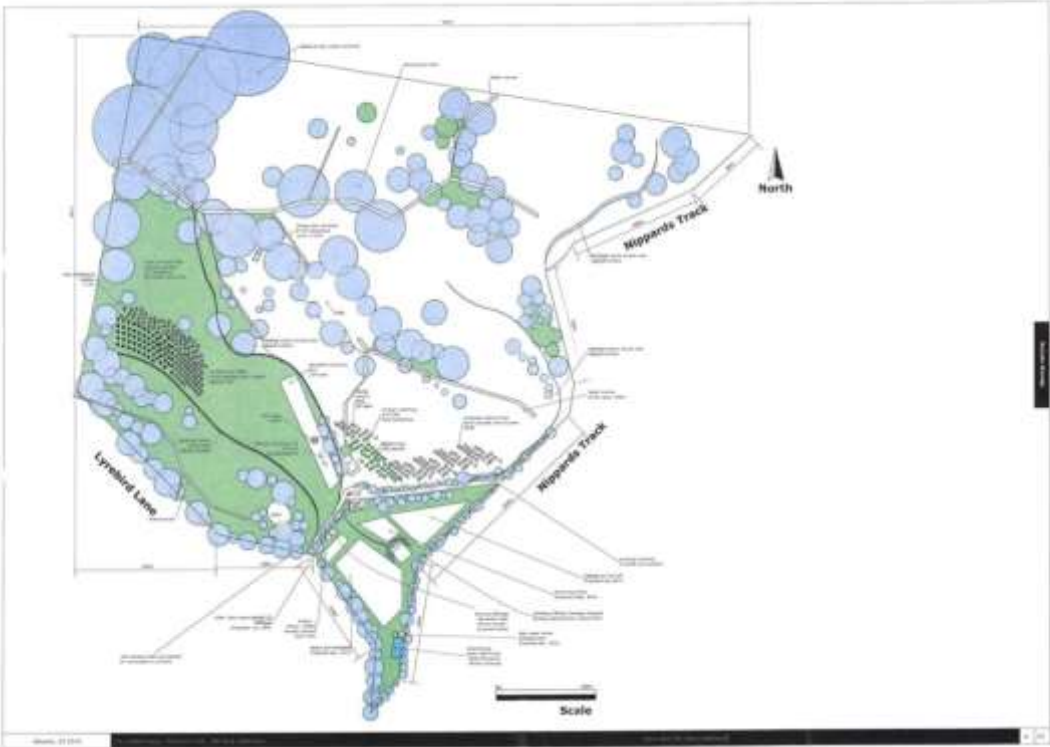
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Attachment 3 - Proposed Site Plan



Attachment 4 - Detailed Planning Assessment

The proposed land is located within the FZ. There are two land uses which are proposed and described as part of the application. These are dwelling and rural industry. Development of a shed is also proposed within 100m of a waterway and its water tanks will be located within 20m of a road. Agriculture is already occurring and is also addressed below.

Agriculture

- Within the FZ the use of land for Agriculture (other than animal keeping, apiculture, intensive animal husbandry, rice growing and timber production) is a Section 1 use, i.e. a permit is not required to conduct this activity.
- Following assessment of the application the existing and proposed agricultural uses are considered to be defined as 'extensive animal husbandry' and 'horticulture'. The application is not considered to include intensive animal husbandry on the basis that most of the food supply is able to be obtained from the land and supplemented, rather than requiring most of the food to be imported from outside the enclosures (site). These existing and future agricultural activities are proposed as reasons to support the dwelling application. However, as these agricultural uses do not require a planning permit, Council is unable to consider concerns about these land uses.

Dwelling

- The use of the land for a dwelling is a Section 2 use because the lot has an area of less than 40ha. A permit is also required for the development of the land for a dwelling.
- The relevant decisions guidelines to consider when determining whether to issue a permit include;
 - The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
 - The capability of the land to accommodate the proposed use or development, including the disposal of effluent.
 - Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.
 - Whether the use or development will support and enhance agricultural production.
 - The capacity of the site to sustain the agricultural use.

- Whether the dwelling will result in the loss or fragmentation of productive agricultural land.

Following assessment of the application, against the relevant decision guidelines of the FZ, it is considered that a dwelling could be supported. Further consideration is given to the appropriateness of the proposed dwelling under the assessment of Council's local policy, Clause 22.05 - Rural Dwellings.

Rural Industry

- The use of the land for the purpose of rural industry is a Section 2 use.
- It is proposed that the rural industry be accommodated within the existing building (proposed dwelling) and has been assessed to have a negligible impact on adjoining amenity.

Shed

The proposed shed is greater than 70 metres from the waterway and is not considered to have an adverse effect on the waterway in terms of water quality, erosion or flooding. The proposed water tanks within 20m of the road are considered to have negligible impact (if any) due to the minor nature of the encroachment (approx. 1 metre).

State Planning Policy Framework

The State Planning Policy Framework (SPPF) provides Council's broad direction when deciding planning applications. The following SPPFs are considered the most relevant to this application.

State Planning Policy Objectives	
11.05-3 Rural productivity	To manage land use change and development in rural areas to promote agriculture and rural production.
12.04-1 Environmentally sensitive areas	To protect and conserve environmentally sensitive areas.
13.05-1 Bushfire planning strategies and principles	To assist to strengthen community resilience to bushfire.
14.01-2 Sustainable agricultural land use	To encourage sustainable agricultural land use.
14.02-1 Catchment planning and management	To assist the protection and, where possible, restoration of catchments,

State Planning Policy Objectives	
	waterways, water bodies, groundwater, and the marine environment.
12.01 Native Vegetation Management	To ensure that permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity.
13.03-2 Erosion and landslip	To protect areas prone to erosion, landslip or other land degradation processes.
14.01-1 Protection of agricultural land	To protect productive farmland which is of strategic significance in the local or regional context.
14.02-2 Water quality	To protect water quality.
16.01-2 Location of residential development	To locate new housing in or close to activity centres and employment corridors and at other strategic redevelopment sites that offer good access to services and transport.
16.02-1 Rural residential development	To identify land suitable for rural living and rural residential development.

Local Planning Policy Framework

The Local Planning Policy Framework (LPPF) provides Council additional, locally relevant direction when deciding planning applications and includes Local Planning Policies at Clause 22. The following LPPFs and policies are considered the most relevant to this application.

Local Planning Policy Objectives	
21.07-2 Land and Catchment Management	To achieve a measurable improvement in the health of the Shire's land and water resources.

Local Planning Policy Objectives	
21.08-1 Agriculture	<p>To maintain a viable and sustainable agricultural industry as the corner stone to the Shire's economy and its future wellbeing.</p> <p>Strategy 1.1 - Protect high quality agricultural land for primary production.</p> <p>Strategy 1.2 - Strongly discourage rural residential land use on lots over 4.1 hectares in agricultural areas.</p> <p>Strategy 1.5 - Encourage and promote new and existing diverse and sustainable agriculture industries as an important contributor to the Shire's economy, including promoting the region as a premium 'green' products food bowl.</p>
21.10-3 Rural residential development	<p>Objective 1 Ensure that the resource of agricultural land is protected and retained in primary production.</p> <p>Strategy 1.1 - Strongly discourage dwellings not related to commercial scale agriculture in rural and high quality agricultural areas.</p> <p>Strategy 1.3 - Strongly discourage rural residential use of land on lots over 4.1 hectare in agricultural areas.</p> <p>Strategy 1.4 - Protect the rural farmland landscape from inappropriate dwelling development.</p>
21.11-1 Processing and manufacturing	<p>Value adding manufacturing and processing plays an important part in the future economic growth opportunities in the Shire. The lower operational costs for businesses and the unique lifestyle that the Shire offers should be promoted to attract new employment opportunities and population growth.</p>

Local Planning Policy Objectives	
	<p>Objective 1 - To attract and develop value adding opportunities to diversify the industry base and maximise employment opportunities.</p> <p>Objective 2 - To ensure that industries in rural areas specifically support the agricultural sector.</p>

Local Planning Policies

Local Planning Policy Objectives	
<p>22.05 Rural Dwellings Policy</p>	<p>Objectives:</p> <ul style="list-style-type: none"> • To discourage the proliferation of dwellings not associated with agriculture on lots over 4.1 hectares. • To discourage the proliferation of dwellings on lots over 4.1 hectares where the agricultural use of the land does not require the presence of a land manager. • To ensure that the development of dwellings on rural land does not prejudice existing agricultural activities on surrounding land. • To ensure that agricultural land is maintained for the cost-effective production of food and raw materials. • To retain the open farmed landscape as the defining visual characteristic of the Shire. • To ensure the cost-effective servicing of towns and communities across the Shire by avoiding the impacts of a dispersed population base. • To provide a consistent basis for considering planning permit applications for the use and development of dwellings in rural areas.

Planning Response

It is considered that the proposal is consistent with and achieves the objectives of the relevant State and Local Planning Policy Framework. The dwelling is also considered acceptable having regard to the relevant decision guidelines of the Farming Zone and the policy provisions of Clause 22.05.

A Farm Management Plan was prepared to support the application and proposed a number of agricultural activities, including rural industry, to justify the need for dwelling. The dwelling would generally not be supported in association with just one of the existing or proposed agricultural activities because it is considered that they could be managed from an off-site location and would not need a full-time presence on the land. However, given the holistic nature of the proposal and the number of activities occurring, it is considered reasonable that a dwelling would be required for the management of both the farm and the rural industry. Given the property's remote location from the nearest town, off-site management of the agricultural uses described in the application would be problematic. The applicant has demonstrated a thorough understanding of the constraints and opportunities that the land presents, and have presented a plan for farming the land into the future in accordance with the purpose of the Farming Zone. The dwelling would support diversification of agricultural activity as identified in the Municipal Strategic Statement at Clause 21.03-4 of the South Gippsland Planning Scheme.

The rural industry proposed includes the preparation of jams, pickles, sausages, cheeses, pasta, smoked meats, and frozen cooked meals, from produce and meat grown on the subject land, and from other local produce.

If the permit application is supported, this report recommends the inclusion of a permit condition requiring the endorsement and operation of an approved farm management plan.

Relevant Planning Scheme Overlays including decision and comments of Referral Authorities

Bushfire Management Overlay (BMO) Clause 44.06-1

A permit is required to construct a building or construct or carry out works associated with accommodation. An application must meet the requirements of Clause 52.47. The proposal has been assessed for the development of the dwelling only, because it incorporates the rural industry within the same building.

Planning For Bushfire Clause 52.47

Clause 52.47-2 applies to applications on land outside existing settlements.

Purpose:

- *To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.*
- *To ensure that the location, design and construction of development appropriately responds to the bushfire hazard.*
- *To ensure development is only permitted where the risk to life, property and community infrastructure from bushfire can be reduced to an acceptable level.*
- *To specify location, design and construction measures for a single dwelling that reduces the bushfire risk to life and property to an acceptable level.*

Objectives:

- *Development is appropriate having regard to the nature of the bushfire risk arising from the surrounding landscape.*
- *Development is sited to minimise the risk from bushfire.*
- *Development is sited to provide safe access for vehicles, including emergency vehicles.*
- *Building design minimises vulnerability to bushfire attack.*

Relevant decision guidelines:

- *The bushfire hazard landscape assessment, the bushfire hazard site assessment and the bushfire management statement submitted with the application.*
- *Whether the proposed development meets the objectives of Clause 52.47-2 regardless of other measures which may be available, including private bushfire shelters, community shelters and the presence of places of last resort.*
- *Whether the proposed measures can be practically implemented and maintained in conjunction with the ongoing use of the land.*
- *Whether the risk arising from the broader landscape can be mitigated to an acceptable level or warrants the development not proceeding.*

Assessment:

This application was referred to the CFA for comment and to assess the bush fire risk. The CFA provided conditional support for the application. Whilst the BMO has changed since the application was made, the changes are immaterial to the outcome as the dwelling can still be approved under the current provisions. Having regard to the current requirements, the application demonstrates that:

- The development is sited to minimise the risk of bushfire in the context of the site and surrounding properties, by providing a suitable separation distance buffer to areas of bushfire risk.
- Safe access and egress to the dwelling is provided via entrance/exit points in two different directions which can both accommodate emergency vehicles.
- The dwelling is close to a public road.
- Appropriate defensible space can be achieved and maintained with minimal vegetation removal.
- Static water supply for firefighting can be achieved.
- Construction to BAL-12.5 can be reasonably achieved.

Environmental Significance Overlay (ESO) – Clause 42.01-2

A permit is required to construct a building or construct or carry out works. This does not apply if a schedule to this overlay specifically states that a permit is not required. The relevant schedules that apply to the land are the ESO2 and the ESO5. There are no relevant exemptions. Each is discussed below.

Schedule 2 – Water Catchments (ESO2)

Purpose:

- *To protect the quality of domestic water supply.*
- *To improve degraded sites within water catchments.*
- *To consider allocation of sufficient water for environmental flows.*
- *To ensure land is developed in a manner which does not prejudice the area's use as a water catchment.*

Relevant Decision Guidelines:

- *The purpose of the overlay.*

- *The views of the relevant water authority.*
- *The views of the relevant water catchment management authority.*
- *The potential impact that the proposal could have on the quality of water in the catchment.*

Assessment:

The application is unlikely to decrease the quality of domestic water supply or increase the risk to human health. This is because the site has an existing approved septic system operating on the land even in the absence of a dwelling. The conversion of the shed into a dwelling and the development of another shed are not considered to compromise the quality of domestic water supply.

Schedule 5 – Areas Susceptible to Erosion (ESO5)

Purpose:

- *To protect areas prone to erosion by minimising land disturbance and vegetation loss.*
- *To prevent increased surface runoff or concentration of surface water runoff leading to erosion or siltation of watercourses*

Relevant Decision Guidelines:

- *The purpose of the overlay.*
- *Any proposed measures to minimise the extent of soil disturbance and runoff.*
- *The need to stabilise disturbed areas by engineering works or vegetation.*
- *Whether the land is capable of providing a building envelope, which is not subject to high or severe erosion problem.*
- *Whether the proposed buildings or works are likely to cause erosion or landslip.*
- *Whether the proposed access and servicing of the site or the building envelope is likely to result in erosion or landslip.*

Assessment:

The application is not likely to contribute to erosion. There are no visible signs of erosion in the area surrounding the dwelling and whilst some cut has been undertaken in the construction of the building, it has does not appear to have

resulted in erosion. Standard permit conditions requiring runoff to be contained and stabilisation works in areas of cut or fill can address any concerns.

Ministerial Guidelines for Open, Potable Water Supply Catchments

Section 60(1A)(g) of the Act requires Council to consider any code or guideline adopted by a Minister when deciding a planning permit application.

The land is within the Deep Creek (Foster) Water Supply Catchment as proclaimed by the Victoria Government Gazette and as listed in the Catchment and Land Protection Act 1994. Therefore, the proposed use and development must be assessed against the 'Planning permit applications in open, potable water supply catchment areas' (DSE, 2012) Guideline ('the Guideline'). The Guideline has been adopted by the Minister for Water.

The purpose of the Guideline is to protect the quality of potable water supplies, using a risk based approach, whilst facilitating appropriate development within these catchments. Across Victoria a number of planning permit applications within open, potable water supply catchments have been previously refused as they have failed to meet the Minister's Guideline. Some of these decisions have been subject to VCAT and Supreme Court appeal. The details of the decisions are not repeated here, suffice to say that each of the decisions gave significant weight to the Guideline and applications for dwellings were refused where the proposals did not comply with the Guideline. Each decision also reinforced the application of the precautionary principle in relation to water quality and human health risks. These were determined to outweigh any potential positive benefits that a particular application may have in relation to other planning policies or guidelines.

The guideline currently contains five 'sub-guidelines' that must be considered having regard to the use, development or subdivision of land in open, potable water supply catchments. Guideline 1 states that the density of dwellings should be no greater than one dwelling per 40 hectares (1:40 ha).

The proposal does not comply with Guideline 1 as it would result in a dwelling density greater than 1:40ha on this lot (1:22ha). VCAT has previously explored different methodologies for calculating dwelling density in catchments and the proposal could not satisfy any of those other methodologies. Council has undertaken further investigation of density in this catchment, using data sourced from Council's GIS system. The three other methods explored were:

- *average density of dwellings across all lots in the catchment,*
- *average density of dwellings across all lots with a dwelling; and*
- *1km radius method (Vic Water Guidelines, not adopted by Minister).*

These resulted in densities of 1:36ha, 1:19ha and 1:18ha, respectively.

Despite the proposal failing to satisfy Guideline 1, Council considers that significant weight should be given to the existing approved septic system on the land. The right to continue operating the septic system cannot be withdrawn or cancelled under current circumstances. Any effect on the quality of potable water within the catchment and its resultant risk to human health would already be present on the site. The conversion of the shed to a dwelling would not further exacerbate this. All previous VCAT and Supreme Court decisions appear to differ to this current proposal with regard to this critical factor. Had there been no septic system on the land or had it not been approved, then the recommendation of this report would likely change to refuse the permit in accordance with the guidance provided by VCAT and the Supreme Court. However, it would seem illogical to refuse a permit for a dwelling, where the existing risk is not exacerbated.

It should be noted that:

- There are four categories of exemptions from Guideline 1. However, none of these are relevant or applicable in this instance because reticulated sewer is not available and Council does not have a relevant Catchment Policy or Domestic Wastewater Management Plan (DWMP). SGW and Council are currently undertaking a study of the Shire's largest declared water catchment (Tarwin Catchment). However, it is likely that this body of work will take a further 6-12 months to finalise. Depending on the results, Council and SGW may use these findings to inform Policy for other declared catchments within the Shire.
- There appears to be an anomaly within the Planning Scheme and the Ministerial Guideline. The Ministerial Guideline and ESO2 attempt to regulate the impacts of agricultural land uses on open, potable water supply catchments. However, these can only be controlled or restricted where a permit is required for land use. Land uses are regulated by Zones within the Planning Scheme. As such, if the use does not trigger a permit, in instances such as extensive animal husbandry, it would be incongruous with general planning practice and principles to attempt to regulate these via planning permit conditions. Especially if the permit authorises some other land use, such as a dwelling.

Objections and Submissions

Twelve (12) objections were received during notification of the application. The responsible authority may only consider those objections which relate to the permission which is being sought when deciding the application. A summary of the objections and planning response to the objections is provided below.

Submission	Planning Response
The farming operation does not require a permanent	The land is currently being farmed and managed, albeit from an illegal dwelling. It is unlikely the land will be lost to productive agriculture if the dwelling

Submission	Planning Response
<p>onsite presence and therefore a dwelling is not required.</p>	<p>were approved. Rather, the dwelling would support diversification of agricultural activity as traditional agricultural activity declines, as identified in the Municipal Strategic Statement at Clause 21.03-4 of the South Gippsland Planning Scheme.</p> <p>The diverse range of agricultural activities, existing and proposed (rural industry), are considered on balance to warrant the support of a dwelling. In addition, much of the land is steep which can inhibit successfully off-site farming. A dwelling would support the ongoing agricultural use of the land, and encourage improvements and proper management of the land and its natural assets.</p> <p>A permit condition requires endorsement and operation of an approved farm management plan.</p>
<p>The farming of poultry on the land is attracting foxes to the area which threatens local wildlife.</p>	<p>The existing and proposed agricultural uses associated with poultry in the FZ are considered a Section 1 use, i.e. as of right. Objections offering these grounds are unable to be considered when determining the application.</p>
<p>Domestic animals, livestock and poultry are not being contained within the property</p>	<p>The concerns about containing animals and livestock within the property are concerns which are investigated under Council's local laws, and are not relevant planning considerations.</p>
<p>The poultry operation causes noise, light and odour nuisance to nearby properties which reduces visual appeal, peace and quiet.</p>	<p>The existing and proposed agricultural uses associated with poultry in the FZ are considered a Section 1 use, i.e. as of right. Objections offering these grounds are unable to be considered when determining the application. Concerns of this nature can be investigated under Council's local laws or the nuisance provisions of the Public Health and Wellbeing Act 2008.</p>
<p>The poultry operation will cause degradation to and removal of topsoil.</p>	<p>The existing and proposed agricultural uses associated with poultry in the FZ are considered a Section 1 use, i.e. as of right. Objections offering these grounds are unable to be considered when determining the application.</p>

Submission	Planning Response
The poultry operation impacts the water quality in the Deep Creek Catchment.	The existing and proposed agricultural uses associated with poultry in the FZ are considered a Section 1 use, i.e. as of right. Objections offering these grounds are unable to be considered when determining the application.

E.3 PLANNING PERMIT APPLICATION 2014/188 - 390 FOLEY ROAD YANAKIE - VEGETATION REMOVAL

Development Services Directorate

EXECUTIVE SUMMARY

This report is to consider a planning permit application for vegetation removal at the Yanakie Caravan Park. Council is the current park manager. The application proposes the removal of selected non-indigenous vegetation from a number of locations around the caravan park and replacement planting with native species.

This application is being referred to Council for determination as 34 objections were received. The key objections to the planning application are:

- Impacts on park residents from the removal of the Monterey Cypress trees along the foreshore of the caravan park;
- Concern about the proposed replanting of native vegetation;
- Concerns about the planning permit process; and
- Concerns about the management of the caravan park.

Notice of the application was provided to adjoining and nearby landowners and to current permit holders of the caravan park in accordance with the Planning and Environment Act 1987 ("the Act").

Following the assessment of this application against the Act and the South Gippsland Planning Scheme, the proposal is recommended for approval subject to appropriate conditions.

Document/s pertaining to this Council Report

- **Attachment 1** - Locality Plan
- **Attachment 2** - Aerial Photo
- **Attachment 3** - Zone and Overlays
- **Attachment 4** - Site Plan -Vegetation Removal
- **Attachment 5** - Site Plan - Proposed Revegetation
- **Attachment 6** - Department of Environment and Primary Industry Response to Planning Application
- **Attachment 7** - Response to Submissions
- **Confidential Appendix 1** - Copies of Submissions

A copy of **Confidential Appendix 1** has been distributed separately to Councillors and the Executive Leadership Team.

LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES

Planning and Environment Act 1987

COUNCIL PLAN

Outcome:	1.0	A Prosperous Shire
Objective:	1.1	Work with the business community to support existing businesses, diversify employment opportunities and to attract new business.
Strategy:	1.1.4	We will promote and encourage tourism through development support.
Outcome	3.0	Integrated Services and Infrastructure
Objective:	3.1	Deliver affordable modern community services and facilities through an integrated approach to planning and infrastructure development
Strategy:	3.1.5	We will encourage sustainable development that promotes the health, well-being and unique character of the community

CONSULTATION

The application was referred and notified in accordance with the Act.

Notice of the application was sent to landowners and residents adjoining the site and to current permit holders within the caravan park. The application was available for the public to view at Council's office in Leongatha.

Thirty-four (34) written submissions have been received from permit holders within the caravan park, whose concerns are discussed later in this report.

The application was referred to the Department of Environment and Primary Industries (DEPI) in accordance with section 55 of the Planning and Environment Act 1987.

REPORT

Background

The Yanakie Caravan Park is at 390 Foley Road Yanakie, being CA PT25A Parish of Yanakie. The land is Crown land and Council is the Public Land Manager.

Refer **Attachment 1** - Locality Plan

Refer **Attachment 2** - Aerial Photo

The land is within the Public Conservation and Resource Zone (PCRZ) under the provisions of the South Gippsland Planning Scheme. The land is within the Environmental Significance Overlay Schedule 3- Coastal Settlements (ESO3), the Bushfire Management Overlay (BMO) and the Land Subject to Inundation Overlay (LSIO). A planning permit is only required to remove vegetation within the Environmental Significance Overlay Schedule 3 - Coastal Settlements

Refer **Attachment 3** - Zone and Overlays

Separate consent under the Coastal Management Act 1995 was sought and provided for vegetation removal. This is a separate approval process that is required because the land is coastal Crown land. The granting of a planning permit is not dependant on the granting of Coastal Management Act consent.

Proposal

The application is for the removal of non-indigenous plant species from the park. Species to be removed include Mirror Bush (*Coprosma repens*), Monterey Cypress (*Cupressus macrocarpa*), Sweet Pittosporum (*Pittosporum undulatum*), Ivy (*Delairea odorata* and *Hederea helix*), Wandering Jew Plant (*Tradescantia fluminensis*) and Agapanthus.

Refer **Attachment 4** - Site Plan - Vegetation Removal

It is proposed to remove the non-indigenous vegetation and replant suitable native species to replace the vegetation that is removed. Species have been selected having regard to the Ecological Vegetation Class for the area, which include Coastal Scrubs, Grasslands and Woodlands. Species proposed for revegetation include Perennial tussock grass (*Poa labillardieri*); Coast tussock grass (*Poa poiformis*); Silver Banksia (*Banksia marginata*); Coastal Wattle (*Acacia sophorae*); Boobialla, Native Juniper (*Myoporum insulare*); Coastal Tea Tree (*Leptospermum laevigatum*); White Correa (*Correa alba*); Knobby Club-rush or Knotted Club-rush (*Isolepis nodosa*); Spiny-head Mat-rush (*Lomandra longifolia*); Grey Saltbush, Coast Saltbush, or Barilla (*Atriplex cinerea*).

Refer **Attachment 5** - Site Plan - Proposed Revegetation

The choice of replacement planting varies depending on the location of the vegetation and its intended purpose within the caravan park, for example, heavy and thick planting for screening and lighter and lower species for visual partitioning.

Discussion

PLANNING SCHEME REQUIREMENTS AND POLICIES

Before deciding a planning permit application the following considerations under the South Gippsland Planning Scheme must be addressed:

- State and Local Planning Policies
- Overlay provisions

State and Local Planning Policies

State Policy Objectives	
<p>12.02-1 Protection of coastal areas</p> <p>Objective</p> <p>To recognise and enhance the value of the coastal areas to the community and ensure sustainable use of natural coastal resources.</p>	<p>12.02-3 Coastal Crown land</p> <p>Objective</p> <p>To achieve development that provides an environmental, social and economic balance.</p>
<p>12.02-2 Appropriate development of coastal areas</p> <p>Objective</p> <p>To ensure development conserves, protects and seeks to enhance coastal biodiversity and ecological values.</p>	<p>12.04-1 Environmentally sensitive areas</p> <p>Objective</p> <p>To protect and conserve environmentally sensitive areas.</p>

The State Planning Policies aim to protect sensitive environments and provide a balance between the sometimes conflicting values associated with development of coastal areas.

The application is considered to achieve the objectives of the relevant State policy provisions and can be supported.

Local Policy Objectives	
<p>21.06-1 Biodiversity</p> <p>Objective 1</p> <p>To achieve a measurable net gain in the extent and quality of the Shire's biodiversity</p>	<p>21.15-15 Landscape character areas Character Area 1.5 – Waratah Bay/Corner Inlet Objectives</p> <p>Protect the rural character and views that create a scenic 'gateway' to Wilsons Promontory (especially along Foster – Promontory Road), by restricting linear urban sprawl or the cluttering of built development</p> <p>Ensure that long stretches of the coastal strip remain free of development of any kind</p> <p>Reduce the visibility of buildings or structures, within the coastal strip,</p>

Local Policy Objectives	
	<p>outside settlements</p> <p>Carefully manage development at the Corner Inlet coastal edge to retain intact natural coastal character by restricting heights of dwellings, controlling colours and clustering development at already developed centres (e.g. Port Welshpool)</p> <p>Contain linear residential expansion of Waratah Bay along access road and avoid exposure of built form above low dunes</p> <p>Minimise clutter of built elements throughout hinterland areas to protect the rural character</p>

The application will increase the biodiversity value of the local area. While the application will temporarily increase the visibility of buildings by removing screening, in the longer term it will provide enhanced screening with indigenous species. The proposal is considered to achieve the objectives of the relevant local policy provisions and can be supported.

Environmental Significance Overlay Schedule 3 - Coastal Settlements

The proposed vegetation removal is on land within the Environmental Significance Overlay Schedule 3 - Coastal Settlements. The purpose of the overlay is:

- To protect and enhance the natural beauty of the coastal area.
- To protect and enhance the environmental quality of the coastal area.
- To minimise the risk of erosion, pollution and destruction of the environment through poorly managed development.
- To ensure that development adjacent to coastal areas is compatible with the environment and does not result in adverse impacts on coastal processes.

The relevant decision guidelines of the Schedule to the Overlay are discussed below:

Decision Guideline	Response
<p>The purpose of the overlay.</p> <ul style="list-style-type: none"> • To protect and enhance the natural beauty of the coastal 	<p>The proposed vegetation removal will enhance the natural character and beauty of the area as the trees to be removed are</p>

<p>area.</p> <ul style="list-style-type: none"> • To protect and enhance the environmental quality of the coastal area. • To minimise the risk of erosion, pollution and destruction of the environment through poorly managed development. • To ensure that development adjacent to coastal areas is compatible with the environment and does not result in adverse impacts on coastal processes. 	<p>introduced species and in some cases are exotic pest species. The proposed removal of introduced species and replanting with native species will enhance the environmental qualities of the area. Provided appropriate erosion control works are undertaken, the proposal will not damage the environment or affect the environmental quality of the coastal area or coastal processes.</p>
<p>The maintenance and improvement of the stability of the coastal dunes and coastlines.</p>	<p>There are no coastal dunes that will be affected by the vegetation removal. The proposed vegetation removal is not expected to affect the coastline provided appropriate revegetation and erosion management is undertaken.</p>
<p>The preservation of any existing natural vegetation.</p>	<p>No vegetation that is naturally occurring in the local area is proposed to be removed.</p>
<p>The conservation of any areas of environmental importance or significance.</p>	<p>The vegetation proposed to be removed does not have environmental significance. The coastal environment of Corner Inlet is recognised as a significant natural environment. The proposed vegetation removal is not expected to affect the environmental qualities of Corner Inlet provided appropriate revegetation and erosion management works are undertaken.</p>
<p>The intensity of human activity which the landscapes and the environment the area can sustain.</p>	<p>No additional intensity of human activity is proposed.</p>
<p>The existing use and possible development of the land and nearby land.</p>	<p>The land is part of the Yanakie Caravan Park. No new use of the land is proposed and the proposed removal of vegetation from the site will not affect any nearby land.</p>
<p>The effect of development on the use and development of other land which has a common</p>	<p>The proposed vegetation removal is not expected to affect the use or development of any other land that has a common</p>

means of drainage.	means of drainage.
Whether the development of the land will be detrimental to the natural environment.	The proposed vegetation removal is not expected to be detrimental to the natural environment provided appropriate revegetation and erosion control measures are undertaken. The application proposes replanting with native species suitable for the local Ecological Vegetation Class and this is supported.
The protection of the area for its recreational value.	The proposed vegetation removal will not affect the use of the land for a caravan park.
The risk of fire.	The removal of the vegetation will not increase the risk of fire on the site.
<p>The views of the Department of Sustainability and Environment in respect to:</p> <ul style="list-style-type: none"> • Applications which immediately abut Crown Land. • Applications which in the opinion of the responsible authority may have adverse impact on Crown Land. • Applications which in the opinion of the responsible authority may adversely affect coastal processes, dune systems (including tertiary systems), have possible effect on aquatic habitat and flora and fauna habitat. • Applications which in the opinion of the responsible authority may cause or otherwise cause erosion, land degradation or affect land stability on either the subject land or on adjoining land. 	<p>The application was referred to the Department of Sustainability and Environment as the land is coastal Crown land. The Department of Environment and Primary Industry has advised the Department has no objections to the proposed vegetation removal. A copy of the Department's response is at Attachment 6.</p>

Objections

Thirty-four (34) submissions were received from current permit holders within the caravan park and these concerns are detailed in the summary table at **Attachment 7**. No submissions were received from adjoining landowners.

The main objections received in relation to the proposal were:

- Impacts on park residents from the removal of the Monterey Cypress trees along the foreshore of the caravan park;
- Concern about the proposed replanting of native vegetation; and
- Concerns about the planning permit process.

A number of submissions raised no objection to the removal of weed species from within the park and replanting with native vegetation. The key concern for the majority of objectors is the removal of the large Monterey Cypress trees (*Cupressus macrocarpa*) from along the foreshore and within the park.

These trees are not native species and are not identified in Council's Significant Tree Register, Heritage Overlay (HO) or protected by a Vegetation Protection Overlay (VPO) within the South Gippsland Planning Scheme. The need for a planning permit to remove the vegetation does not arise from the significance of the trees themselves, but instead, arises from the location of the trees within an area affected by the Environmental Significance Overlay Schedule 3 - Coastal Settlements. The Planning Scheme limits the consideration of the vegetation to its value in protecting and conserving the natural beauty and environmental qualities of coastal areas.

As a non-indigenous species, the value of the Monterey Cypress trees in protecting and enhancing the environmental qualities of the coast in Corner Inlet is limited. The environmental quality, natural beauty and character of the area are expected to be enhanced by their removal and replacement with plant species indigenous to the local area.

Options

Council has three options to determine this application. They are:

- Issue a notice of decision to grant a planning permit in accordance with the recommendations and conditions detailed in this report;
- Issue a notice of decision to grant a planning permit differing to the recommendations and subject to different conditions; or
- Issue a refusal to grant a permit.

RISKS

An appeal could be lodged to the Victorian Civil and Administrative Tribunal (VCAT) by either the applicant or the objectors.

CONCLUSION

The removal of non-native vegetation and replacement with native species is consistent with State and Local planning policies to improve the environmental quality of coastal areas.

The proposed removal of vegetation will not limit the use of the land for a caravan park.

Provided vegetation removal works are undertaken in a manner that minimises erosion and replacement planting is established as soon as possible, the vegetation removal is not expected to affect coastal processes.

RECOMMENDATION

That Council grant a Notice of Decision for the Removal of Vegetation at 390 Foley Road Yanakie (being CA PT25A Parish of Yanakie) subject to the following conditions:

1. The extent of clearing of trees and understorey as shown on the endorsed plans must not be altered or modified without the written consent of the Responsible Authority.
2. This permit allows for the removal of vegetation where indicated on the endorsed plans. The removal, destruction or lopping of vegetation not specified by this permit condition (except where otherwise exempted by the Scheme), requires further planning approval.
3. The proposed revegetation works shown on the endorsed plans must be completed within 28 days following the removal of vegetation unless with the written consent of the Responsible Authority.
4. Replacement planting must comprise indigenous vegetation appropriate to the Ecological Vegetation Class for the land. The vegetation must:
 - a. comprise of a range of storeys;
 - b. be protected by way of fencing and tree guards or similar until fully established.
 - c. It must be completed and then maintained, to the satisfaction of the Responsible Authority.
5. All planting must be maintained in a healthy condition to the satisfaction of the Responsible Authority. Any dead or diseased trees or shrubs must be replaced immediately.
6. Care must be taken to ensure that the removal of vegetation does not cause erosion or degradation to the subject or surrounding land to the satisfaction of the Responsible Authority.
7. This permit will expire if either of the following applies:

- a. The development is not started within two (2) years of the date of this permit.
- b. The development is not completed within four (4) years of the date of this permit.

FOOTNOTES ON PERMIT

1. Pursuant to the provisions of Section 69 of the Planning and Environment Act 1987 the Responsible Authority may extend the time to start development under part (a) of the expiry condition, if the request is made before the permit expires or within 6 months afterwards. The Responsible Authority may extend the time to complete the development under part (b) of the expiry condition if:
 - a. the request for an extension of time is made within 12 months after the permit expires; and
 - b. the development or stage started lawfully before the permit expired.
2. This permit allows the above land to be used or developed for the purpose specified. It is the permit holder's responsibility to ensure that any other relevant approvals are obtained prior to the commencement of the use or development.
3. All works associated with the development must be in a manner consistent with the provisions of the Aboriginal Heritage Act, 2006. Aboriginal Affairs Victoria is the authority for administration of that Act and the proponent is advised to contact GPO Box 2392V, Melbourne, 3001. Telephone 1300 888 544 or (03) 9208 3287.

STAFF DISCLOSURE OF INTEREST

Council is the applicant and the manager of the Yanakie Caravan Park.

MOVED: Cr Hutchinson-Brooks

SECONDED: Cr Hill

THAT COUNCIL GRANT A NOTICE OF DECISION FOR THE REMOVAL OF VEGETATION AT 390 FOLEY ROAD YANAKIE (BEING CA PT25A PARISH OF YANAKIE) SUBJECT TO THE FOLLOWING CONDITIONS:

- 1. THE EXTENT OF CLEARING OF TREES AND UNDERSTOREY AS SHOWN ON THE ENDORSED PLANS MUST NOT BE ALTERED OR MODIFIED WITHOUT THE WRITTEN CONSENT OF THE RESPONSIBLE AUTHORITY.**
- 2. THIS PERMIT ALLOWS FOR THE REMOVAL OF VEGETATION WHERE INDICATED ON THE ENDORSED PLANS. THE REMOVAL, DESTRUCTION OR LOPPING OF VEGETATION NOT SPECIFIED BY THIS PERMIT CONDITION (EXCEPT WHERE OTHERWISE EXEMPTED BY THE SCHEME), REQUIRES FURTHER PLANNING APPROVAL.**
- 3. THE PROPOSED REVEGETATION WORKS SHOWN ON THE ENDORSED PLANS MUST BE COMPLETED WITHIN 28 DAYS FOLLOWING THE REMOVAL OF VEGETATION UNLESS WITH THE WRITTEN CONSENT OF THE RESPONSIBLE AUTHORITY.**
- 4. REPLACEMENT PLANTING MUST COMPRISE INDIGENOUS VEGETATION APPROPRIATE TO THE ECOLOGICAL VEGETATION CLASS FOR THE LAND. THE VEGETATION MUST:**
 - a. COMPRISE OF A RANGE OF STOREYS;**
 - b. BE PROTECTED BY WAY OF FENCING AND TREE GUARDS OR SIMILAR UNTIL FULLY ESTABLISHED.**
 - c. IT MUST BE COMPLETED AND THEN MAINTAINED, TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.**
- 5. ALL PLANTING MUST BE MAINTAINED IN A HEALTHY CONDITION TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY. ANY DEAD OR DISEASED TREES OR SHRUBS MUST BE REPLACED IMMEDIATELY.**
- 6. CARE MUST BE TAKEN TO ENSURE THAT THE REMOVAL OF VEGETATION DOES NOT CAUSE EROSION OR DEGRADATION TO THE SUBJECT OR SURROUNDING LAND TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.**
- 7. THIS PERMIT WILL EXPIRE IF EITHER OF THE FOLLOWING APPLIES:**
 - a. THE DEVELOPMENT IS NOT STARTED WITHIN TWO (2) YEARS OF THE DATE OF THIS PERMIT.**

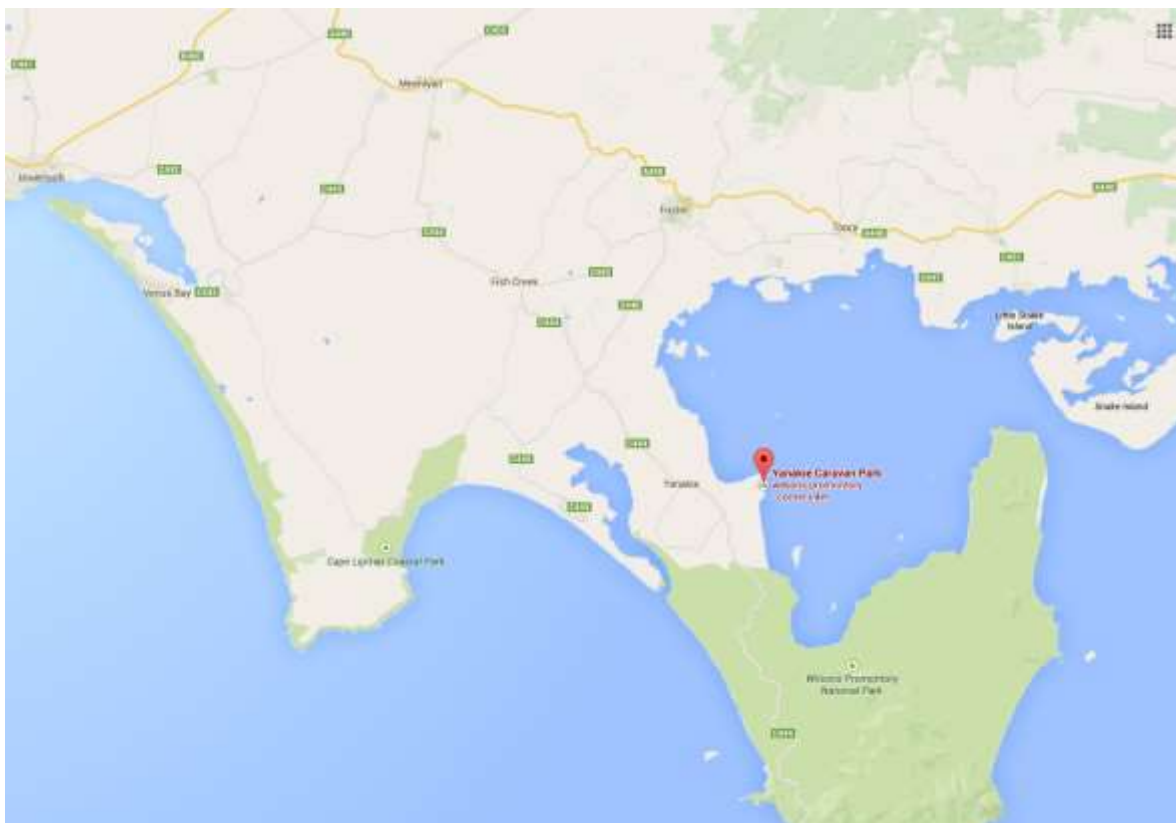
- b. THE DEVELOPMENT IS NOT COMPLETED WITHIN FOUR (4) YEARS OF THE DATE OF THIS PERMIT.**

FOOTNOTES ON PERMIT

- 1. PURSUANT TO THE PROVISIONS OF SECTION 69 OF THE PLANNING AND ENVIRONMENT ACT 1987 THE RESPONSIBLE AUTHORITY MAY EXTEND THE TIME TO START DEVELOPMENT UNDER PART (A) OF THE EXPIRY CONDITION, IF THE REQUEST IS MADE BEFORE THE PERMIT EXPIRES OR WITHIN 6 MONTHS AFTERWARDS. THE RESPONSIBLE AUTHORITY MAY EXTEND THE TIME TO COMPLETE THE DEVELOPMENT UNDER PART (B) OF THE EXPIRY CONDITION IF:
 - a. THE REQUEST FOR AN EXTENSION OF TIME IS MADE WITHIN 12 MONTHS AFTER THE PERMIT EXPIRES; AND**
 - b. THE DEVELOPMENT OR STAGE STARTED LAWFULLY BEFORE THE PERMIT EXPIRED.****
- 2. THIS PERMIT ALLOWS THE ABOVE LAND TO BE USED OR DEVELOPED FOR THE PURPOSE SPECIFIED. IT IS THE PERMIT HOLDER'S RESPONSIBILITY TO ENSURE THAT ANY OTHER RELEVANT APPROVALS ARE OBTAINED PRIOR TO THE COMMENCEMENT OF THE USE OR DEVELOPMENT.**
- 3. ALL WORKS ASSOCIATED WITH THE DEVELOPMENT MUST BE IN A MANNER CONSISTENT WITH THE PROVISIONS OF THE ABORIGINAL HERITAGE ACT, 2006. ABORIGINAL AFFAIRS VICTORIA IS THE AUTHORITY FOR ADMINISTRATION OF THAT ACT AND THE PROPONENT IS ADVISED TO CONTACT GPO BOX 2392V, MELBOURNE, 3001. TELEPHONE 1300 888 544 OR (03) 9208 3287.**

CARRIED UNANIMOUSLY

Attachment 1 - Locality Plan



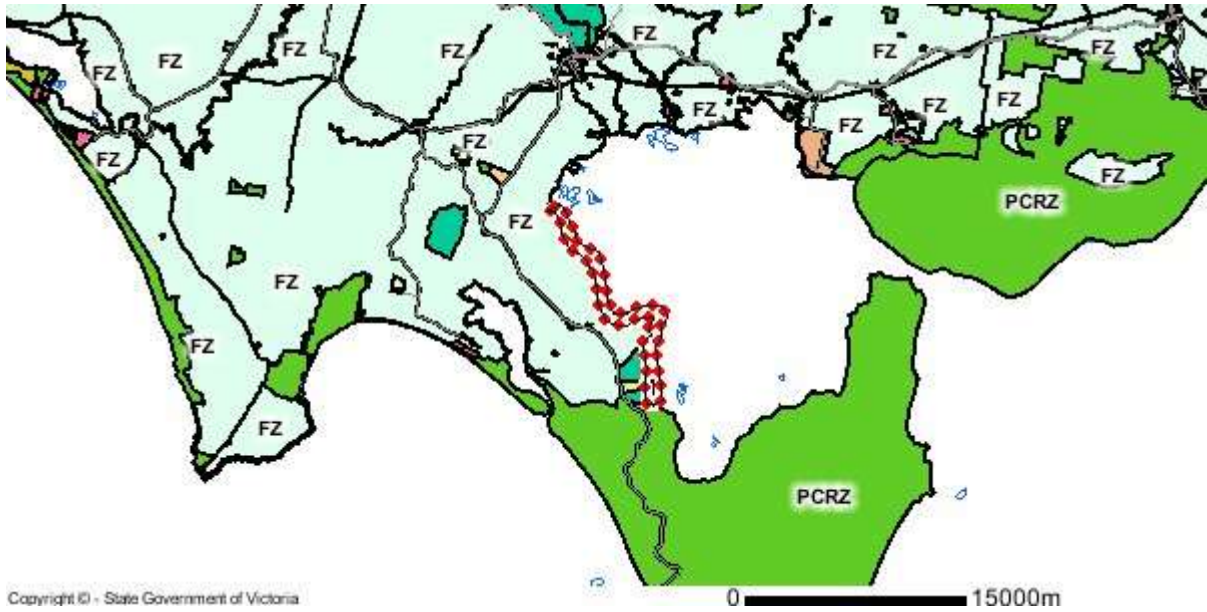
Attachment 2 - Aerial Photo



Attachment 3 - Zone and Overlays

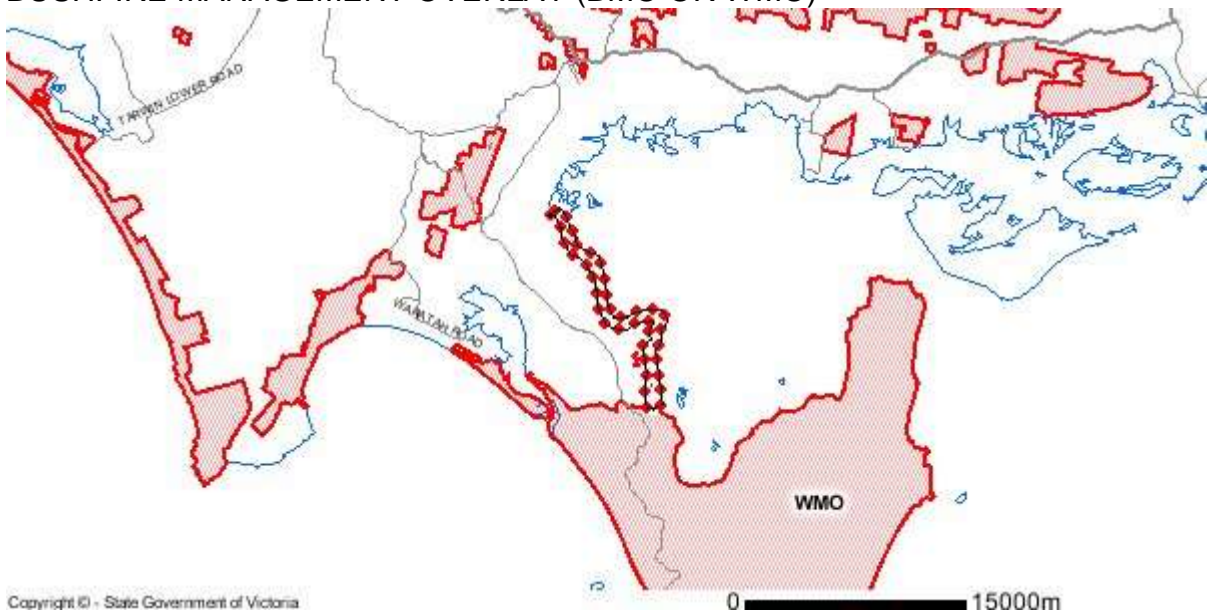
Zone

PUBLIC CONSERVATION AND RESOURCE ZONE (PCRZ)
SCHEDULE TO THE PUBLIC CONSERVATION AND RESOURCE ZONE

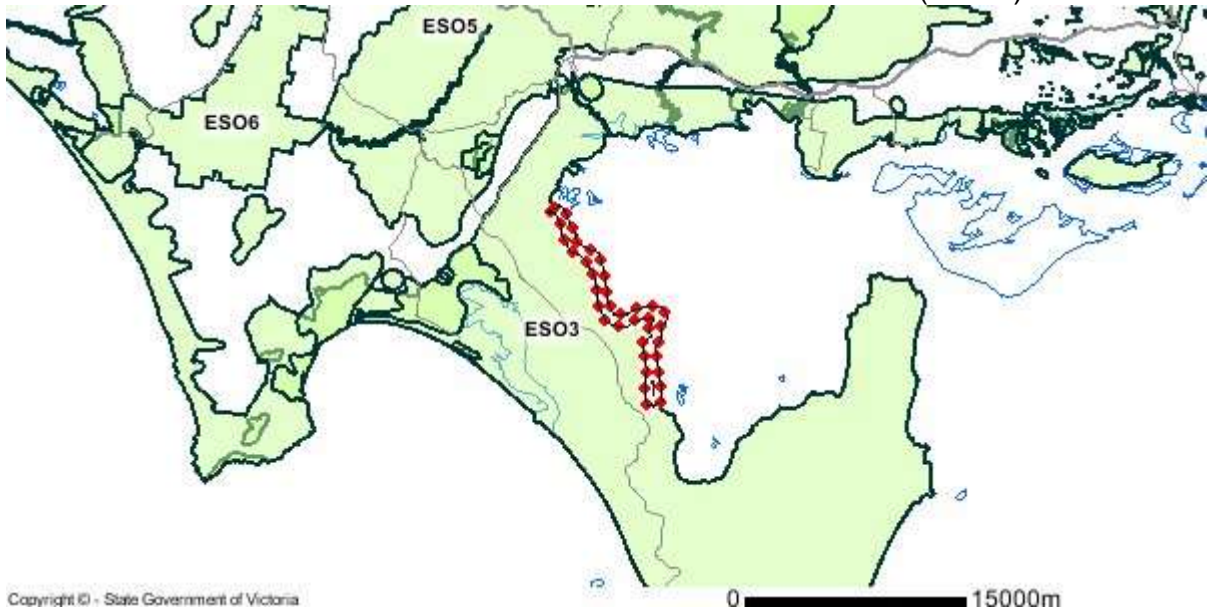


Overlays

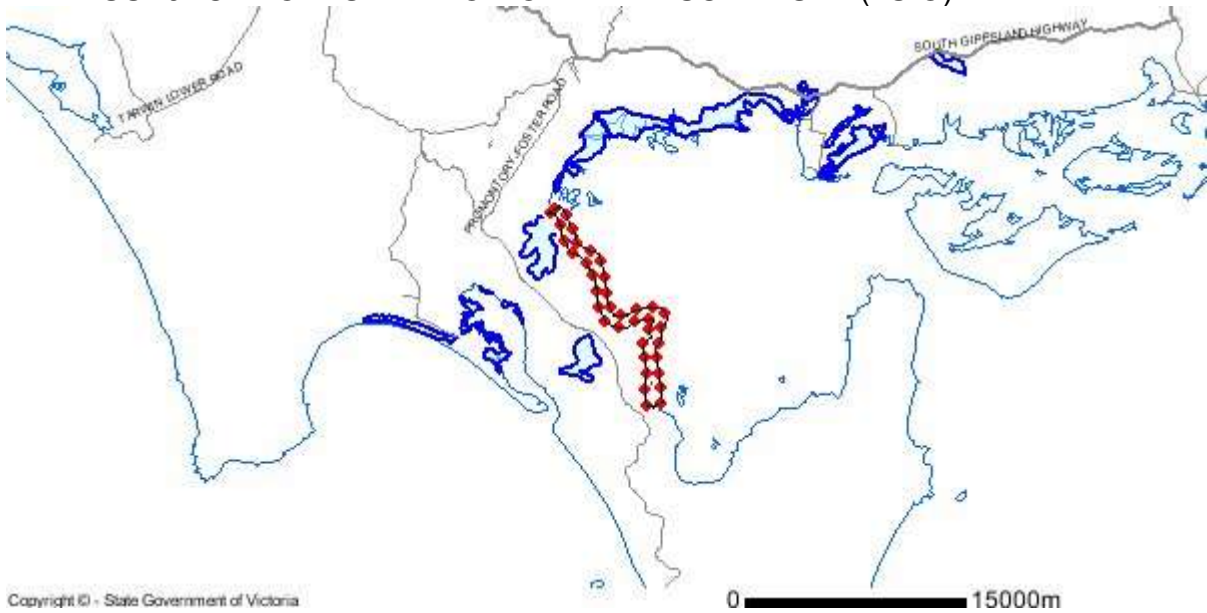
BUSHFIRE MANAGEMENT OVERLAY (BMO OR WMO)



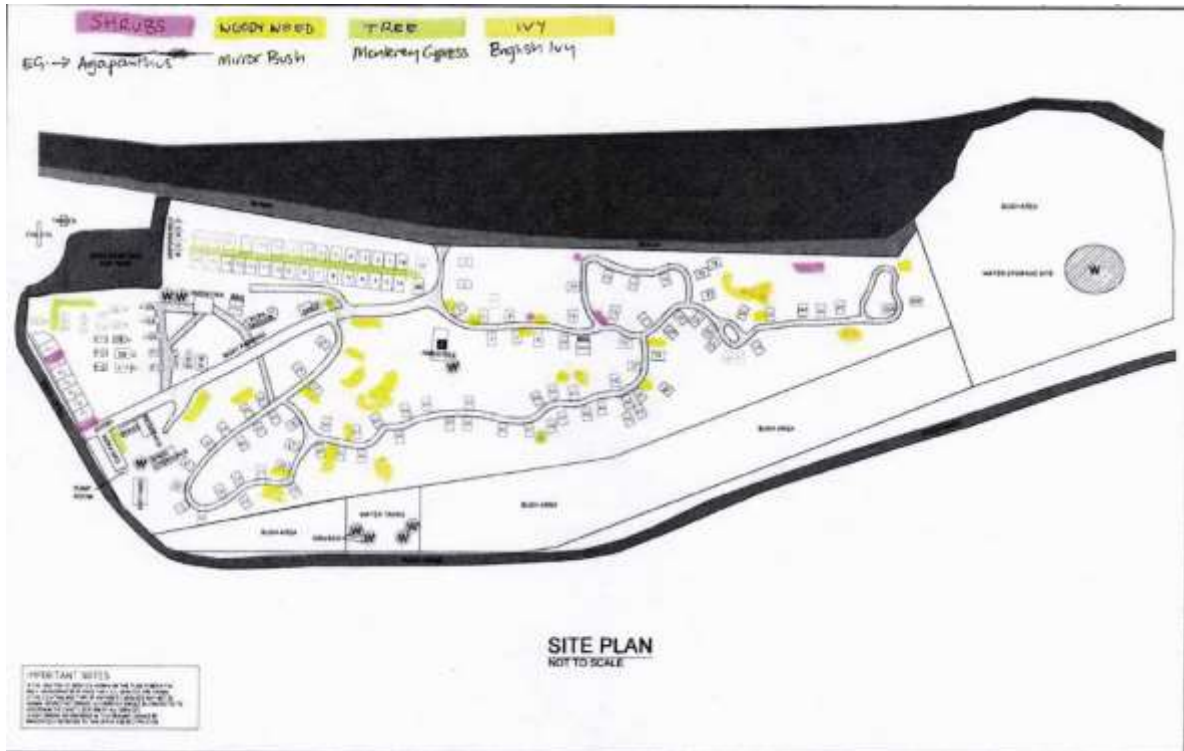
ENVIRONMENTAL SIGNIFICANCE OVERLAY (ESO)
ENVIRONMENTAL SIGNIFICANCE OVERLAY - SCHEDULE 3 (ESO3)



LAND SUBJECT TO INUNDATION OVERLAY (LSIO)
LAND SUBJECT TO INUNDATION OVERLAY SCHEDULE (LSIO)



Attachment 4 - Site Plan - Vegetation Removal



Attachment 5 Site Plan - Proposed Revegetation



Attachment 6 - Department of Environment and Primary Industry Response to Planning Application

DEPI Consent



Department of Environment and Primary Industries

Our ref: SP451293
Your ref: 2014/188

30 October 2014

Tanya Cooper
Senior Planning Officer
South Gippsland Shire Council
Private Bag 4
LEONGATHA VIC 3953

71 Hotham Street
Traralgon Victoria 3844
Australia
Telephone: +61 3 5172 2111
Facsimile: +61 3 5172 2100
www.depi.vic.gov.au
DX 219284

Dear Tanya

**PLANNING PERMIT APPLICATION 2014/188
REMOVAL OF VEGETATION
390 FOLEY ROAD, YANAKIE VIC 3960
CROWN ALLOTMENT 25A PARISH OF YANAKIE**

Thank you for your correspondence dated and received 3 October 2014 in respect of the above-described application.

The Department of Environment and Primary Industries (DEPI) has considered the above application in accordance with section 55 of the *Planning and Environment Act 1987*, with the specific referral trigger being Clause 3.0 of Schedule 3 to the Environmental Significance Overlay (ESO3).

The application seeks to remove non-native, weedy vegetation on land within the Public Conservation and Resource Zone (PCRZ) and affected by the Bushfire Management Overlay (BMO), Schedule 3 of the Environmental Significance Overlay (ESO3), and the Land Subject to Inundation Overlay (LSIO).

DEPI provides the following comment in respect of this application:

- DEPI sent a letter to the applicant (dated 3 October 2014) granting consent to use and develop coastal Crown land pursuant to *Section 38* of the *Coastal Management Act 1995*.

I wish to advise that DEPI has no objection to the granting of a permit for the above application.

In accordance with section 66 of the *Planning and Environment Act 1987*, please provide a copy of the permit, if one is granted, or any notice to grant or refusal to grant a permit.

All written correspondence should be sent electronically to gippsland.planning@depi.vic.gov.au or mailed to:

Privacy Statement

Any personal information about you or a third party in your correspondence will be protected under the provisions of the Information Privacy Act 2000. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorized by law. Enquiries about access to information about you held by the Department should be directed to the Privacy Coordinator, Department of Environment and Primary Industries, PO Box 500, East Melbourne, Victoria 8002.



Manager Statutory Planning Approvals Gippsland
Department of Environment and Primary Industries
71 Hotham Street
TRARALGON VIC 3844

If you have any queries regarding this matter, please contact Regional Planning and Approvals
– Gippsland at the DEPI Traralgon office, telephone (03) 5172 2111.

Yours sincerely,



John Brennan
Manager Statutory Planning Approvals Gippsland

cc Applicant via email (jock.wilson@southgippsland.vic.gov.au)

Attachment 7 - Response to Submissions

Summary of objections

CONCERN RAISED	RESPONSE
<p>Removal of Monterey Cypress trees is not justified as the trees are healthy, showing no sign of cypress canker</p>	<p>The need to remove the vegetation for health reasons is not a relevant matter for consideration of the planning permit application.</p> <p>The trees currently affected by the disease are not the Monterey Cypress trees along the foreshore, however, due to the proximity of the diseased trees to the foreshore plantings, the cypress trees along the foreshore have been identified as being at risk of the disease and all of the Monterey Cypress trees in the park are proposed for removal.</p> <p>Monterey Cypress is an introduced species and there is no clear environmental benefit to preserving the Cypress trees within the park that outweighs the ongoing risks associated with retaining them.</p> <p>While the preservation of existing vegetation for its values to coastal areas is a relevant matter for consideration under the provisions of the Environmental Significance Overlay Schedule 3- Coastal Settlements, in this case the environmental value of the vegetation to be removed is considered negligible and the removal of the Monterey Cypress trees and other exotic species from the park is supported.</p>

CONCERN RAISED	RESPONSE
<p>The Monterey Cypress trees were planted by the Yanakie Girl Guide Company in the 1950's/1960's/1971/72/1997 to provide shelter from the easterly winds and their unceremonious removal is disrespectful</p>	<p>The Monterey Cypress trees on the foreshore at Yanakie Caravan Park have not been included on Council's Significant Tree Register and are not included in a Heritage Overlay or Vegetation Protection Overlay in the South Gippsland Planning Scheme. No commemoration of their significance is recorded on the site.</p> <p>Anecdotal evidence suggests the Monterey Cypress trees within the park were planted in the early 1970's by local girl guides. The estimated age of the trees is consistent with this.</p> <p>It is understood that at that time it was popular to plant Monterey Cypress trees for their effectiveness as windbreaks and many have been planted throughout the Shire on farming properties for this purpose.</p> <p>Environmental values have changed in the time since the trees were planted and many land managers have replaced old windbreaks with native species. The Guides have no responsibility for the on-going management and or maintenance of the trees or the caravan park.</p>

CONCERN RAISED	RESPONSE
<p>The Monterey Cypress trees provide habitat for the Rufus Night Heron, which is a vulnerable species, galahs, magpies and other birds and various small mammals such as possums</p>	<p>The Rufus Night Heron, also known as the Nankeen Night Heron (<i>Nycticorax caledonicus</i>) is not listed as a threatened species under the Victorian Flora and Fauna Guarantee Act 1988. The Rufus Night Heron is not included on the list of critically endangered, endangered or vulnerable bird species under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). The International Union for the Conservation of Nature lists the status of the Nankeen Night Heron as “of least concern”.</p> <p>Galahs and Magpies are similarly not listed on list of threatened species under the Flora and Fauna Guarantee Act 1988.</p> <p>Two possum species are on the list of Threatened species under the Victorian Flora and Fauna Guarantee Act 1988, being: Mountain Pygmy possum Leadbeaters Possum Neither of these species is known to occur in the Yanakie/Wilsons Promontory area.</p> <p>Replanting with native species is expected to increase the biodiversity of the area by providing food and habitats for a wider variety of species than is currently provided by the Monterey Cypress trees.</p>

CONCERN RAISED	RESPONSE
<p>Removal of the Monterey Cypress trees will expose the park to gale force winds from the east what will limit the usability of the children's play area and the camping area</p>	<p>The removal of the Monterey Cypress trees is not expected to make the land unsuitable for continued use as a caravan park. A significant proportion of the caravan park is currently protected from strong winds by established native vegetation along the southern part of the foreshore and by the topography of the site.</p> <p>The part of the site likely to be exposed to strong winds is comparatively small and the proposed replanting along the foreshore is expected to assist in reducing the impact of strong easterly winds within the park over time.</p>
<p>Removal of the Monterey Cypress will expose the caravan park site to winds from the west and north-west</p>	<p>The Monterey Cypress trees along the foreshore are on the far eastern side of the park and their removal will not increase in the exposure of the caravan park to winds from the west and north west.</p>
<p>Exposure of the park to more winds will make other trees more susceptible to wind damage</p>	<p>The impact of the vegetation removal on the susceptibility of other trees within the park to damage from winds is a matter for consideration by the management of the park and is not a relevant matter for consideration as part of the planning permit application.</p>
<p>Removal of the Monterey Cypress trees will destroy the character of the area and the view along, and of, the foreshore</p>	<p>The proposed vegetation removal will alter the character of the local area as the Monterey Cypress trees are visible from within and from outside the caravan park.</p> <p>However any change in character is subjective. It is considered that the proposed replacement vegetation will establish a new character along the foreshore that is more in keeping with the surrounding natural environment.</p>

CONCERN RAISED	RESPONSE
<p>No environmental impact assessment has been undertaken on impacts of soil erosion and removal of the trees will result in loss of foreshore sand and soil</p>	<p>The row of cypress trees along the foreshore is situated approximately 20m from the edge of the water in Corner Inlet. The land between the beach and trees is currently maintained lawn.</p> <p>Given the large size of the trees and their root systems it is reasonable to expect that their removal will result in soil disturbance on the site. However, as the trees are setback from the water it is not expected there will be a significantly increase to the risk of coastal erosion along the adjacent section of beach. The applicant proposes replanting of the site with native species and this is expected to reduce the risk of coastal erosion.</p> <p>It is also recommended it be a condition of any planning permit to require that the replanting commences as soon as possible after the vegetation is removed in order to ensure the amount of time the soil is vulnerable to erosion is minimised.</p>
<p>The Monterey Cypress trees provide shade for park users</p>	<p>The loss of shade to park users is not a relevant matter for consideration as part of the planning permit application. This is a matter for the management of the caravan park to consider.</p>
<p>The Monterey Cypress trees are iconic</p>	<p>Whilst the Monterey Cypress trees are prominent in the local landscape they have not been included on Council's significant tree register as having significance to the local community and are not protected by relevant Planning Scheme provisions such as the Heritage Overlay or Vegetation Protection Overlay.</p>
<p>The Monterey Cypress trees absorb a lot of effluent from the septic system that would otherwise go into the sea.</p>	<p>Septic systems do not rely on absorption of moisture by this vegetation.</p>

CONCERN RAISED	RESPONSE
<p>Loss of the Monterey Cypress trees will result in boat moorings being unsafe due to exposure to high winds</p>	<p>The impact of the vegetation removal on the safety of boat mooring in Corner Inlet is not a relevant matter for consideration as part of the planning permit application.</p> <p>Never the less, the impact of removing the vegetation on mooring safety is considered negligible given that all other vegetation will be retained and that a number of other factors also affect safe mooring.</p>
<p>Increased risk from snakes if the Monterey Cypress trees are removed</p>	<p>This is not a relevant planning consideration, nor is it clear why the removal of the Monterey Cypress trees will increase the risk of snakes in the caravan park.</p>
<p>Removal of the Monterey Cypress trees will increase the risk of sand flies as the trees currently provide a barrier to the sand-flies</p>	<p>Sand-flies or Biting Midges breed between low and high tide in calm sea water. Some species of sand-fly may travel up to three (3) kilometres inland from the coast. The existing vegetation on the site does not necessarily provide a barrier to their presence within the caravan park. The removal of vegetation on the site is therefore not expected to increase the prevalence of sand-flies within the caravan park.</p>
<p>Removal of the trees will expose the caravans to rain and hail during storms</p>	<p>It is submitted all caravans within the park are currently vulnerable to impacts associated with the weather. The proposed removal of the Monterey Cypress trees will not change the weather proof qualities of the caravans.</p>

CONCERN RAISED	RESPONSE
Concern that removal of vegetation will affect the natural bushland appearance of the caravan park	The natural bushland appearance of the caravan park is not expected to be affected by the proposed vegetation removal. The extent of vegetation to be removed is comparatively minor compared to the extent of vegetation that will be retained on the site. Revegetation of the site is proposed to replace the vegetation that is lost. The proposed replanting will comprise native species that will enhance the natural bushland appearance of the caravan park.
Monterey Cypress trees are safer than native species, as they don't drop limbs.	This is not a relevant planning consideration. The relative safety of the tree species within the park is a matter for the management of the caravan park to consider.
Replanting with Coastal Wattle is not supported as it is invasive	Coastal Wattle is identified as suitable species in Ecological Vegetation Class for the local area (being Coastal Scrubs, grassland and woodlands). This species has been selected as it is an indigenous species. It is also fast growing, suitable for the foreshore and easily maintained.
Replanting will take too long to provide shade and wind protection	This is not a relevant matter for consideration as part of the planning permit application. The suitability of vegetation depends on what purpose the vegetation is intended to fulfil. This is a matter for consideration by the park manager.
Replanting with Banksia trees is not preferred as they are dangerous to camp under	This is not a relevant matter for consideration as part of the planning permit application. The suitability of the vegetation depends on what purposes the vegetation is intended to fulfil. This is a matter for consideration by the park manager. Notwithstanding, Council's Caravan Park Manager has advised banksias are proposed to be replanted in locations away from the foreshore and away from locations where people camp.

CONCERN RAISED	RESPONSE
<p>Rabbit population in the park needs attending to and new planting will need tree guards.</p>	<p>The rabbit population is not a relevant planning consideration.</p> <p>Council's Caravan Park Manager has advised that replanted vegetation will be protected following planting to minimise losses from damage.</p>
<p>Concern that the application does not specify which vegetation is to be removed</p>	<p>Council is satisfied the application identifies the vegetation to be removed.</p>
<p>Concern about how Council can issue a permit to itself and that the decision in relation to the planning permit is a formality</p>	<p>Council's Planning Department is able to grant a permit to Council's Property Management Department.</p> <p>Clause 67.01 of the South Gippsland Planning Scheme exempts Council from the need to obtain a permit from the Minister for Planning that would otherwise be required by section 96(1) of the Planning and Environment Act 1987.</p> <p>Section 96(1) of the Planning and Environment Act 1987 requires that the consent of the Minister for Planning is required before Council can issue a permit to itself, unless the Planning Scheme exempts the land, use or development from that requirement.</p>
<p>Concern that Department of Environment and Primary Industry (DEPI) or Parks Victoria should be the authority to grant a permit to remove the trees</p>	<p>This is not a relevant matter for consideration as part of the planning permit application. Council is able to grant a planning permit for development under the Planning and Environment Act 1987 even though other types of consent or permission may be required by other agencies under different legislation.</p> <p>In this instance, consent for the vegetation removal needs to be obtained from the Department of Environment and Primary Industry under the Coastal Management Act 1995. That consent was sought before the planning permit application was made to Council and has since been granted.</p>

CONCERN RAISED	RESPONSE
Concern that there was insufficient time to make submissions in relation to the application	The Planning and Environment Act 1987 specifies a decision in relation to a planning permit applicant cannot be made for at least 14 days from the date of notification. Notice of the application was provided on 10 October 2014, allowing more than 14 days for submissions to be received prior to the Council meeting.
Late notice of application compared to when the application was received.	The application has been notified and considered in accordance with the requirements of the Planning and Environment Act 1987.

E.4 PLANNING SCHEME AMENDMENT C103 MIRBOO NORTH - REZONE 943 & 945 BERRYS CREEK ROAD MIRBOO NORTH FROM LOW DENSITY RESIDENTIAL ZONE TO GENERAL RESIDENTIAL ZONE

Development Services Directorate

EXECUTIVE SUMMARY

This report recommends Council seek authorisation from the Minister for Planning to exhibit Planning Scheme Amendment C103. This amendment seeks to rezone land at 943 and 945 Berrys Creek Road, Mirboo North (Lot 1 PS609443 and part Lot 2 PS501729) from Low Density Residential (LDRZ) to General Residential Zone (GRZ). The Amendment also proposes to introduce a Development Plan Overlay to manage the future subdivision of the land.

The proposed Amendment meets the strategic objectives of the State Planning Policy Framework and the South Gippsland Planning Scheme and is consistent with the requirements of the Mirboo North Framework Plan. The rezoning and development of the land will complement the existing pattern of residential housing development in Mirboo North.

Document/s pertaining to this Council Report

- **Attachment 1** - Locality plan and current zoning
- **Attachment 2** - Mirboo North Framework Plan
- **Attachment 3** - Draft Development Plan Overlay Schedule
- **Attachment 4** - Footpath Contribution

LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES

- The Planning and Environment Act 1987

INTERNAL POLICIES / STRATEGIES / DOCUMENTS

- Mirboo North Structure Plan 2004;
- South Gippsland Housing and Settlement Strategy 2014.

COUNCIL PLAN

Outcome:	3.0	Integrated Services and Infrastructure
Objective:	3.1	Deliver affordable modern community services and facilities through and integrated approach to planning and infrastructure development
Strategy:	3.1.3	We will develop an integrated planning approach for our townships and villages, so that facilities are located in areas where they are most appropriate.

CONSULTATION

Public exhibition of the Amendment will occur in accordance with Council's normal processes. This will include postal notification to the owners and occupiers of adjoining and immediately surrounding lots, a sign on site, notice in local newspapers, display information in the township, Council webpage information and a notice in the Government Gazette.

REPORT

Background

Amendment C103 proposes to rezone approximately 4.2 Hectares from LDRZ to GRZ to permit the subdivision and development of the land at urban township densities below the 0.2ha lot size permissible in the LDRZ. The land adjoins an area on the eastern side of Berrys Creek Road already zoned GRZ and developed for detached houses (**Attachment 1**). The Mirboo North Framework Plan (**Attachment 2**) identifies the subject land as being suitable for rezoning for this purpose.

Indicatively a rezoning can, with appropriate road access, accommodate up to 35 new houses.

Discussion

The Mirboo North Framework Plan identifies the land for general residential development. The subject land forms the western boundary of Mirboo North as identified in the Mirboo North Framework Plan. The development of the land will define the western edge of the town and will also complement the existing GRZ land east of Berrys Creek Road already developed for detached houses.

A Development Plan Overlay is proposed to manage the development of the land. This overlay will be similar to others already adopted by Council for developments of this type and will contain specific requirements in relation to the subdivision of the land, the provision of infrastructure, access and traffic management. A Draft DPO Schedule is shown in **Attachment 3**. Provisions of the DPO may be amended prior to exhibition in consultation with the landowner.

The land can be serviced through an existing sewage treatment plant that has been designed with the capacity to service the development. Reticulated water will be required and adequate arrangements for storm water can be achieved through discharge to a designated waterway conveniently located at the low point of the site's western boundary.

The land contains a small number of isolated remnant gum trees, which appear to be in poor condition. An arborists report is a requirement of the DPO Schedule. The subdivision of the land should, where practicable, seek to retain healthy and safe mature native trees.

To ensure connection with the town, the proponent will be required to make suitable arrangements for the provision of footpaths connecting to adjoining areas. Footpath provision will be the landowner's 'development contribution', which is justified as a result of the increased subdivision development potential the landowner gains from the rezoning of the land. The footpath requirements (generally shown in **Attachment 4**) will be incorporated into the DPO Schedule and a Section 173 Agreement to be registered on the land. Details are yet to be finalised and further discussions with the landowner are required, however it is currently proposed to fill in footpath gaps between the subject land and the secondary school on Grand Ridge West. Future residents of the subdivision may well attend the school and the route is also on the main route to the town centre. This provides a direct 'development contributions link' between the development of the land and the infrastructure footpath works Council is seeking to achieve.

The Amendment will not compromise the future development of adjoining land on Grand Ridge West identified for general residential use. Nor will it impact on the consideration of areas identified for "investigation for future residential expansion" identified in the Mirboo North Framework Plan adjoining the subject land to the South West.

The Amendment is considered to be strategically justified and is consistent with the State Planning Policy Framework and Local Planning Policy Framework and the requirements of the Mirboo North Structure Plan.

Options

The options are to:

1. Proceed with the exhibition of the planning scheme amendment; or
2. Abandon the planning scheme amendment.

Proposal

Consistent with the Mirboo North Structure Plan, it is recommended that Council proceed with the exhibition of the rezoning proposal.

FINANCIAL CONSIDERATIONS

The proponent has paid the required rezoning fee and is responsible for all other statutory fees and the costs of convening a planning panel if required.

The developer will also be required to provide developer contributions to meet the costs of facilities and increased demand for services that will result from the development of the land by entering into a Section 173 Agreement with Council. As noted above, it is anticipated that developer contributions be provided in the form of footpath upgrades in the surrounding area.

RISKS

There are no known risks to Council at the time of this report's preparation. However, not proceeding to exhibit a rezoning proposal consistent with the requirements of the South Gippsland Planning Scheme would potentially restrict the supply of residential land available for development in Mirboo North.

CONCLUSION

The proposed rezoning is consistent with the objectives and requirements of the South Gippsland Planning Scheme. It would, with Council's approval, be appropriate to seek Ministerial Authorisation to prepare the Amendment and place the Amendment on exhibition for public comment.

RECOMMENDATION

That Council:

1. Following agreement having been reached on the provision of appropriate development contributions, seek authorisation from the Minister for Planning to prepare Planning Scheme Amendment C103 in accordance with the Planning Scheme Amendment provisions in Attachment 3.
2. Exhibit the Planning Scheme Amendment C103 in accordance with the procedural requirements of the Planning and Environment Act 1987.
3. Following the completion of the public exhibition period, request that the Minister for Planning appoint an Independent Planning Panel to consider all submissions to Amendment C103 that cannot be resolved by negotiation between the Amendment proponent (Beveridge Williams Pty Ltd Acting on behalf of Mr R Pincini), Council and the submitter(s).

STAFF DISCLOSURE OF INTEREST

Nil

MOVED: Cr Fawcett

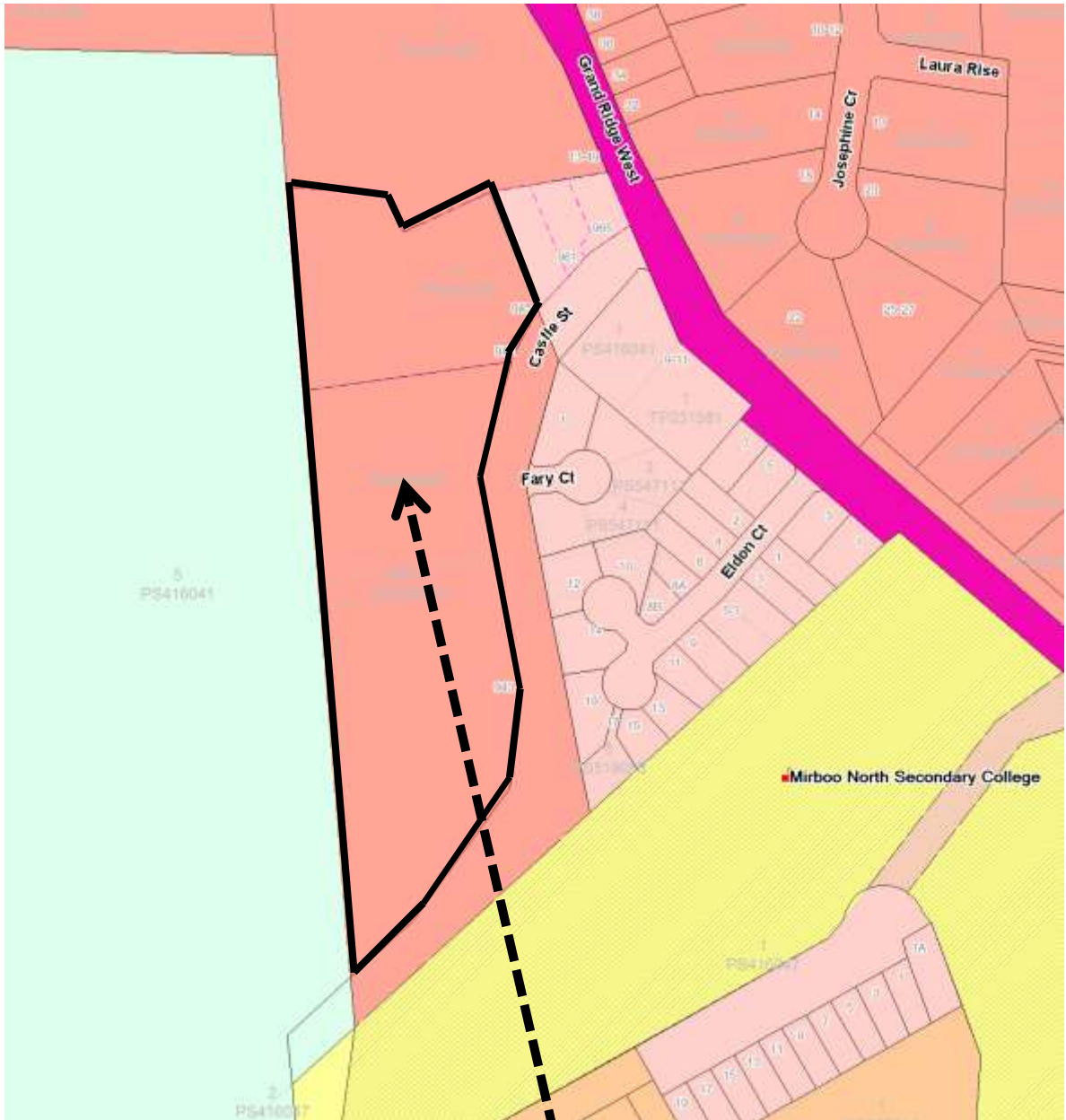
SECONDED: Cr Hill

THAT COUNCIL:

- 1. FOLLOWING AGREEMENT HAVING BEEN REACHED ON THE PROVISION OF APPROPRIATE DEVELOPMENT CONTRIBUTIONS, SEEK AUTHORISATION FROM THE MINISTER FOR PLANNING TO PREPARE PLANNING SCHEME AMENDMENT C103 IN ACCORDANCE WITH THE PLANNING SCHEME AMENDMENT PROVISIONS IN ATTACHMENT 3.**
- 2. EXHIBIT THE PLANNING SCHEME AMENDMENT C103 IN ACCORDANCE WITH THE PROCEDURAL REQUIREMENTS OF THE PLANNING AND ENVIRONMENT ACT 1987.**
- 3. FOLLOWING THE COMPLETION OF THE PUBLIC EXHIBITION PERIOD, REQUEST THAT THE MINISTER FOR PLANNING APPOINT AN INDEPENDENT PLANNING PANEL TO CONSIDER ALL SUBMISSIONS TO AMENDMENT C103 THAT CANNOT BE RESOLVED BY NEGOTIATION BETWEEN THE AMENDMENT PROPONENT (BEVERIDGE WILLIAMS PTY LTD ACTING ON BEHALF OF MR R PINCINI), COUNCIL AND THE SUBMITTER(S).**

CARRIED UNANIMOUSLY

Attachment 1 Locality Plan and Current Zoning



ZONE KEY

LDR

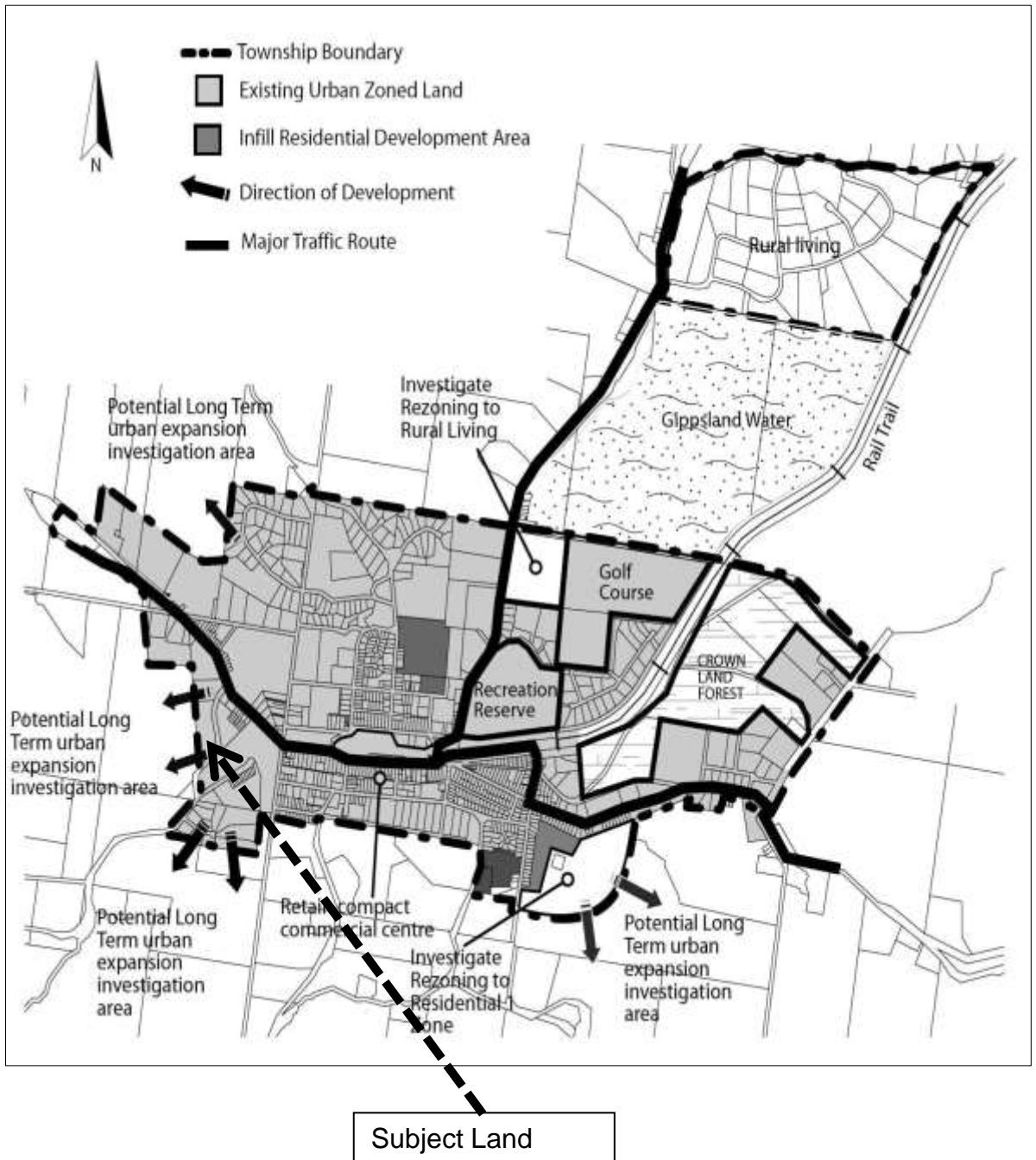
PUZ

GRZ

FZ

Subject Land

Attachment 2 Mirboo North Framework Plan



Attachment 3 Development Plan Overlay Schedule

SOUTH GIPPSLAND PLANNING SCHEME

~~1.00~~
C103

SCHEDULE X TO THE DEVELOPMENT PLAN OVERLAY

Shown on the planning scheme map as **DPOX**.

Berrys Creek Road Residential Development Area

1.0 Requirement before a permit is granted

~~1.00~~
C103

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

- The use and development of land for agriculture that does not prejudice the future residential use and development of the land, or the residential amenity of surrounding areas.
- The use, development or subdivision of land by a public authority or utility provider.
- A subdivision of existing lots provided the number of lots is not increased.
- A fence.
- To remove, destroy or lop vegetation.
- Minor drainage works and/or minor earthworks.

2.0 Conditions and requirements for permits

~~1.00~~
C103

An application for a planning permit must be accompanied by a town planning report prepared by a suitably qualified person, outlining how the permit application responds to the State Planning Policy Framework, the Local Planning Policy Framework of the South Gippsland Planning Scheme, Clause 56 of the Particular Provisions (Residential subdivision – required for subdivision permit applications) and the provisions and requirements of the approved Development Plan.

An engineering report is required to demonstrate compliance with Council's Infrastructure Design Manual.

A planning permit must include any conditions or requirements needed to give effect to the contents of the approved Development Plan including the requirement for building envelopes or agreements to be registered on newly created titles to achieve any lot development restrictions set out in the Development Plan.

A planning permit for the subdivision of land requiring development infrastructure provision external to the subject land (as detailed in the approved Development Plan) must include a condition requiring the execution of a Section 173 Agreement to be registered on the title to the land to be subdivided requiring the provision of the infrastructure by the subdivider of the subject land. The Agreement may allow for the staging of infrastructure provision in accordance with the staging of the subdivision of the land provided it is approved as part of the Development Plan.

3.0 Requirements for development plan

~~1.00~~
C103

The Development Plan must be prepared to the satisfaction of the Responsible Authority.

The Development Plan must show/provide the following detailed plans and supporting information to the satisfaction of the Responsible Authority:

SOUTH GIPPSLAND PLANNING SCHEME

Subdivision Layout and General Requirements

A subdivision layout plan that responds to a detailed site analysis and design response in accordance with the requirements of Clause 56 of the Planning Scheme.

The subdivision layout plan should:

- Detail the overall subdivision of the area (lots, roads, pathway network, open space, reserves) including the proposed size and density of allotments providing opportunities for a range of lot sizes.
- Identify any lots that have primary vehicle access directly onto Berrys Creek Road and details of how this can be achieved in a safe manner, if approved.
- Provide a single road entry point onto Berrys Creek Road. The new intersection must be appropriately located with consideration to existing intersections.
- Be designed to allow continuous vehicle and pedestrian movement across the land, with connectivity across the existing sewer easement reserve.
- Provide for larger lots with wider frontages in steeper areas (10% > slope).
- Provide a road network plan that sympathetically responds to the contours of the land and minimises or avoids the need for large retaining walls or batters in the road reserve – particularly if court bowls are proposed.
- Provide a street network that supports building frontages which promote passive surveillance of the street network.
- Provide for the potential to retain the existing gum trees.
- Provide an access point in the northern half of the subject land to provide for future road connectivity to the adjoining land.

Details demonstrating how the land will be subdivided in an efficient and orderly manner having regard to the provision of essential services, infrastructure, roads, open space, etc.

A staging plan (if staging is proposed) that demonstrates an efficient and orderly provision of infrastructure and services. A staging plan must identify when off site development contributions are to be provided.

Any other matter, as deemed appropriate by the Responsible Authority, which the Development Plan should take account of based on the specific character of the land.

Infrastructure

An integrated Stormwater Management Plan that:

- incorporates water sensitive urban design techniques and provides for the protection of natural systems, integration of stormwater treatment into the landscape, improved water quality, reduction/mitigation of run-off and peak flows including consideration of downstream impacts and how they may be affected by road works to neighbouring properties.
- Demonstrates how both drainage quality and quantity can be suitably treated including the need (or otherwise) for kerb and channel along Berrys Creek Road to control runoff from the road and ensure no adverse impacts on new lots abutting the road.

A comprehensive Traffic Impact Assessment (TIA) and management plan that identifies and responds to the surrounding road network and considers;

- the location and details of any required:
 - road widening
 - intersections / intersection upgrades
 - access points
 - pedestrian crossings or safe refuges

SOUTH GIPPSLAND PLANNING SCHEME

- cycle lanes
- The pattern and location of the internal road system (as detailed in the subdivision layout plan) based on a safe and practical hierarchy of roads including safe pedestrian and bicycle connections and crossing points.

The TIA and management plan must respond to the requirements of Council's Infrastructure Design Manual.

The Development Plan must identify the provisions of a shared pedestrian / cycle pathway 2.5m wide in the road reserve immediately adjoining the subject land which is to be provided by the subdivider of the land and will not be considered part of the 'off site' development contributions detailed below.

All infrastructure details provided for the Development Plan must respond to the requirements of the Infrastructure Design Manual unless varied with the agreement of the Responsible Authority.

Earthworks and Land Form

Where land with a slope of more than 10% exists on the site, the Development Plan shall detail how the proposed subdivision design responds to the topography and contours of the land and whether significant earthworks are likely to be required for subdivisions to ensure good development design outcomes are achieved.

Where land exceeds a slope of 15% a geotechnical report must be prepared by an appropriately qualified person demonstrating the suitability of the land for subdivision and dwelling development. The report must provide sufficient detail to ensure environmental, access, safety and amenity issues are appropriately addressed. The report should determine whether building envelopes or other controls are likely to be required at the subdivision stage.

Landscaping and Open Space

A landscaping plan, prepared by a suitably qualified person, identifying proposed landscaping with regard to the interface with surrounding lands and open spaces. The landscape plan should include tree plantings within both the internal and external road network to soften the visual impact of new development when viewed from within and outside the development area. The landscape plan should more specifically consider:

- Planting in the road reserve (including canopy trees) immediately adjoining the subject land to soften the visual impact of paling fencing and views to backyards likely to be gained from the road.
- Canopy tree planting dispersed within the road reserves of the subject land that will, at maturity, soften the visual impact of development.
- Planting in any open space reserves, adjoining pathways and in easements.

An arborists report is required to determine the health and safety (& works required to make safe) the existing native vegetation on the subject land and in the road reserves where footpaths are required.

Open space is to be provided in accordance with Clause 52.01. It is noted that easement reserves (including the sewer reserve) will not be considered as open space for the purpose of Clause 52.01.

SOUTH GIPPSLAND PLANNING SCHEME

Developer Contributions / Shared Pathways

It is an expectation of residents in new subdivisions that footpath connectivity is provided the key local features (schools, commercial areas etc) and that residents not be expected to walk on the road carriageway or on unmade paths. Orderly development of the subject land requires its connection to the existing pathway network with an emphasis on connection to the school (Mirboo North Secondary College). Accordingly, the Development Plan must show the provision of a 2.5m wide shared pathway from the subject land north along Berrys Creek Road to Grand Ridge West (GRW), pathway fronting the bowling club site on eastern side of Berrys Creek Road and connecting pathway eastwards (along the southern side of GRW) to the entry point of the school. Functional design details must be provided including details of earthworks,vegetation removal and any other works required to develop the path.

The subdivider / developer of the land must provide (fund and/or install) the pathway to the satisfaction of the Responsible Authority.

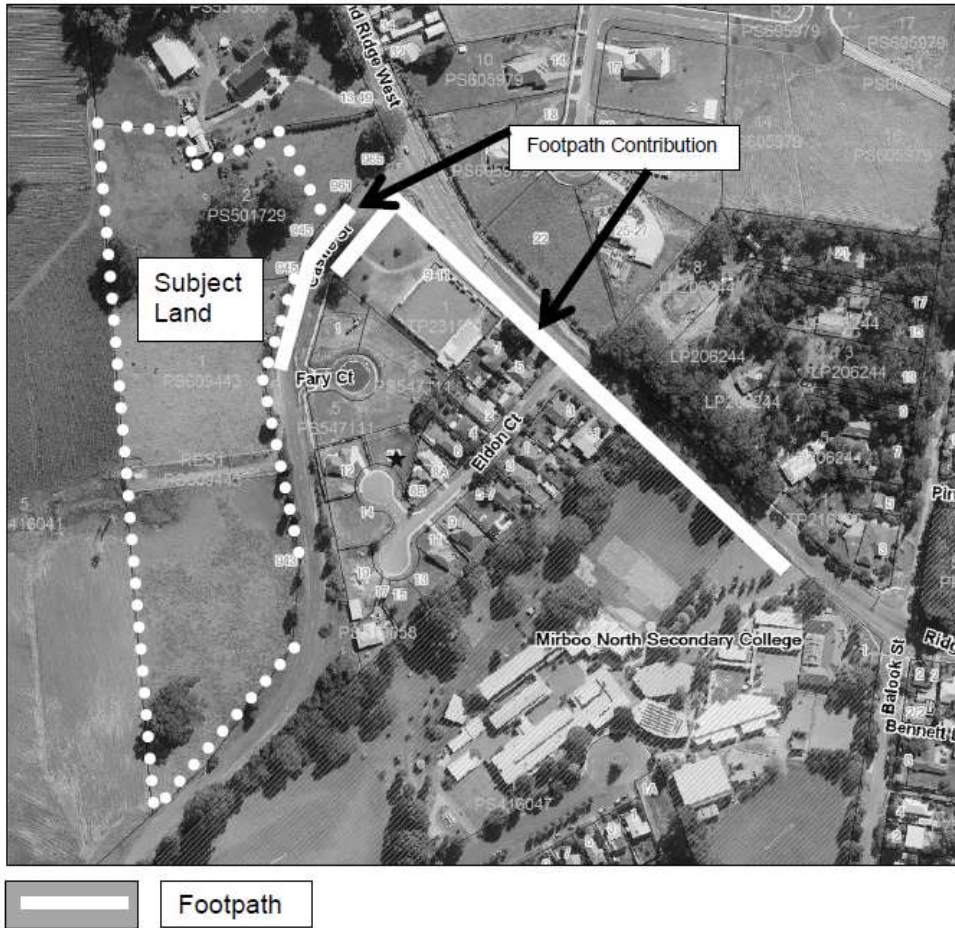
The pathway may be provided in stages and linked to the staged subdivision of the subject land, with the approval of the Responsible Authority.

Details of the pathway network will be made a condition of the subdivision of the land and further secured via Section 173 Agreement

Land Contamination

A limited desktop assessment must be undertaken by an appropriately qualified person that considers the potential location and forms of land contamination resulting from previous land uses. In any case where contamination is identified, the report will consider the measures to address contamination in areas where sensitive land uses are proposed. The investigation must consider, but not be limited to, agricultural chemical use, informal land dumping, industrial or mining activities

Attachment 4 Footpath Developer Contribution



**E.5 PLANNING SCHEME AMENDMENT C96 - REZONING 35-65
KORUMBURRA-WARRAGUL ROAD FROM FARMING ZONE TO
GENERAL RESIDENTIAL ZONE**

Development Services Directorate

EXECUTIVE SUMMARY

The Amendment proposes to:

- a. Rezone part of 65 Korumburra-Warragul Road (3ha of a total of 27ha) from Farming Zone (FZ) to General Residential Zone (GRZ).
- b. Remove Environmental Significance Overlay Schedule 5 - Erosion (ESO5) from the same area (**Attachment 3**).
- c. Apply a Development Plan Overlay Schedule 8 (DPO8) to this area and the neighbouring lot, 35 Korumburra-Warragul Road which is already GRZ (**Attachment 4**).

Planning Panels Victoria (the Panel) considered the Amendment on 25 September 2014. The Panel Report recommends that Amendment C96 be adopted.

It is recommended that Council adopt Amendment C96 in accordance with the Panel's recommendation, subject to a minor variation of the subdivision application timing.

Document/s pertaining to this Council Report

- **Attachment 1** - Site Map
- **Attachment 2** - Map : Proposed Zone Changes
- **Attachment 3** - Map : Deletion of ESO5 Area
- **Attachment 4** - Map : Development Plan Overlay Schedule 8 Area
- **Attachment 5** - Proposed Development Plan Overlay Schedule
- **Appendix 1** - Amendment C96 Panel Report

A copy of **Appendix 1** is available on Council's website:
www.southgippsland.vic.gov.au or by contacting 5662 9200.

LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES

- Planning and Environment Act 1987, "The Act"

INTERNAL POLICIES / STRATEGIES / DOCUMENTS

- Korumburra Structure Plan

COUNCIL PLAN

Outcome:	3	Integrated Services & Infrastructure
Objective:	3.1	Deliver affordable modern community services and facilities through an integrated approach to planning and infrastructure development
Strategy No:	3.1.3	We will develop an integrated planning approach for our townships and villages, so that facilities are located in areas where they are most appropriate.

CONSULTATION

The Amendment was exhibited between 17 March and 17 April 2014 and received six submissions, with one being an objection. The Panel considered all submissions to the Amendment on 25 September 2014.

A copy of the Panel Report is attached (**Appendix 1**).

REPORT

Background

The land at 35 Korumburra-Warragul Road (Lot 1, TP119384D) is zoned GRZ and not subject to any overlays. The land at 65 Korumburra-Warragul Road (Lot 3, PS439847Q) is zoned FZ and is affected by ESO5. Refer to:

- **Attachment 1** - Site Map
- **Attachment 2** - Map : Proposed Zone Changes
- **Attachment 3** - Map : Deletion of ESO5 Area

A section 173 agreement is in place for developer contributions.

The Amendment Process as set by the 'Planning and Environment Act 1987' has been followed. The proponent requested a Planning Scheme Amendment on 8 Nov 2013 and 'Authorisation to Prepare the Amendment' was granted from the Minister for Planning following resolution by Council on 18 Dec 2013.

The Amendment was exhibited between 17 March and 17 April 2014, which consisted of notices in local papers, community houses, Korumburra Library and Council offices. Letters were sent to all neighbouring owners/occupiers and relevant servicing Authorities, including local community groups.

An objection was received from a neighbour that Council Officers were not able to mitigate. A Panel was convened on 25 September 2014 and recommended to proceed to adoption by Council.

Discussion

Advice from the Panel has changed the Amendment content since exhibition. The most significant changes have been to the DPO area which has a

reduced area (**Attachment 4**) and applies only to the land being rezoned. Changes have also been made to the DPO Schedule provisions (**Attachment 5**) to make them more site specific and beneficial to the future consideration of the subdivision planning permit for the land. These changes are supported by all parties including the Panel.

Panel Hearing and Recommendations

The Panel considered the submissions and proposed DPO Schedule in detail, making two recommendations:

1. *"The Panel recommends that Amendment C96 to the South Gippsland Planning Scheme be adopted as exhibited subject to the following changes:*
 - a. *Reduce the area of application of the proposed DPO9 to apply only to 35 Korumburra-Warragul Road and that part of 65 Korumburra-Warragul Road proposed to be zoned GRZ.*
 - b. *Amend the form and content of the proposed Development Plan Overlay Schedule 9 as shown in Appendix A of this report.*
2. *The Panel recommends that, should Council adopt the Amendment, the proposed two lot subdivision application be approved prior to seeking the Minister's approval to the Amendment to ensure that all land within a lot is entirely within one zone."*

Panel Recommendation 1 contains the most significant aspects of the Amendment, addressing land use and planning controls. Panel Recommendation 2 supports a subdivision in the Farming Zone that is technically prohibited (Clause 64.03). This would create a small FZ lot in two zones which is prohibited by the Planning Scheme. Although the intent is to avoid a lot containing multiple zones, the Panel's recommendation would create (if only for a brief period of time) a lot at 35 Korumburra-Warragul Road containing GRZ and Farming Zone (FZ) land.

The Schedule to the Development Plan Overlay

The Panel recommended changes to the Development Plan Overlay Schedule which affect both the extent that it covers and the provisions. The original DPO Schedule area covered the balance of the developable area at 65 Korumburra-Warragul Road, identified in the Korumburra Structure Plan and identified as future Low Density Residential Zone (LDRZ). The DPO Schedule was intended to improve development coordination between the GRZ and the LDRZ area but has been reduced to just the GRZ land. A DPO can be placed on the balance of the land should it be rezoned in the future.

The extent of the DPO over 35 Korumburra-Warragul Rd (land already zoned GRZ) has not changed from exhibition.

The content of the proposed DPO schedule was reviewed by planning officers, Panel and expert witnesses. The Schedule presented in the Panel Report retains the controls suited to this site and complements the requirements of the Planning Scheme when issuing a future planning permit for the full subdivision of the land.

Split Zoning Subdivision

A technical aspect of this rezoning request is that the amended zone boundaries will not align with the lot boundaries (albeit for a short period of time) which is not recommended planning practice. To address this, the Panel recommended moving the existing lot boundary between the existing FZ and GRZ areas (via the re subdivision of two existing lots) between 65 and 35 Korumburra-Warragul Rd prior to the rezoning being approved. However this would create a small FZ lot in two zones, which is prohibited by the Planning Scheme.

A planning permit for the subdivision of the land cannot be issued until after the land has been rezoned.

This technical matter was not addressed during the Panel Hearing (it only became evident after the Panel Hearing) however it has no impact on the planning merits of the Amendment.

In future it is proposed that rezoning from FZ to a residential zone should only be accepted as a section 96A application which combines a Planning Scheme Amendment with a Planning Permit for subdivision along the rezoned boundary.

Options

Council may:-

1. Adopt the Panel recommendations in full;
2. Adopt recommendation 1 and vary recommendation 2 by acting on the planning permit following the gazettal of the rezoning application; or
3. Abandon the Amendment.

Proposal

That Council adopt the Amendment in accordance with Panel Recommendations except that the Amendment be approved prior to the issue of the permit for the subdivision of the land.

RISKS

There are no risks to Council directly associated with the rezoning of the land.

There is a minor procedural risk posed by seeking to vary the recommendations of the Independent Planning Panel. However in this case

the variation is supported by the need to avoid issuing a subdivision planning permit which is prohibited. The reasons for the variation will be discussed in detail when the Amendment is submitted to the Minister for Planning for approval.

CONCLUSION

This Amendment is consistent with the strategic policy for the area.

The desired outcome of the zone boundary matching the lot boundary can be achieved through the approval of a planning permit for the re-subdivision of the land following the approval of the rezoning.

RECOMMENDATION

That Council:

1. Adopt South Gippsland Planning Scheme Amendment C96 in accordance with Recommendation 1 of the Planning Panels Victoria Report, including the Amendment provisions detailed in Attachments 2, 3, 4 & 5.
2. Adopt Recommendation 2 of the Planning Panels Victoria Report with a change to the suggested process by processing the subdivision application submitted with this Amendment following the rezoning of the subject land.
3. Submit South Gippsland Planning Scheme Amendment C96 to the Minister for Planning for Approval.
4. Advise the Minister for Planning that Council will consider the planning permit for the subdivision of the Amendment C96 land following the approval of the rezoning so that the zone boundary accords with the lot boundary.

STAFF DISCLOSURE OF INTEREST

Nil

MOVED: Cr Newton

SECONDED: Cr Brunt

THAT COUNCIL:

- 1. ADOPT SOUTH GIPPSLAND PLANNING SCHEME AMENDMENT C96 IN ACCORDANCE WITH RECOMMENDATION 1 OF THE PLANNING PANELS VICTORIA REPORT, INCLUDING THE AMENDMENT PROVISIONS DETAILED IN ATTACHMENTS 2, 3, 4 and 5.**
- 2. ADOPT RECOMMENDATION 2 OF THE PLANNING PANELS VICTORIA REPORT WITH A CHANGE TO THE SUGGESTED PROCESS BY PROCESSING THE SUBDIVISION APPLICATION SUBMITTED WITH THIS AMENDMENT FOLLOWING THE REZONING OF THE SUBJECT LAND.**
- 3. SUBMIT SOUTH GIPPSLAND PLANNING SCHEME AMENDMENT C96 TO THE MINISTER FOR PLANNING FOR APPROVAL.**
- 4. ADVISE THE MINISTER FOR PLANNING THAT COUNCIL WILL CONSIDER THE PLANNING PERMIT FOR THE SUBDIVISION OF THE AMENDMENT C96 LAND FOLLOWING THE APPROVAL OF THE REZONING SO THAT THE ZONE BOUNDARY ACCORDS WITH THE LOT BOUNDARY.**

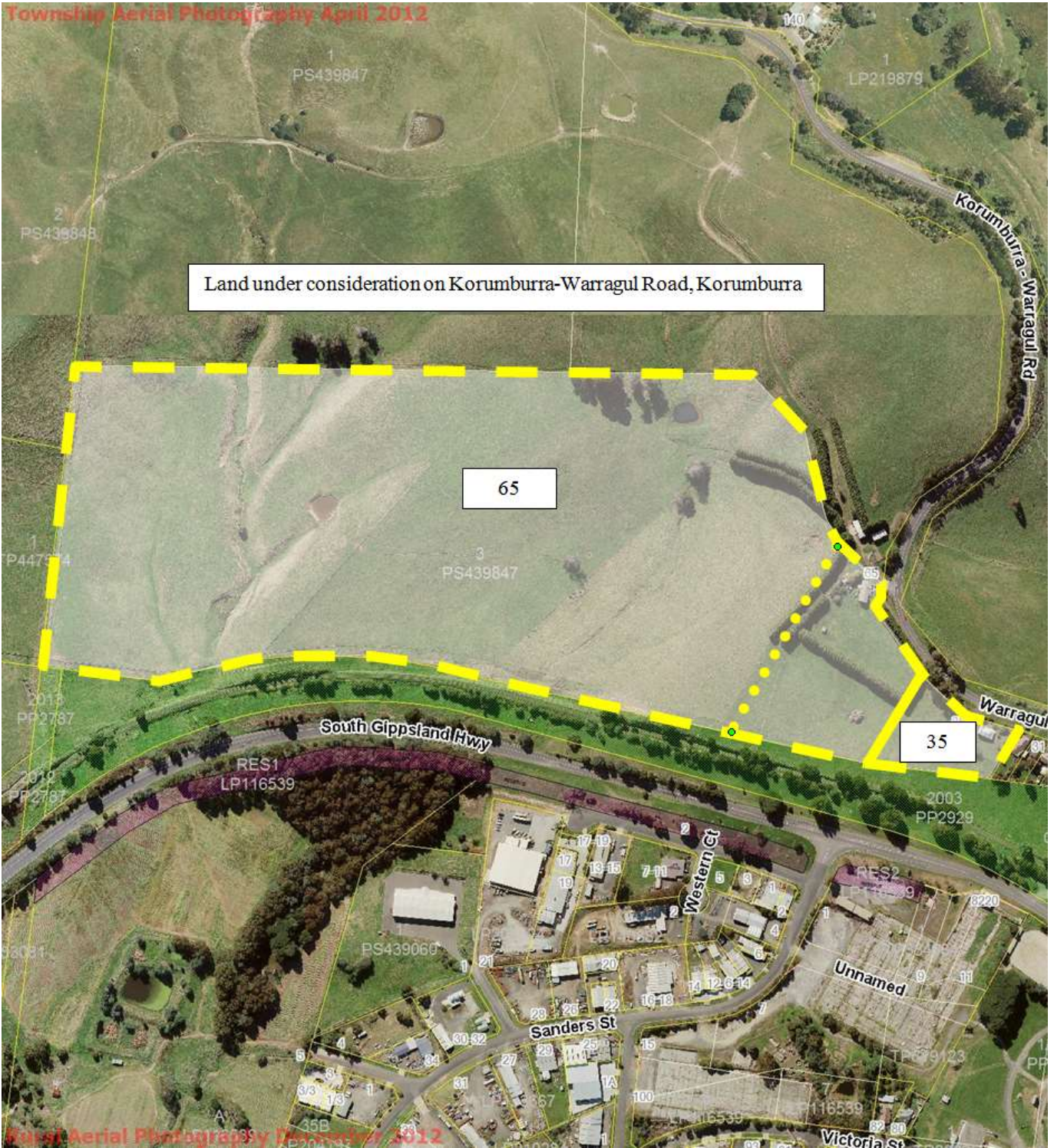
Cr Fawcett left the Meeting at 2.46pm.

Cr Fawcett returned to the Meeting at 2.47pm.

CARRIED UNANIMOUSLY

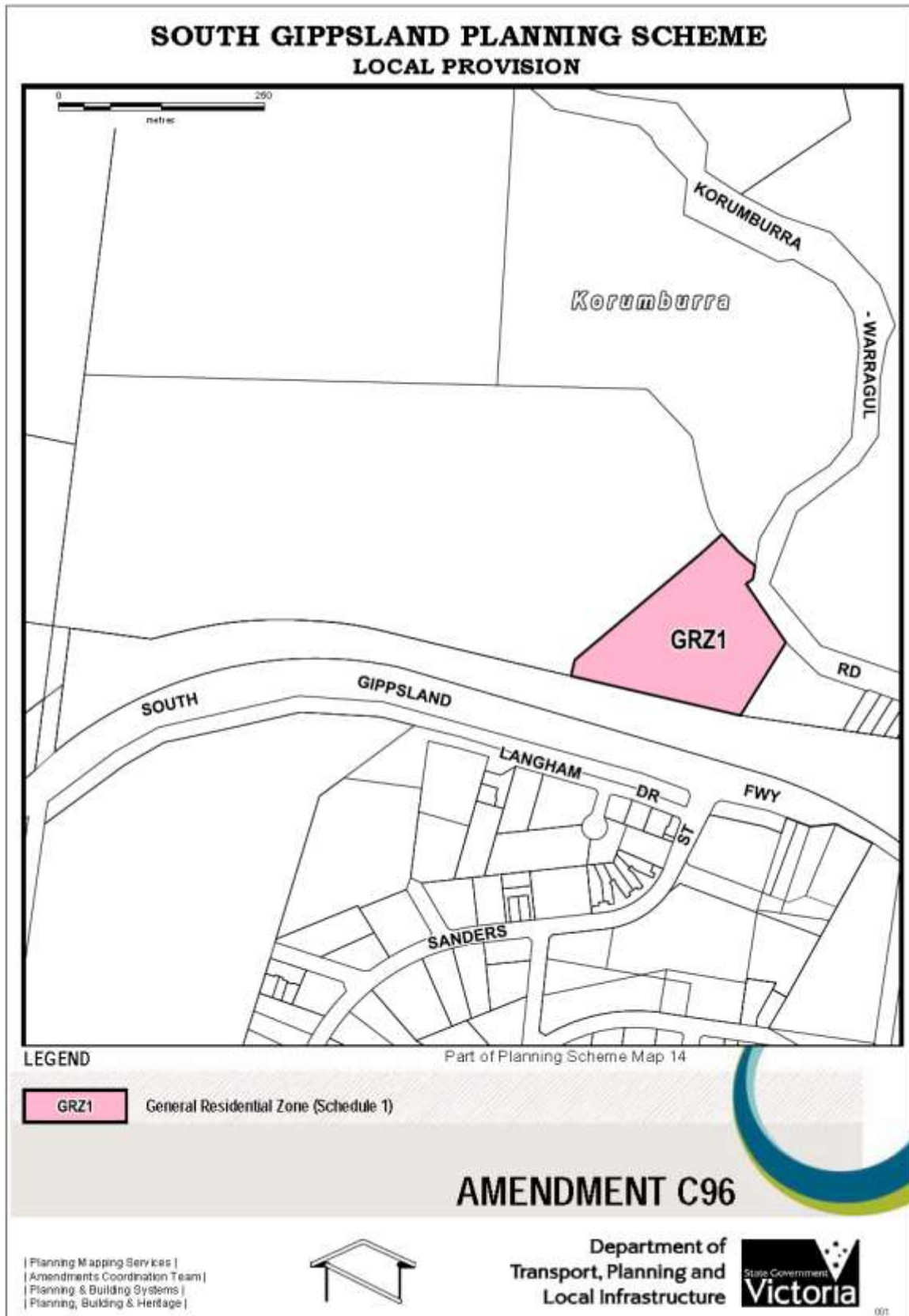
Attachment 1 - Site Map

The shaded and dashed line area shows the extent of the lots under consideration. The dotted line within the 65 Korumburra-Warragul Road lot is the western boundary of the area to be rezoned (see **Attachment 2**).



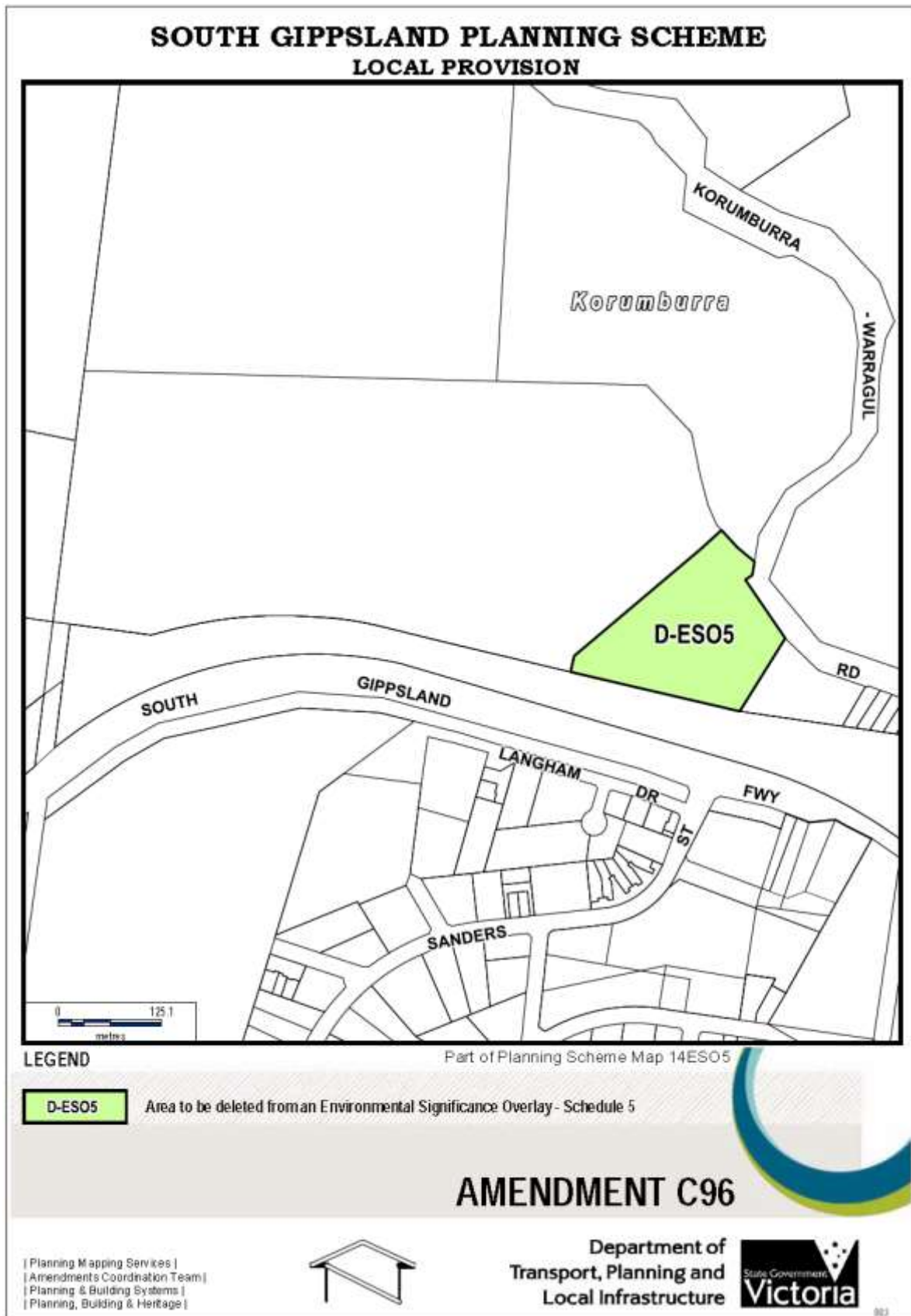
Attachment 2

Proposed Zone Change - Application of the General Residential Zone



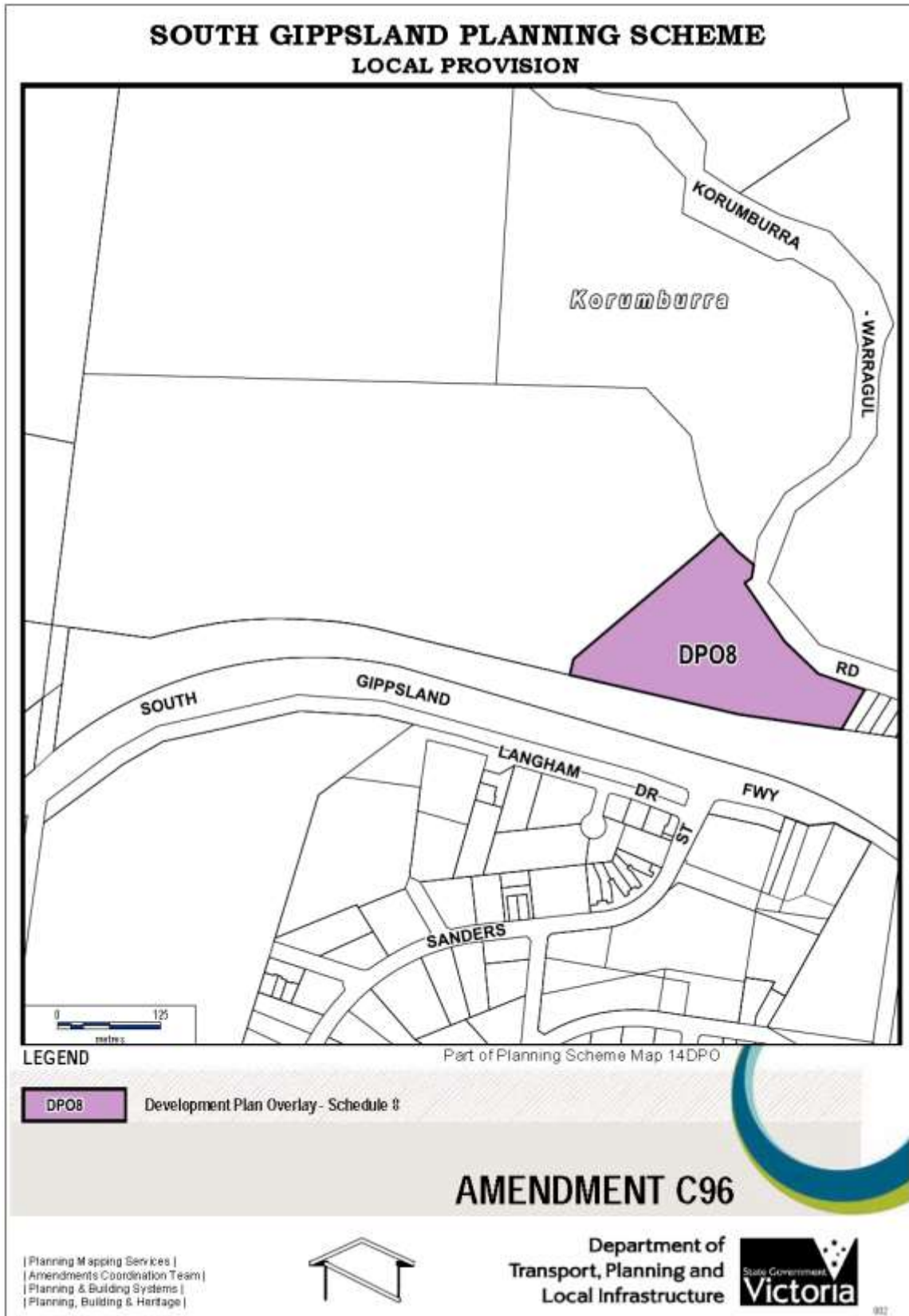
Attachment 3

Deletion Area of Environment Significant Overlay Schedule 5



Attachment 4

Area to Apply Development Plan Overlay Schedule 8



Attachment 5

Proposed Schedule to Development Plan Overlay

SCHEDULE 8 TO THE DEVELOPMENT PLAN OVERLAY

DD/MM/YYYY
Proposed C96

Shown on the planning scheme map as DPO8

RESIDENTIAL GROWTH AREA (NORTH WEST KORUMBURRA)

1.0 Requirement before a permit is granted

DD/MM/YYYY
Proposed C96

A permit may be granted before a Development Plan has been prepared to the satisfaction of the Responsible Authority for a minor extension, minor addition or minor modification to an existing development, boundary realignment, agricultural activity, vegetation removal or any other use that does not affect the future orderly development of the area affected by the Development Plan Overlay.

2.0 Conditions and requirements for permits

DD/MM/YYYY
Proposed C96

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

- The requirement for building envelopes on any plan of subdivision for lots that abut 33 Korumburra-Warragul Road
- An appropriate mechanism to identify and apportion costs of land and services as development occurs, by way of Section 173 Agreement or alternative means.

3.0 Requirements for Development Plan

DD/MM/YYYY
Proposed C96

The Development Plan must show / provide:

General Requirements

- How the development of the land occurs in an orderly manner having regard to essential services, open space and roads.
- The timing and staging of the subdivision of the land.
- The potential for further subdivision of individual lots to negatively impact neighbourhood character
- The interface between proposed and existing nearby developments.

Land use and subdivision

- Details of the interfaces with neighbouring uses of land
- Any noise mitigation requirements associated with proximity to the South Gippsland Highway and Korumburra - Warragul Road.
- The overall subdivision of the area, including where possible, the proposed size and density of allotments which provide opportunities for a diverse range of housing types.
- Street network that:
 - Limits the creation of new road access points onto Korumburra - Warragul Road
 - Support building frontages which promote passive surveillance of the street network.
- A staging plan that demonstrates an efficient and orderly provision of infrastructure and services.

Earthworks and Land Form

- Where land with a slope of more than 10% exists on the site, the Development Plan shall detail how the proposed design responds to the topography and contours of the land and whether significant earthworks are likely to be required for subdivisions to ensure good development design outcomes are achieved.
- Where land exceeds a slope of 15% a geotechnical report must be prepared by an

SOUTH GIPPSLAND PLANNING SCHEME

appropriately qualified person demonstrating the suitability of the land for development. The report must provide sufficient detail to ensure environmental, access and amenity issues are appropriately addressed. The report should determine whether building envelopes or other controls are likely to be required at the subdivision stage.

Infrastructure Services

- An integrated Stormwater Management Plan that incorporates water sensitive urban design techniques and provides for the protection of natural systems, integration of stormwater treatment into the landscape, improved water quality, reduction/mitigation of run-off and peak flows including consideration of downstream impacts and how they may be affected by roadworks to neighbouring properties.

A comprehensive Traffic Impact Assessment that identifies:

- The pattern and location of the major arterial road network of the area including existing roads and the location and details of any required:
 - road widening
 - intersections
 - access points
 - pedestrian crossings or safe refuges
 - cycle lanes
- The pattern and location of any internal road system based on a safe and practical hierarchy that accounts for pedestrian and bicycle connections and crossing points.
- Identification of costs for infrastructure provision both onsite and offsite.

Open Space

- The location of any open space reserves and details of the provisions of building / works / equipment within the open space. Open space should be located on a flatter area of land and capable of easy drainage

Flora and Fauna

- In consultation with the Department of Environment and Primary Industries, a Flora and Fauna Assessment, prepared by a suitably qualified expert(s), which includes but is not limited to species surveys for Gippsland Giant Earthworm and measures required to protect the identified species.

Land Contamination

- An investigation by an appropriately qualified person is required, which considers the potential location and forms of land contamination resulting from previous land uses, as well as measures to address contamination in areas where sensitive land uses are proposed. The investigation must consider but not be limited to, agricultural chemical use, informal land dumping, industrial & mining activities.
- This can initially take the form of a limited desktop study but further detailed investigation may be required should there be sufficient concern of a risk to sensitive uses of the land, as determined by the Responsible Authority.

Process and Outcomes

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

E.6 PLANNING SCHEME AMENDMENT C83 (PART 2) REZONING OF THE KORUMBURRA INTEGRATED CHILDREN'S CENTRE TO PUBLIC USE ZONE 3

Development Services Directorate

EXECUTIVE SUMMARY

At its Ordinary Meeting on 25 September 2013, Council adopted Planning Scheme Amendment C83 (Part 1) which applied a Public Acquisition Overlay (PAO) to the land at 5 Little Princes Street Korumburra. The PAO was required to facilitate Council's compulsory acquisition of part of the land required to develop the Korumburra Integrated Children's Centre (KICC).

Council's recent acquisition of the PAO land, combined with road closures within the development site, means that Council has now secured all of the land required to develop the KICC.

Amendment C83 (Part 2) rezones the entire development site to the Public Use Zone - 3 (PUZ3 - Health and Community) and removes the redundant PAO from 5 Little Princes Street. Rezoning the land PUZ3 means that a planning permit is not required for the use and development of the KICC.

Exhibition of Council's intention to rezone the land PUZ3 occurred as part of Amendment C83 (Part 1). No objections were received. It is recommended Council Adopt Amendment C83 (Part 2) and submit the Amendment to the Minister for Planning for approval.

Document/s pertaining to this Council Report

- **Attachment 1** - Location and indicative development layout plan of the KICC
- **Attachment 2** - Amendment C83 (Part 2) adoption documents

LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES

- Planning and Environment Act 1987
- Land Acquisition and Compensation Act 1986

INTERNAL POLICIES / STRATEGIES / DOCUMENTS

- Council Priority Projects 2014

COUNCIL PLAN

Outcome:	3.0	Integrated Services and infrastructure
Objective:	3.1	Deliver affordable modern community services and facilities through an integrated approach to planning and infrastructure development.

Strategy: 3.1.4 We will plan for the service needs of the Shire's changing demographics

CONSULTATION

Extensive public consultation occurred as part of the public exhibition of Amendment C83 (Part 1). Exhibition included details of Council's intention to rezone the land to PUZ3. No objections were received.

REPORT

Background

At its Ordinary Meeting (Closed Session) on 24 April 2013, Council resolved to prepare and exhibit Amendment C83. At that time Council was negotiating the purchase of the land at 22 Princes Street and 5 Little Princes Street.

Following the April Council meeting, and prior to authorisation by the Minister for Planning for the preparation of the Amendment, Council purchased 22 Princes Street with the agreement of the landowner. Negotiations for the voluntary purchase of 5 Little Princes Street were unsuccessful and application of the PAO was required for Council to secure the land.

Council has recently secured, by way of compulsory acquisition, 5 Little Princes Street in accordance with the requirements of the Land Acquisition and Compensation Act 1986.

The KICC site and indicative development plan is detailed in **Attachment 1**.

The Amendment C83 adoption documents are detailed in **Attachment 2**.

Discussion

The use and development of the subject land for the KICC has received local media coverage and the landowners / occupiers within and adjoining the KICC site have received three separate postal notifications advising them of Council's intentions for the site. A public meeting was also held with adjoining residents. More recently further postal notification occurred in relation to the road closures required to consolidate the KICC development site.

Community feedback has been positive and to date no issues have been identified which compromise or complicate the development of the KICC.

Rezoning the land PUZ3 is a procedural issue and recognises Council's ownership of the land and its intention to use the land for a 'Health and Community' facility. Once the PUZ3 has been applied, a planning permit will not be required for the use and development of the KICC. Adjoining landowners are fully aware of the KICC proposal and removing the need for a planning permit (involving further public consultation) will not deprive current landowners of knowledge of Council's intentions for the land.

Options

Council has the option to either adopt Amendment C83 (Part 2) or abandon the Amendment.

No objections have been received to the rezoning of the land, or the removal of the PAO and no planning grounds exist to abandon the Amendment.

Proposal

As no objections have been received, it is proposed that the entire site required for the development of the KICC as detailed in **Attachment 2** be rezoned PUZ3 and that the redundant PAO be removed from 5 Little Princes Street.

FINANCIAL CONSIDERATIONS

The rezoning of the land and removal of the redundant PAO are procedural matters and have no financial implications for Council.

RISKS

There are no risk factors directly associated with the adoption of Amendment C83 (Part 2).

CONCLUSION

The Korumburra Integrated Children's Centre is a significant long term capital investment by Council in Korumburra. It is important that once project funding has been secured that the site is 'shovel ready' for development.

Adoption of Amendment C83 (Part 2) will ensure that the planning controls on the land are the most suitable controls to reflect Council's ownership and intentions for the land and do not trigger the need for unnecessary planning permits. Application of the Public Use Zone 3 - Health and Community achieves this outcome and completes the planning scheme processes necessary to facilitate the use and development of the KICC.

RECOMMENDATION

That Council adopt South Gippsland Planning Scheme Amendment C83 (Part 2) and submit the Amendment to the Minister for Planning for approval.

STAFF DISCLOSURE OF INTEREST

Nil

MOVED: Cr Davies

SECONDED: Cr Newton

THAT COUNCIL ADOPT SOUTH GIPPSLAND PLANNING SCHEME AMENDMENT C83 (PART 2) AND SUBMIT THE AMENDMENT TO THE MINISTER FOR PLANNING FOR APPROVAL.

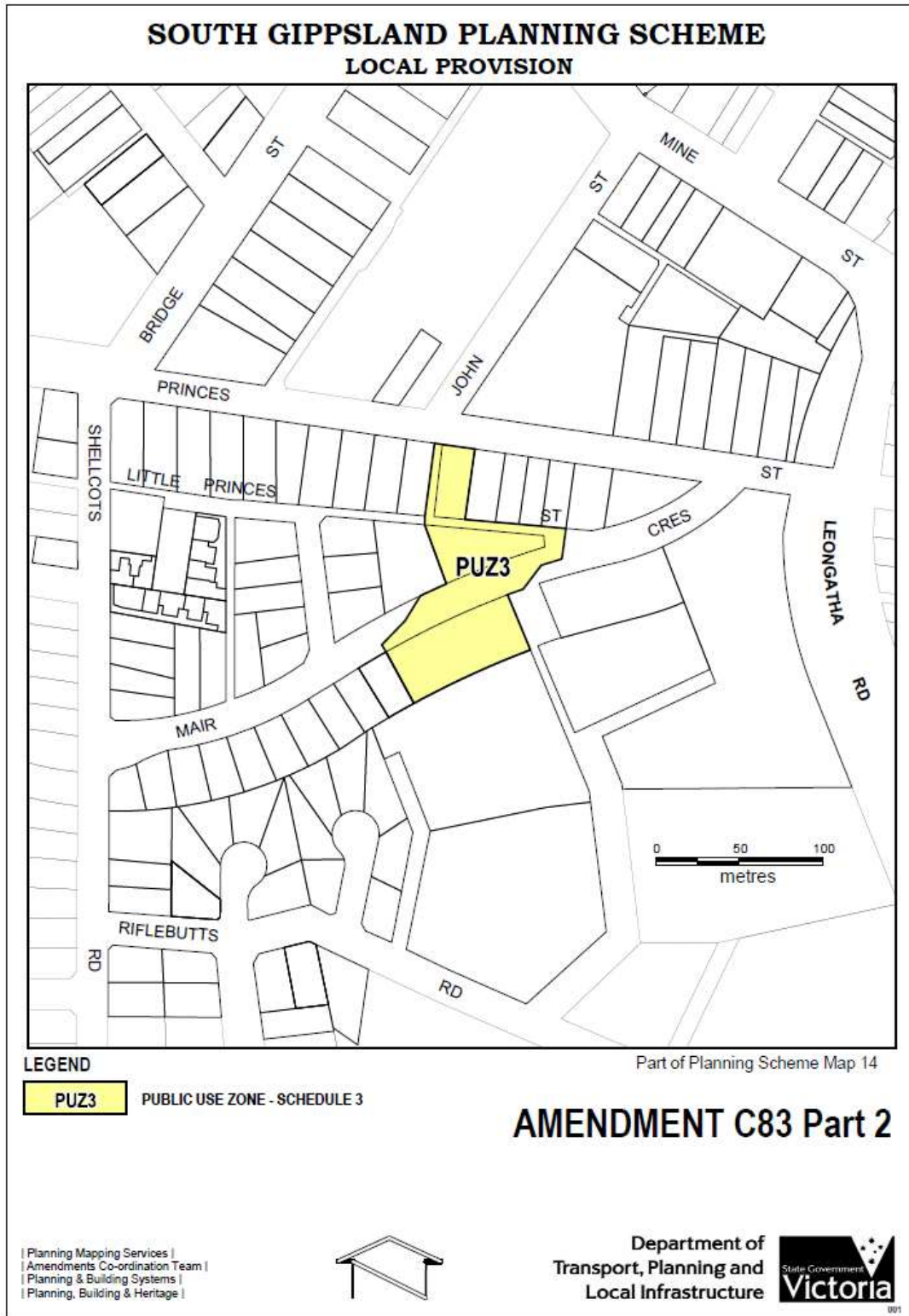
CARRIED UNANIMOUSLY

Attachment 1 Location and indicative development layout of the KICC



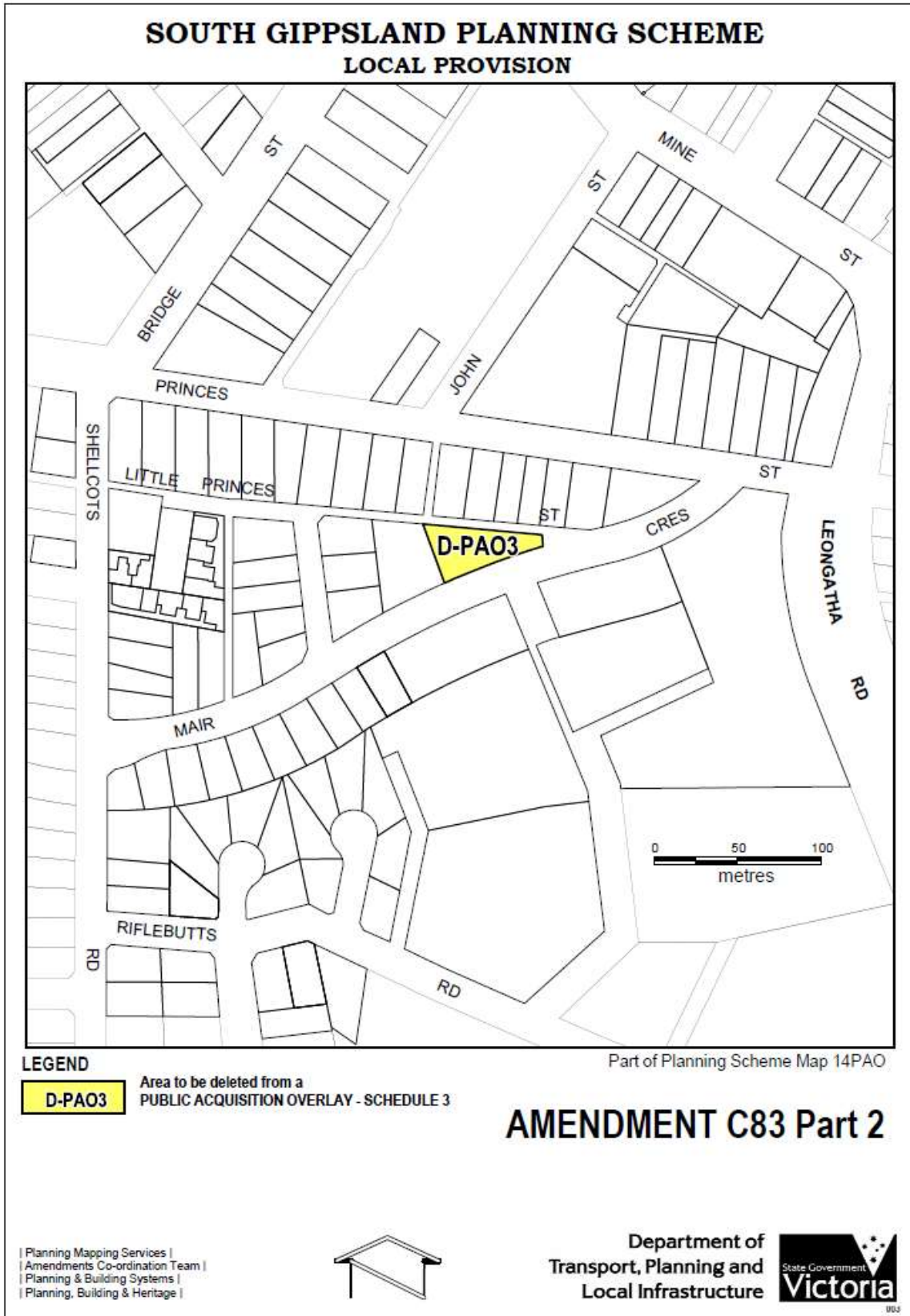
Attachment 2
Amendment C83 (Part 2) Adoption Provisions

Rezoning of the Korumburra Integrated Children's Centre to the Public Use Zone 3 Health and Community.



Attachment 2 (continued)
Amendment C83 (Part 2) Adoption Provisions

Deletion of the PAO3 from 5 Little Princes Street Korumburra



Attachment 2 (continued)
Amendment C83 (Part 2) Adoption Provisions

Deletion of PAO3 from the Public Acquisition Overlay Schedule

SOUTH GIPPSLAND PLANNING SCHEME

C83 (Part 2)

SCHEDULE TO CLAUSE 45.01 PUBLIC ACQUISITION OVERLAY

PS Map	Acquiring Authority	Purpose of Acquisition
PAO1	South Gippsland Shire Council	Road widening and acquisition
PAO2	VicRoads	<u>Roadworks</u>
PAO3	South Gippsland Shire Council	Community centre for child health, education and ancillary services.
PAO5	VicRoads	Proposed improvements to and deviation of the South Gippsland Highway between Loch and Jeetho Road
PAO6	VicRoads	Proposed improvements and deviation of the South Gippsland Highway between Jeetho Road and the Korumburra - Bena Road, Bena
PAO7	VicRoads	Proposed improvements to the South Gippsland Highway Toora – Gunyah Road and approximately 1.4 km west of <u>Cargeegs Road</u>
PAO8	VicRoads	Proposed highway improvements to the South Gippsland Highway between Old Meeniyan Road and Minns Road.
PAO9	VicRoads	Proposed highway improvements to the South Gippsland Highway between Bena-Korumburra Road and east of Korumburra-Whitelaw Road.
PAO10	VicRoads	Proposed highway improvements to the South Gippsland Highway between Carmichaels Road and <u>McKnights Road</u> .

E.7 LONG TERM FINANCIAL STRATEGIES

Corporate Services Directorate

EXECUTIVE SUMMARY

Long Term Financial Strategies (Strategies) provide the framework or business rules that both the annual and longer term business plans are built on. Together, the Strategies, annual and longer term business plans work towards achieving the outcomes required in the 2013-2017 Council Plan. The strategies were originally adopted in 2003 and undergo an annual review process.

Council has adopted a strategic approach to business planning over the past 12 years. Since then, its overall financial performance has systematically improved.

Two refinements to the Strategies are proposed for Council's consideration. They include:

- **Strategy # 6 has been refined to remove reference to allocating equivalent to the average interest earned to the General Reserve when it is financially viable to do so.**

Strategy # 11 has been refined to align the asset expenditure types as described in the Local Government (Planning and Reporting) Regulations 2014 as well as clarify which years that are expected to include detailed lifecycle costs. The previous strategy inferred that all forward budgets in the financial plan were required to have detailed lifecycle cost evaluations.

All the remaining financial strategies remain unchanged.

Overall, the fundamental intent of the Financial Strategies remains unchanged from the original strategies adopted in 2003.

It is recommended Council adopt the Long Term Financial Strategies (**Appendix 1**).

Document/s pertaining to this Council Report

- **Appendix 1** - Long Term Financial Strategies - 17 December 2014

A copy of **Appendix 1** is available on Council's website: www.southgippsland.vic.gov.au or by contacting 5662 9200.

LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES

Local Government Act 1989, Section 136 - Principles of sound financial management

INTERNAL POLICIES / STRATEGIES / DOCUMENTS

Long Term Financial Plan

COUNCIL PLAN

Outcome:	4.0	A Leading Organisation
Objective:	4.1	Improve the financial sustainability of Council, including diversifying revenue streams
Strategy:	4.1.1	We will explore innovative ways of increasing revenue and reducing expenditure

CONSULTATION

The Financial Sustainability Steering Committee reviewed the draft Long Term Financial Strategies at the 19 November 2014 committee meeting.

REPORT

Background

The Auditor General in his Annual Report to Parliament in the last few years has recommended that all Victorian councils should develop strategic performance indicators to review past performances and set targets for following years.

South Gippsland Shire Council introduced a strategic planning and performance management framework in 2003. Council has maintained since that date, a series of financial strategies including financial performance measures and targets. This ensures that Council's immediate and long term financial viability is managed in a constructive and economically viable manner.

Council's Long Term Financial Strategies are reviewed and updated on an annual basis. It is important that the Strategies (business rules) continue to align with Council's financial objectives.

The strategies continue to provide the strategic framework for developing the Long Term Financial Plan, the Council Plan (which includes the Strategic Resource Plan) and the Annual Budget.

Discussion

The Council Plan is a high level strategic planning document that includes objectives and strategies that cover the four year term of each Council.

The Long Term Financial Strategies complement and support both higher level 'strategic plans' such as the Council Plan, and 'operational plans' such as the Annual Budget. The Strategies ensure that Council's budgeted financial statements in the Long Term Financial Plan, is sustainable both in the short and longer term.

Proposal

Outlined in **Appendix 1** is the proposed Long Term Financial Strategies for Council's consideration. It outlines strategic considerations for Council, the financial strategies and background information.

Two minor amendments have been incorporated into the Long Term Financial Strategies from the Strategies adopted in February 2014 for Council's consideration. These include:

Strategy # 6 has been refined to remove reference to allocating equivalent to the average interest earned to the General Reserve when it is financially viable to do so.

Strategy # 11 has been refined to align the asset expenditure types 'new', 'upgrade' and 'expansion' with the asset expenditure types as described in the Local Government (Planning and Reporting) Regulations 2014 as well as clarify which years that are expected to include detailed lifecycle costs. The previous strategy inferred that all forward budgets in the financial plan were required to have detailed lifecycle cost evaluations.

FINANCIAL CONSIDERATIONS

The Strategies will provide guidance to Council in preparing the 2015/16 Annual Budget and the Long Term Financial Plan.

RISK FACTORS

Continuation of the strategic planning and management process will help achieve long term business viability. This will ensure that Council has sufficient financial resources for both service provision and for infrastructure asset management now and in future years.

CONCLUSION

The Long Term Financial Plan, Council Plan (including the Strategic Resource Plan) and the Annual Budget will continue to be referenced back against the Long Term Financial Strategies. The Strategies have been updated to respond to Council's current strategic considerations.

RECOMMENDATION

That Council adopt the financial strategies as documented in the Long Term Financial Strategies (Appendix 1).

STAFF DISCLOSURE OF INTEREST

Nil

MOVED: Cr Fawcett

SECONDED: Cr Davies

THAT COUNCIL ADOPT THE FINANCIAL STRATEGIES AS DOCUMENTED IN THE LONG TERM FINANCIAL STRATEGIES (APPENDIX 1).

CARRIED UNANIMOUSLY

E.8 AUDIT COMMITTEE APPOINTMENT OF INDEPENDENT CHAIR FOR 2015

Corporate Services Directorate

EXECUTIVE SUMMARY

The Audit Committee met on 1 December 2014 and recommended that Council appoint an independent member of the Committee as the Committee Chair for 2015.

Document/s pertaining to this Council Report

- Nil

LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES

Local Government Act 1989, Section 139

INTERNAL POLICIES / STRATEGIES / DOCUMENTS

- Audit Committee Charter and Terms of Reference adopted by Council 25 November 2013.
- 'Audit Committees A Guide to Good Practice for Local Government' January 2011.

COUNCIL PLAN

Strategic Goal:	4.0	A Leading Organisation
	4.2	Pursue Best Practice In Organisational Development and Operations of the Organisation
Outcome:		
	4.2.2	We will monitor corporate governance processes, including risk management and skills development with the aim of ongoing improvement
Strategy No:		

CONSULTATION

The Audit Committee considered the appointment of a Chair for 2015 at its meeting on 1 December 2014.

REPORT

Background

The Audit Committee is an advisory committee, whose role is to oversee and monitor Council's audit processes, including internal control activities. The Committee can comprise of a minimum of two and up to three independent community members, one of which is the Committee Chair, and two Councillors (Councillors Davies and Harding). The Committee is independent

from management and does not have any executive powers, management function or delegated financial responsibility.

In December 2013 Council endorsed the appointment of Ms Theresa Glab as Chair of the Audit Committee for 2014, however Ms Glab is retiring from the Committee at the conclusion of her first term of membership on 1 December 2014. Council is currently undertaking an Expression of Interest process for the purpose of considering whether to fill the current vacancy created by Ms Glab's retirement from the Committee.

Council's Audit Charter requires that the Audit Committee Chair:

- Must be independent;
- Must be appointed by Council for each calendar year;
- The Audit Committee shall make a recommendation to Council regarding who the Chair should be and the term of office of the Chair; and
- Review the term of the Chair on an annual basis.

The Committee recommends the appointment of Dr Irene Irvine, an independent member of the Audit Committee, to the position of Committee Chair for 2015.

FINANCIAL CONSIDERATIONS

Funds for the internal audit function are allocated in the current and forward budgets.

Independent members are paid a meeting fee and travel expenses are reimbursed, both payable by Council. These are provided for in the Council Budget.

RISK FACTORS

The Audit Committee undertakes an integral and active role in risk mitigation (including financial and environmental) and ensuring compliance with legislation.

RECOMMENDATION

That Council appoint Dr Irene Irvine as the Chair of the Audit Committee for 2015.

STAFF DISCLOSURE OF INTEREST

Nil

MOVED: Cr Davies

SECONDED: Cr Kennedy

**THAT COUNCIL APPOINT DR IRENE IRVINE AS THE CHAIR OF THE
AUDIT COMMITTEE FOR 2015.**

CARRIED UNANIMOUSLY

E.9 COUNCIL MEETING TIMETABLE 2015

Corporate Services Directorate

EXECUTIVE SUMMARY

Council's objective to make informed, open and transparent decisions that provide opportunities for the community to participate are supported by its monthly meeting structure.

Council conducts Ordinary Meetings of Council at which the general business of Council may be transacted. The dates and times of these meetings are set by Council in December each year.

Document/s pertaining to this Council Report

Nil

LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES

- Local Government Act 1989 - Sections 83, 84 and 89
- Local Law No.3 2010 Processes for Municipal Government (Meeting Procedure and Common Seal) – Clause 8
- Ordinary Council Meeting Minute – 26 June 2013 - E.11 Public Presentation Session Schedule
- Ordinary Council Meeting Minute – 24 July 2013 – B.2 Notice of Motion Number 659 – Secondary School Engagement with Council
- Ordinary Council Meeting Minute – 16 April 2014 - E.20 Proposed Council Meetings at Local Secondary Colleges
- Ordinary Council Meeting Minute – 23 July 2014 - F.1 Change of Venue - Ordinary Council Meeting 27 August 2014
- Councillor Code of Conduct
- Communication and Consultation Policy

COUNCIL PLAN

Outcome:	2.0	Closely Connected Communities
Objective:	2.1	Engage and Work Collaboratively with our Community
Strategy:	2.1.1	We will develop a continually evolving Vision for the Shire that encourages community participation in defining what it wants, needs and can afford to guide rationalisation, consolidation and achievement of desired community

outcomes.

Outcome:	4.0	A Leading Organisation
Objective:	4.2	Pursue Best Practice in Organisational Development and Operations of the Organisation
Strategy:	4.2.2	We will monitor corporate governance processes, including risk management and skills development with the aim of ongoing improvement.
Strategy:	4.2.3	We will make informed decisions and provide opportunities for the community to participate in the decision making process.

CONSULTATION

Councillors are briefed each month on Strategic Briefing Day (first Wednesday of the month), regarding Council's monthly meeting structure. Council informally reviews and provides comment regarding forthcoming briefings and presentations.

Early consultation with external Community Event Committees has revealed that significant community events to be conducted in the Memorial Hall and Hall Complex in 2015 will not impact Council's conduct of business, as each event falls on a date not scheduled as part of Council's regular monthly meeting / briefing structure. The events include:

- Daffodil Show National Championship - Wednesday 9 September 2015
- Rotary Art Show - Wednesday 14 October 2015
- Vision Australia Rose Show - Wednesday 11 November 2015

Should Council require a meeting on a Second Wednesday of the month that falls on any of the above events, an alternate venue will be required to be sourced.

REPORT

Background

Council's Monthly Meeting Structure

Following a review at the commencement of Council's current term (Council Election 27 October 2012) it was agreed that Council's monthly meeting structure would continue with the previous practice of holding the following meetings each month (with the exception of January).

- 1st Wednesday of each month: Strategic Briefing Day
- 3rd Wednesday of each month: Public Presentation Day

- 4th Wednesday of each month: Council Meeting Day

A formal review of Council's Public Presentation schedule was considered by Council at its Ordinary Council Meeting 26 June 2013. Council resolved to continue with the previous practice of holding public presentation sessions on the third Wednesday of each month at 2pm and 7pm (by appointment) and Council Meeting Day on the fourth Wednesday of each month at 10am.

Hosting a Council Meeting at a Secondary College

Council resolved on 16 April 2014 to host an Ordinary Council Meeting on 27 August 2014 at the South Gippsland Secondary College in Foster. This off site meeting was scheduled in response to a Council resolution of 24 July 2013 that, as part of Council's objective to engage and work collaboratively with the community, approaches be made to Secondary Schools in the Shire to gauge interest in the possibility of hosting a Council Meeting on site during 2014. It was also resolved to gauge the interest in student participation by way of involvement in briefing Council on current community issues and taking part in a mock Council Meeting.

Unfortunately Council was unable to host the scheduled Meeting at South Gippsland Secondary College, Foster. Due to a change in Principal it was not suitable to hold the scheduled 27 August 2014 Ordinary Council at the College, this was reported to Council at Ordinary Council Meeting 23 July 2014. Further discussions have continued with the newly appointed Principal and have determined that Council can host an Ordinary Council Meeting day including a program of student participation on Wednesday 27 May 2015.

Ordinary Council Meeting Dates

Council is required by Local Law No.3 2010 (Clause 8) to fix the time, date and place of all Council Meetings and provide reasonable notice to the public. Council publishes notice of Council Meetings (both Ordinary and Special) in Council's Notice Board section of local newspapers and Council's website.

It is proposed to hold the first Council Meeting for 2015 on Wednesday 25 February 2015 and from then generally the fourth Wednesday of each month for the remainder of the year excluding December, where the meeting will be held on the third Wednesday. The scheduled meetings will commence at 2pm and be held in the Council Chambers, Leongatha, excluding the Ordinary Council Meeting 27 May 2015 where the Meeting will be held at South Gippsland Secondary College, Foster.

Council business will continue unimpeded throughout January 2015 given the extensive delegations provided to the Chief Executive Officer and the right of the Mayor or three Councillors to call a Meeting of Council, should a situation emerge that warrants a Special Meeting.

FINANCIAL CONSIDERATIONS

Costs associated with holding Council Meetings and Public Presentation Days are covered with existing budgets.

Additional costs are incurred when Council holds Council Meetings off site.

RISK FACTORS

The timely determination of Council Meeting dates ensures the smooth transaction of Council business.

CONCLUSION

It is recommended that the Ordinary Council Meetings for 2015 be scheduled as detailed in the Recommendation below.

RECOMMENDATION

That Council:

1. Set the Ordinary Council Meetings in 2015 to be held in the Council Chambers, Leongatha on the following dates and times:
 - a. 25 February 2015, 2pm
 - b. 25 March 2015, 2pm
 - c. 22 April 2015, 2pm
 - d. 24 June 2015, 2pm
 - e. 22 July 2015, 2pm
 - f. 26 August 2015, 2pm
 - g. 23 September 2015, 2pm
 - h. 28 October 2015, 2pm
 - i. 25 November 2015, 2pm
 - j. 16 December 2015, 2pm;
2. Hold an Ordinary Council Meeting at South Gippsland Secondary College, Foster on 27 May 2015 at 2pm;
3. Authorise the Chief Executive Officer to change a meeting location should a meeting location warrant amendment, due to the character of business, availability of the Council Chambers, requested change by a Secondary College or if Council resolves to host an additional Council Meeting at a Secondary College; and

4. Provide reasonable notice to the public via local newspapers and Council's website should a change in Meeting location warrant amendment.

STAFF DISCLOSURE OF INTEREST

Nil

MOVED: Cr Kennedy

SECONDED: Cr Newton

THAT THE RECOMMENDATIONS IN ITEMS E.9, E.10, E.11, E.12 AND E.13 BE ADOPTED.

CARRIED UNANIMOUSLY

E.10 SPECIAL (SECTION 86) COMMITTEES REVIEW – STOCKYARD GALLERY SPECIAL COMMITTEE

Corporate Services Directorate

EXECUTIVE SUMMARY

This report provides the opportunity for the Council to review the current Instrument of Delegation (Instrument) for the Stockyard Gallery Special Committee (Committee) and approve a new Instrument (**Attachment 1**) as part of Council's adopted Special (Section 86) Committee Instrument of Delegation Review schedule.

Document/s pertaining to this Council Report

- **Attachment 1:** Stockyard Gallery Special Committee Instrument of Delegation

LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES

Local Government Act 1989 - sections 81 and 86

INTERNAL POLICIES / STRATEGIES / DOCUMENTS

Section 86 Committee Kit 2009

COUNCIL PLAN

Strategic Goal:	4.0	A Leading Organisation
Outcome:	4.2	Pursue best practice in organisational development and operations of the organisation
Strategy No:	4.2.2	We will monitor corporate governance processes, including risk management and skills development with the aim of ongoing development

CONSULTATION

The review of the Stockyard Gallery Special Committee has been conducted in collaboration with Council's Community Strengthening, Property, Risk, Occupational Health and Safety (OHS), Parks & Gardens, People & Culture and Governance Departments.

Councillors were provided with a briefing about this matter and the review has been considered by Executive Leadership Team. The Committee have also been provided with a copy outlining the proposed changes to the Instrument of Delegation.

REPORT

Background

Council commenced a review of the operation of all its Special (Section 86) Committees (Committees) in 2010.

On 26 June 2013 Council adopted a Special (Section 86) Committee Instrument of Delegation Review schedule. This schedule requires that the Stockyard Gallery Special Committee was to be reviewed by December 2014.

The purpose of the Committee is to exercise Council's functions and powers and to perform Council's duties in relation to the management of a gallery.

The Stockyard Gallery is situated within a Council owned building in Foster which also accommodates a library and Parks Victoria. It is staffed by volunteers, exhibits art from the local area, conducts exhibitions and is particularly busy in the summer months when tourists frequent the area. It has a small tourist information stand nearby. The building has expanded over time and the gallery area changed.

Stockyard Gallery runs exhibitions throughout the year featuring local artists. The Committee also run a small gift shop which features art and craft from local artisans. Gallery activity is growing and the Committee would also like to offer classes to the local community. The Committee does an excellent job of maintaining a frequently utilised gallery.

It is important to acknowledge that decisions of Special Committees are deemed to be decisions of Council. Further, Special Committees play an integral part in managing Council owned or controlled properties and facilities that are essential for community activities and engagement. The process of review provides for the continuation of community engagement in a way that minimises risk to community members who make up the Special Committees, without over burdening these members.

During the review the compliance with the Instrument was considered good, however could be improved. It is considered that a way to improve support and communication between Council and the Committee would be for the Instrument to include provision for a Council representative, either a Councillor or Council officer, to be appointed to the Committee. It is proposed to appoint Councillor Davies to the Committee, with a Council officer nominated to attend meetings as required. This appointment would also reflect the significance of the gallery as part of Council's arts and culture infrastructure. A clause to this effect has been included in the new Instrument.

Generally, though the Instrument is considered adequate, either the Committee or Council Officers have requested, for a clause to be added to the new Instrument (**Attachment 1**) to provide for management of maintenance of the facility to be in accordance with Council's approved Maintenance Regime/Schedule for the facility.

As with other Special Committees a clause will be included for the Committee to carry out an annual evaluation of Committee effectiveness.

At an operational level the following action is proposed:

- Remind the Committee of the need to comply with the Instrument particularly in respect of contracts and employment of staff, follow current Council and volunteer recruitment processes for all volunteers and advise Council of any injuries and concerns relevant to insurance and injury matters as soon as they are aware of any issues;
- OH&S Coordinator to visit the gallery to review and provide recommendations in respect of any significant OHS risks; and
- Staff to confirm the area of the reserve and prepare a map of the area for inclusion in the Instrument.

Options

Council has the options of:

- Making a new Instrument with the changes outlined in **Attachment 1**; or
- Revoking the current Instrument and returning direct management to Council.

Proposal

Council make a new Instrument of Delegation with schedule and guidelines, with minor changes outlined in this report and set out in **Attachment 1**.

FINANCIAL CONSIDERATIONS

Ongoing support, reviews, monitoring and development of Section 86 Committees is included in Council's budget. Assistance is provided by the Community Strengthening, Governance and Property Departments.

RISKS

By conducting this review of delegations Council will be provided with a level of assurance that the Committee and the Council will act within the limits of their respective powers and in conformance with the Local Government Act 1989.

CONCLUSION

Special Committees are integral to the proper management of Council owned or controlled properties and facilities that are essential for community activities and engagement. The process of review as proposed in this report provides for the continuation of community engagement in a way that minimises risk to both Council and community members who make up the Special Committee, without over burdening these members.

RECOMMENDATION

That Council, in exercise of the powers conferred by sections 86 and 87 of the Local Government Act 1989, Council resolves that:

- 1. This report is endorsed.**
- 2. From the date of this resolution, there is established as a special committee the Stockyard Gallery Special Committee.**
- 3. The purposes of the Committee are those set out in Attachment 1 Instrument of Delegation Stockyard Gallery to this resolution.**
- 4. The members of the Committee are:**
 - a. Craig Smith**
 - b. Elizabeth Steinki**
 - c. Jan Bell**
 - d. Wally Birkenbeil**
 - e. A representative nominated by Council.**
- 5. It recognises the Chief Executive Officer has the power, under delegation from Council, to appoint and remove members to Special Committees subject to appointments and removals being reported to Council.**
- 6. The Committee is required to report to Council at the intervals specified in the schedule to this resolution (Attachment 1).**
- 7. The members of the Committee are exempted from being required to submit a primary return or ordinary return.**
- 8. The Chairperson of the Committee is appointed by the Special Committee.**
- 9. A quorum for the Committee is a whole number that is an absolute majority of the number of members of the Committee.**
- 10. All members of the Committee have voting rights on the Committee.**
- 11. There be delegated to the Committee the powers, duties and functions set out in the Attachment 1 Instrument of Delegation Stockyard Gallery Special Committee.**
- 12. The Instrument:**
 - a. Comes into force immediately the common seal of Council is affixed to the Instrument; and**

- b. Remains in force until Council determines to vary or revoke it.**
- 13. The powers, duties and functions conferred on the Committee by the Instrument must be exercised in accordance with any guidelines or policies Council may from time to time adopt.**
- 14. The Instrument be sealed.**
- 15. That Councillor Davies be appointed to the Stockyard Gallery Special Committee, as Council's member of the Committee, with a Council officer to attend meetings as required.**

NOTE: The recommendation was CARRIED UNANIMOUSLY as part of a single motion, refer to page 143.

Attachment 1

Instrument of Delegation

Stockyard Gallery Special Committee

SCHEDULE

PURPOSE

To exercise Council's functions and powers and to perform Council's duties in relation to the management of a gallery.

1. Reporting requirement

The Committee must report to Council according to Clauses 3.2, 3.3, 5.5, 5.6, 6.1, 6.4 and 7.3 in the Schedule of the Instrument of Delegation of Stockyard Gallery Special Committee.

2. Powers and functions

To exercise Council's functions and powers and to perform Council's duties in relation to the management of a gallery, and for those purposes;

3. Administration

3.1 To do all things necessary or convenient to be done for or in connection with the performance of those functions, duties and powers;

3.2 To provide Council with monthly financial reports and minutes of every meeting and a Treasurer's report;

3.3 To provide Council with an annual report, including a self-evaluation of the Committee's effectiveness, to be submitted in September including:

- Patronage
- User groups
- Injuries and Accidents
- Maintenance/Improvements undertaken and future requirements
- Self-evaluation of operations and management
- Other matters considered relevant by the Committee;

3.4 To be the point of contact for the public with respect to the operation of Stockyard Gallery. All matters shall be referred to the committee for resolution in the first instance. All requests shall be dealt with promptly and the Council shall be kept informed at all times;

3.5 To ensure that the decisions and policies of Council are implemented/adhered to without delay;

4. Facility use

- 4.1 The power to negotiate the use of facilities with user groups and the power to approve programs operating from the Stockyard Gallery;
- 4.2 The power to set dates and opening/closing times;
- 4.3 To ensure that the Stockyard Gallery is used only for purposes appropriate to the facility;
- 4.4 To ensure that the facility is operated in accordance with gallery type guidelines;

5. Finance

- 5.1 The power to set user fees;
- 5.2 To enter into contracts and to incur expenditure under \$2000, with approval being required from Council for contracts over \$2000;
- 5.3 The power to open and maintain a bank account at a bank and branch approved by Council, into which all monies received by the Committee shall be paid. All cheques and or transactions drawn on the account shall be signed and or authorised by any two of the following:
 - Chairperson
 - Vice Chairperson
 - Secretary
 - Treasurer;
- 5.4 To pay all utility, municipal and water charges incurred in occupying the premises;
- 5.5 To provide Council with adopted Financial Statements by 30 September each year, with support documentation being available upon request;
- 5.6 To provide Council with a proposed budget for the forthcoming year, within seven (7) days of the end of the financial year;
- 5.7 The power to apply income received from facility users to the ongoing operation and management of the Stockyard Gallery.

6. Maintenance

- 6.1 To provide an annual 'Facility Maintenance Report' detailing all anticipated maintenance for the following financial year that is submitted to Council by 31 January of the preceding year;

- 6.2 The authority to undertake minor repairs up to the value of \$500, however consent from Council's Property Co-ordinator must be gained for any maintenance item over \$500, that has not been anticipated in the 'Facility Maintenance Report'. Any works must be carried out by qualified personnel, relative to the task being performed, and all certificates of compliance must be forwarded to Council immediately, upon completion. All maintenance must be in accord with Council's adopted Maintenance Regime/Schedule;
- 6.3 To make no structural alterations or additions to the premises without the written consent of Council's Engineering and Assets department;
- 6.4 To maintain a register of keys issued by the committee and to include these details in the annual 'Facility Maintenance Report'. Council must be provided with a set of keys to all external and internal locks. Any change in locking system must be in accordance with Council's restricted lock system and should be paid for by the Committee;

7. Risk Management / Insurance

- 7.1 To ensure that the facility is maintained in a manner that meets all Workcover and Occupational Health and Safety Regulations. Council may provide an inspection on at least two occasions per annum;
- 7.2 To maintain a monthly checklist, provided by Council, relating to building safety, and make available to Council staff when requested;
- 7.3 To ensure that volunteers complete a registration form that is to be forwarded to Council's Insurance and Return to Work Advisor. Volunteer groups must be supervised by a member of the Committee at all times. Each Committee must maintain a volunteer register containing names, addresses, type of activity performed, times of work and volunteer signature;
- 7.4 To contact Council's Occupational Health and Safety Coordinator, before volunteers commence any work to determine whether training is required;
- 7.5 To adhere to all statutory and legislative requirements;

8. Exceptions, conditions and limitations.

The Committee is not authorised by this Instrument to:

- 8.1 Enter into contracts over \$2000, or incur expenditure, for an amount which exceeds the approved budget;
- 8.2 Employ people or enter into leases without the prior consent of Council;

8.3 Exercise the powers which, by force Section 86 of the Act, cannot be delegated;

8.4 Borrow funds.

GUIDELINES – COMMITTEE DELEGATIONS

Name

These guidelines may be referred to as the Stockyard Gallery Special Committee Guidelines.

Application

These guidelines have been adopted by the South Gippsland Shire Council ("Council") for the guidance of:

- Stockyard Gallery Special Committee
- any other special committee in respect of which Council resolves that these guidelines are to apply.

Exercise of Powers

The powers, duties and functions set out in the Instrument are delegated to the Committee. This means that the Committee can only act under delegation when sitting in a formally constituted meeting.

This means that the meeting must be called and conducted in a manner that complies with the provisions of the Local Government Act 1989 ("the Act") and with the Council's meeting procedures local law.

The Committee cannot exercise its delegated powers when gathered outside the formal meeting structure as described above. For example, an informal coming together of members would not resolve to act under delegation.

Similarly, the delegations do not extend to individual members of the Committee.

The only opportunity for individual Committee members to be granted delegated powers exists where the Committee member is a member of Council staff and subject to a delegation under section 98 of the Act.

All delegations must be read in conjunction with this document and any other policies and guidelines that may be adopted by the Council from time to time.

Reporting Back

These guidelines have been developed to support the concept of delegation as a means of ensuring that the functions of Council are conducted in an efficient and timely manner.

Reporting back of delegations exercised may be necessary to ensure that adequate information regarding those actions is available to other staff, management and the Council.

Such reporting back would be by presentation of reports to Council within the time specified in the Instrument of Delegation; and production of minutes of meetings that will be circulated or available for inspection at any time.

It is to be noted that the reporting back requirements on this policy are a minimum standard only and that nothing will preclude more detailed or extensive reporting back of delegated actions if individual circumstances warrant.

Insurance

After receiving Special Committee Details Form, within 1 month of appointment, Council will, upon appointment of each committee, effect and pay for an annual public liability insurance policy to protect hirers. For events involving large numbers of people (more than 50), alcohol, some children's activities and some sporting events, Council will effect and pay for cover but may require the Committee to ensure that hirers complete an insurance form which is to be directed to the insurance company by the Committee. Council must be contacted before events such as carnivals, large sporting events and 'pop/rock' concerts are booked or organised, as cover may not be available for some events.

All of the above insurance arrangements are subject to Council approval based on reasonable use of facilities and frequency. If a committee is unsure about any aspect of insurance cover, they must contact Council's Risk Management Department.

The actions of Committee members, in the proper execution of the Committee power and responsibilities, are covered by Council's existing public liability policy.

E.11 SPECIAL (SECTION 86) COMMITTEES REVIEW – MARDAN HALL SPECIAL COMMITTEE

Corporate Services Directorate

EXECUTIVE SUMMARY

This report provides the opportunity for the Council to review the current Instrument of Delegation (Instrument) for the Mardan Hall Special Committee (Committee) and approve a new Instrument (**Attachment 1**) as part of Council's adopted Special (Section 86) Committee Instrument of Delegation Review schedule.

Document/s pertaining to this Council Report

- **Attachment 1:** Mardan Hall Special Committee Instrument of Delegation

LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES

Local Government Act 1989 - sections 81 and 86

INTERNAL POLICIES / STRATEGIES / DOCUMENTS

Section 86 Committee Kit 2009

COUNCIL PLAN

Strategic Goal:	4.0	A Leading Organisation
Outcome:	4.2	Pursue best practice in organisational development and operations of the organisation
Strategy No:	4.2.2	We will monitor corporate governance processes, including risk management and skills development with the aim of ongoing development

CONSULTATION

The review of the Mardan Hall Special Committee has been conducted in collaboration with Council's Community Strengthening, Property, Risk, Occupational Health and Safety (OHS), Parks & Gardens, People & Culture and Governance Departments.

Councillors were provided with a briefing about this matter and the review has been considered by the Executive Leadership Team. The Committee have also been provided with a copy outlining the proposed changes to the Instrument of Delegation.

REPORT

Background

Council commenced a review of the operation of all its Special (Section 86) Committees (Committees) in 2010.

On 26 June 2013 Council adopted a Special (Section 86) Committee Instrument of Delegation Review schedule. This schedule requires that the Mardan Hall Special Committee was to be reviewed by December 2014.

The purpose of the Committee is to exercise Council's functions and powers and to perform Council's duties in relation to the management of the Mardan Hall.

It is important to acknowledge that decisions of Special Committees are deemed to be decisions of Council. Further, Special Committees play an integral part in managing Council owned or controlled properties and facilities that are essential for community activities and engagement. The process of review provides for the continuation of community engagement in a way that minimises risk to community members who make up the Special Committees, without over burdening these members.

During the review the compliance with the Instrument was considered good and in the main the Instrument adequate. As a consequence it is intended to make only minor changes to the Instrument to include a clause for the Committee to carry out an annual evaluation of Committee effectiveness and manage the maintenance of the facility in accordance with Council's approved Maintenance Regime/Schedule for the facility.

These changes have been incorporated into the new Instrument (**Attachment 1**).

At an operational level the following action is proposed:

- Remind the Committee of the need to comply with the Instrument particularly in respect of contracts and employment of staff, follow current Council and volunteer recruitment processes for all volunteers and advise Council of any injuries and concerns relevant to insurance and injury matters as soon as they are aware of any issues;
- OH&S Coordinator to visit the Hall to review and provide recommendations in respect of any significant OHS risks; and
- Staff to confirm the area of the hall and prepare a map of the area for inclusion in the Instrument.

This report facilitates the confirmation of the current Committee membership by Council. It should be noted that the Chief Executive Officer has the power under delegation from Council to appoint and remove external members to Special Committees subject to appointments and removals being reported to Council.

Options

Council has the options of:

- Making a new Instrument with the changes outlined in **Attachment 1**; or
- Revoking the current Instrument and returning direct management to Council.

Proposal

Council make a new Instrument of Delegation with schedule and guidelines, with minor changes outlined in this report and set out in **Attachment 1**.

FINANCIAL CONSIDERATIONS

Ongoing support, reviews, monitoring and development of Section 86 Committees is included in Council's budget. Assistance is provided by the Community Strengthening, Governance and Property Departments.

RISKS

By conducting this review of delegations Council will be provided with a level of assurance that the Committee and the Council will act within the limits of their respective powers and in conformance with the Local Government Act 1989.

CONCLUSION

Special Committees are integral to the proper management of Council owned or controlled properties and facilities that are essential for community activities and engagement. The process of review as proposed in this report provides for the continuation of community engagement in a way that minimises risk to both Council and community members who make up the Special Committee, without over burdening these members.

RECOMMENDATION

That Council, in exercise of the powers conferred by sections 86 and 87 of the Local Government Act 1989, Council resolves that:

1. **This report is endorsed.**
2. **From the date of this resolution, there is established as a special committee the Mardan Hall Special Committee.**
3. **The purposes of the Committee are those set out in Attachment 1 Instrument of Delegation Mardan Hall to this resolution.**
4. **The members of the Committee are:**
 - a. **Robert Gray**

- b. **Norman Marshman**
 - c. **Graeme Coulter**
 - d. **Robert Campbell**
 - e. **David John**
 - f. **Alan Coulter**
 - g. **Faye Marshman**
 - h. **John McColl**
 - i. **Harry Leggett**
 - j. **John Campbell**
 - k. **Trevor Parks**
 - l. **Barbara McColl**
 - m. **Kevin Queale**
 - n. **Dan Monaghan**
 - o. **Douglas Bovill**
5. **It recognises the Chief Executive Officer has the power, under delegation from Council, to appoint and remove external members to Special Committees subject to appointments and removals being reported to Council.**
 6. **The Committee is required to report to Council at the intervals specified in the schedule to this resolution (Attachment 1).**
 7. **The members of the Committee are exempted from being required to submit a primary return or ordinary return.**
 8. **The Chairperson of the Committee is appointed by the Special Committee.**
 9. **A quorum for the Committee is a whole number that is an absolute majority of the number of members of the Committee.**
 10. **All members of the Committee have voting rights on the Committee.**
 11. **There be delegated to the Committee the powers, duties and functions set out in the Attachment 1 Instrument of Delegation Mardan Hall Special Committee.**
 12. **The Instrument:**
-

- a. **Comes into force immediately the common seal of Council is affixed to the Instrument; and**
 - b. **Remains in force until Council determines to vary or revoke it.**
13. **The powers, duties and functions conferred on the Committee by the Instrument must be exercised in accordance with any guidelines or policies Council may from time to time adopt.**
14. **The Instrument be sealed.**

NOTE: **The recommendation was CARRIED UNANIMOUSLY as part of a single motion, refer to page 143.**

Attachment 1

Instrument of Delegation

Mardan Hall Special Committee

SCHEDULE

PURPOSE

To exercise Council's functions and powers and to perform Council's duties in relation to the management of a hall.

1. Reporting requirement

The Committee must report to Council according to Clauses 3.2, 3.3, 5.5, 5.6, 6.1, 6.4 and 7.3 in the Schedule of the Instrument of Delegation of Mardan Hall Special Committee.

2. Powers and functions

To exercise Council's functions and powers and to perform Council's duties in relation to the management of a hall, and for those purposes;

3. Administration

3.1 To do all things necessary or convenient to be done for or in connection with the performance of those functions, duties and powers;

3.2 To provide Council with monthly financial reports and minutes of every meeting and a Treasurer's report;

3.3 To provide Council with an annual report, including a self-evaluation of the Committee's effectiveness, to be submitted in September including:

- Patronage
- User groups
- Injuries and Accidents
- Maintenance/Improvements undertaken and future requirements
- Self-evaluation of operations and management
- Other matters considered relevant by the Committee

3.4 To be the point of contact for the public with respect to the operation of Mardan Hall. All matters shall be referred to the committee for resolution in the first instance. All requests shall be dealt with promptly and the Council shall be kept informed at all times;

3.5 To ensure that the decisions and policies of Council are implemented/adhered to without delay;

4. Facility use

- 4.1 The power to negotiate the use of facilities with user groups and the power to approve programs operating from the Mardan Hall;
- 4.2 The power to set dates and opening/closing times;
- 4.3 To ensure that the Mardan Hall is used only for purposes appropriate to the facility;
- 4.4 To ensure that the facility is operated in accordance with hall type guidelines;

5. Finance

- 5.1 The power to set user fees;
- 5.2 To enter into contracts and to incur expenditure under \$2000, with approval being required from Council for contracts over \$2000;
- 5.3 The power to open and maintain a bank account at a bank and branch approved by Council, into which all monies received by the Committee shall be paid. All cheques and or transactions drawn on the account shall be signed and or authorised by any two of the following:
 - Chairperson
 - Vice Chairperson
 - Secretary
 - Treasurer;
- 5.4 To pay all utility, municipal and water charges incurred in occupying the premises;
- 5.5 To provide Council with adopted Financial Statements by 30 September each year, with support documentation being available upon request;
- 5.6 To provide Council with a proposed budget for the forthcoming year, within seven (7) days of the end of the financial year;
- 5.7 The power to apply income received from facility users to the ongoing operation and management of the Mardan Hall.

6. Maintenance

- 6.1 To provide an annual 'Facility Maintenance Report' detailing all anticipated maintenance for the following financial year that is submitted to Council by 31 January of the preceding year;

- 6.2 The authority to undertake minor repairs up to the value of \$500, however consent from Council's Property Co-ordinator must be gained for any maintenance item over \$500, that has not been anticipated in the 'Facility Maintenance Report'. Any works must be carried out by qualified personnel, relative to the task being performed, and all certificates of compliance must be forwarded to Council immediately, upon completion. All maintenance must be in accord with Council's adopted Maintenance Regime/Schedule;
- 6.3 To make no structural alterations or additions to the premises without the written consent of Council's Engineering and Assets department;
- 6.4 To maintain a register of keys issued by the committee and to include these details in the annual 'Facility Maintenance Report'. Council must be provided with a set of keys to all external and internal locks. Any change in locking system must be in accordance with Council's restricted lock system and should be paid for by the committee;

7. Risk Management / Insurance

- 7.1 To ensure that the facility is maintained in a manner that meets all Workcover and Occupational Health and Safety Regulations. Council may provide an inspection on at least two occasions per annum;
- 7.2 To maintain a monthly checklist, provided by Council, relating to building safety, and make available to Council staff when requested;
- 7.3 To ensure that volunteers complete a registration form that is to be forwarded to Council's Insurance and Return to Work Advisor. Volunteer groups must be supervised by a member of the committee at all times. Each committee must maintain a volunteer register containing names, addresses, type of activity performed, times of work and volunteer signature;
- 7.4 To contact Council's Occupational Health and Safety Coordinator, before volunteers commence any work to determine whether training is required;
- 7.5 To adhere to all statutory and legislative requirements;

8. Exceptions, conditions and limitations.

The Committee is not authorised by this Instrument to:

- 8.1 Enter into contracts over \$2000, or incur expenditure, for an amount which exceeds the approved budget;
- 8.2 Employ people or enter into leases without the prior consent of Council;

8.3 Exercise the powers which, by force Section 86 of the Act, cannot be delegated;

8.4 Borrow funds.

GUIDELINES – COMMITTEE DELEGATIONS

Name

These guidelines may be referred to as the Mardan Hall Special Committee Guidelines.

Application

These guidelines have been adopted by the South Gippsland Shire Council ("Council") for the guidance of:

- Mardan Hall Special Committee
- any other special committee in respect of which Council resolves that these guidelines are to apply.

Exercise of Powers

The powers, duties and functions set out in the Instrument are delegated to the Committee. This means that the Committee can only act under delegation when sitting in a formally constituted meeting.

This means that the meeting must be called and conducted in a manner that complies with the provisions of the Local Government Act 1989 ("the Act") and with the Council's meeting procedures local law.

The Committee cannot exercise its delegated powers when gathered outside the formal meeting structure as described above. For example, an informal coming together of members would not resolve to act under delegation.

Similarly, the delegations do not extend to individual members of the Committee.

The only opportunity for individual Committee members to be granted delegated powers exists where the Committee member is a member of Council staff and subject to a delegation under section 98 of the Act.

All delegations must be read in conjunction with this document and any other policies and guidelines that may be adopted by the Council from time to time.

Reporting Back

These guidelines have been developed to support the concept of delegation as a means of ensuring that the functions of Council are conducted in an efficient and timely manner.

Reporting back of delegations exercised may be necessary to ensure that adequate information regarding those actions is available to other staff, management and the Council.

Such reporting back would be by presentation of reports to Council within the time specified in the Instrument of Delegation; and production of minutes of meetings that will be circulated or available for inspection at any time.

It is to be noted that the reporting back requirements on this policy are a minimum standard only and that nothing will preclude more detailed or extensive reporting back of delegated actions if individual circumstances warrant.

Insurance

After receiving Special Committee Details Form, within 1 month of appointment, Council will, upon appointment of each committee, effect and pay for an annual public liability insurance policy to protect hirers. For events involving large numbers of people (more than 50), alcohol, some children's activities and some sporting events, Council will effect and pay for cover but may require the committee to ensure that hirers complete an insurance form which is to be directed to the insurance company by the committee. Council must be contacted before events such as carnivals, large sporting events and 'pop/rock' concerts are booked or organised, as cover may not be available for some events.

All of the above insurance arrangements are subject to Council approval based on reasonable use of facilities and frequency. If a committee is unsure about any aspect of insurance cover, they must contact Council's Risk Management Department.

The actions of committee members, in the proper execution of the committee power and responsibilities, are covered by Council's existing public liability policy.

E.12 SPECIAL (SECTION 86) COMMITTEES REVIEW – MIRBOO NORTH HALL SPECIAL COMMITTEE

Corporate Services Directorate

EXECUTIVE SUMMARY

This report provides the opportunity for the Council to review the current Instrument of Delegation (Instrument) for the Mirboo North Hall Special Committee (Committee) and approve a new Instrument (**Attachment 1**) as part of Council's adopted Special (Section 86) Committee Instrument of Delegation Review schedule.

Document/s pertaining to this Council Report

- **Attachment 1:** Mirboo North Hall Special Committee Instrument of Delegation

LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES

Local Government Act 1989 - sections 81 and 86

INTERNAL POLICIES / STRATEGIES / DOCUMENTS

Section 86 Committee Kit 2009

COUNCIL PLAN

Strategic Goal:	4.0	A Leading Organisation
Outcome:	4.2	Pursue best practice in organisational development and operations of the organisation
Strategy No:	4.2.2	We will monitor corporate governance processes, including risk management and skills development with the aim of ongoing development

CONSULTATION

The review of the Mirboo North Hall Special Committee has been conducted in collaboration with Council's Community Strengthening, Property, Risk, Occupational Health and Safety (OHS), Parks & Gardens, People & Culture and Governance Departments.

Councillors were provided with a briefing about this matter and the review has been considered by Executive Leadership Team. The Committee have also been provided with a copy outlining the proposed changes to the Instrument of Delegation.

REPORT

Background

Council commenced a review of the operation of all its Special (Section 86) Committees (Committees) in 2010.

On 26 June 2013 Council adopted a Special (Section 86) Committee Instrument of Delegation Review schedule. This schedule requires that the Mirboo North Hall Special Committee was to be reviewed by December 2014.

The purpose of the Committee is to exercise Council's functions and powers and to perform Council's duties in relation to the management of the Mirboo North Hall.

The Mirboo North Hall Committee manages the hall towards the rear of the building whilst two Council tenants are situated at the front. The Hall has undergone substantial refurbishment over time and is a very comfortable and attractive venue for the community to use.

It is important to acknowledge that decisions of Special Committees are deemed to be decisions of Council. Further, Special Committees play an integral part in managing Council owned or controlled properties and facilities that are essential for community activities and engagement. The process of review provides for the continuation of community engagement in a way that minimises risk to community members who make up the Special Committees, without over burdening these members.

During the review the compliance with the Instrument was considered good and in the main the Instrument adequate. As a consequence it is intended to make only minor changes to the Instrument to include a clause for the Committee to carry out an annual evaluation of Committee effectiveness and manage the maintenance of the facility in accordance with Council's approved Maintenance Regime/Schedule for the facility.

These changes have been incorporated into the new Instrument (**Attachment 1**).

At an operational level the following action is proposed:

- Remind the Committee of the need to comply with the Instrument particularly in respect of contracts and employment of staff, follow current Council and volunteer recruitment processes for all volunteers and advise Council of any injuries and concerns relevant to insurance and injury matters as soon as they are aware of any issues;
- OH&S Coordinator to visit the Hall to review and provide recommendations in respect of any significant OHS risks; and
- Staff to confirm the area of the hall and prepare a map of the area for inclusion in the Instrument.

This report facilitates the confirmation of the current Committee membership by Council. It should be noted that the Chief Executive Officer has the power under delegation from Council to appoint and remove external members to Special Committees subject to appointments and removals being reported to Council.

Options

Council has the options of:

- Making a new Instrument with the changes outlined in **Attachment 1**; or
- Revoking the current Instrument and returning direct management to Council.

Proposal

Council make a new Instrument of Delegation with schedule and guidelines, with minor changes outlined in this report and set out in **Attachment 1**.

FINANCIAL CONSIDERATIONS

Ongoing support, reviews, monitoring and development of Section 86 Committees is included in Council's budget. Assistance is provided by the Community Strengthening, Governance and Property Departments.

RISKS

By conducting this review of delegations Council will be provided with a level of assurance that the Committee and the Council will act within the limits of their respective powers and in conformance with the Local Government Act 1989.

CONCLUSION

Special Committees are integral to the proper management of Council owned or controlled properties and facilities that are essential for community activities and engagement. The process of review as proposed in this report provides for the continuation of community engagement in a way that minimises risk to both Council and community members who make up the Special Committee, without over burdening these members.

RECOMMENDATION

That Council, in exercise of the powers conferred by sections 86 and 87 of the Local Government Act 1989, Council resolves that:

- 1. This report is endorsed.**
- 2. From the date of this resolution, there is established as a special committee the Mirboo North Hall Special Committee.**
- 3. The purposes of the Committee are those set out in Attachment 1 Instrument of Delegation Mirboo North Hall to this resolution.**

4. **The members of the Committee are:**
 - a. **Isabel Trease**
 - b. **Lisa Murray**
 - c. **Kim Irving**
 - d. **Frank Krausz**
 - e. **Andy Plowman**
5. **It recognises the Chief Executive Officer has the power, under delegation from Council, to appoint and remove members to Special Committees subject to appointments and removals being reported to Council.**
6. **The Committee is required to report to Council at the intervals specified in the schedule to this resolution (Attachment 1).**
7. **The members of the Committee are exempted from being required to submit a primary return or ordinary return.**
8. **The Chairperson of the Committee is appointed by the Special Committee.**
9. **A quorum for the Committee is a whole number that is an absolute majority of the number of members of the Committee.**
10. **All members of the Committee have voting rights on the Committee.**
11. **There be delegated to the Committee the powers, duties and functions set out in the Attachment 1 Instrument of Delegation Mirboo North Hall Special Committee.**
12. **The Instrument:**
 - a. **Comes into force immediately the common seal of Council is affixed to the Instrument; and**
 - b. **Remains in force until Council determines to vary or revoke it.**
13. **The powers, duties and functions conferred on the Committee by the Instrument must be exercised in accordance with any guidelines or policies Council may from time to time adopt.**
14. **The Instrument be sealed.**

NOTE: **The recommendation was CARRIED UNANIMOUSLY as part of a single motion, refer to page 143.**

Attachment 1

Instrument of Delegation

Mirboo North Hall Special Committee

SCHEDULE

PURPOSE

To exercise Council's functions and powers and to perform Council's duties in relation to the management of a hall.

1. Reporting requirement

The Committee must report to Council according to Clauses 3.2, 3.3, 5.5, 5.6, 6.1, 6.4 and 7.3 in the Schedule of the Instrument of Delegation of Mirboo North Hall Special Committee.

2. Powers and functions

To exercise Council's functions and powers and to perform Council's duties in relation to the management of a hall, and for those purposes;

3. Administration

3.1 To do all things necessary or convenient to be done for or in connection with the performance of those functions, duties and powers;

3.2 To provide Council with monthly financial reports and minutes of every meeting and a Treasurer's report;

3.3 To provide Council with an annual report, including a self-evaluation of the Committee's effectiveness, to be submitted in September including:

- Patronage
- User groups
- Injuries and Accidents
- Maintenance/Improvements undertaken and future requirements
- Self-evaluation of operations and management
- Other matters considered relevant by the Committee;

3.4 To be the point of contact for the public with respect to the operation of Mirboo North Hall. All matters shall be referred to the committee for resolution in the first instance. All requests shall be dealt with promptly and the Council shall be kept informed at all times;

3.5 To ensure that the decisions and policies of Council are implemented/adhered to without delay;

4. Facility use

- 4.1 The power to negotiate the use of facilities with user groups and the power to approve programs operating from the Mirboo North Hall;
- 4.2 The power to set dates and opening/closing times;
- 4.3 To ensure that the Mirboo North Hall is used only for purposes appropriate to the facility;
- 4.4 To ensure that the facility is operated in accordance with hall type guidelines;

5. Finance

- 5.1 The power to set user fees;
- 5.2 To enter into contracts and to incur expenditure under \$2000, with approval being required from Council for contracts over \$2000;
- 5.3 The power to open and maintain a bank account at a bank and branch approved by Council, into which all monies received by the Committee shall be paid. All cheques and or transactions drawn on the account shall be signed and or authorised by any two of the following:
 - Chairperson
 - Vice Chairperson
 - Secretary
 - Treasurer;
- 5.4 To pay all utility, municipal and water charges incurred in occupying the premises;
- 5.5 To provide Council with adopted Financial Statements by 30 September each year, with support documentation being available upon request;
- 5.6 To provide Council with a proposed budget for the forthcoming year, within seven (7) days of the end of the financial year;
- 5.7 The power to apply income received from facility users to the ongoing operation and management of the Mirboo North Hall;

6. Maintenance

- 6.1 To provide an annual 'Facility Maintenance Report' detailing all anticipated maintenance for the following financial year that is submitted to Council by 31 January of the preceding year;

- 6.2 The authority to undertake minor repairs up to the value of \$500, however consent from Council's Property Co-ordinator must be gained for any maintenance item over \$500, that has not been anticipated in the 'Facility Maintenance Report'. Any works must be carried out by qualified personnel, relative to the task being performed, and all certificates of compliance must be forwarded to Council immediately, upon completion. All maintenance must be in accord with Council's adopted Maintenance Regime/Schedule;
- 6.3 To make no structural alterations or additions to the premises without the written consent of Council's Engineering and Assets department;
- 6.4 To maintain a register of keys issued by the Committee and to include these details in the annual 'Facility Maintenance Report'. Council must be provided with a set of keys to all external and internal locks. Any change in locking system must be in accordance with Council's restricted lock system and should be paid for by the Committee;

7. Risk Management / Insurance

- 7.1 To ensure that the facility is maintained in a manner that meets all Workcover and Occupational Health and Safety Regulations. Council may provide an inspection on at least two occasions per annum;
- 7.2 To maintain a monthly checklist, provided by Council, relating to building safety, and make available to Council staff when requested;
- 7.3 To ensure that volunteers complete a registration form that is to be forwarded to Council's Insurance and Return to Work Advisor. Volunteer groups must be supervised by a member of the Committee at all times. Each Committee must maintain a volunteer register containing names, addresses, type of activity performed, times of work and volunteer signature;
- 7.4 To contact Council's Occupational Health and Safety Coordinator, before volunteers commence any work to determine whether training is required;
- 7.5 To adhere to all statutory and legislative requirements;

8. Exceptions, conditions and limitations.

The Committee is not authorised by this Instrument to:

- 8.1 Enter into contracts over \$2000, or incur expenditure, for an amount which exceeds the approved budget;
- 8.2 Employ people or enter into leases without the prior consent of Council;

8.3 Exercise the powers which, by force Section 86 of the Act, cannot be delegated;

8.4 Borrow funds.

GUIDELINES – COMMITTEE DELEGATIONS

Name

These guidelines may be referred to as the Mirboo North Hall Special Committee Guidelines.

Application

These guidelines have been adopted by the South Gippsland Shire Council ("Council") for the guidance of:

- Mirboo North Hall Special Committee
- any other special committee in respect of which Council resolves that these guidelines are to apply.

Exercise of Powers

The powers, duties and functions set out in the Instrument are delegated to the Committee. This means that the Committee can only act under delegation when sitting in a formally constituted meeting.

This means that the meeting must be called and conducted in a manner that complies with the provisions of the Local Government Act 1989 ("the Act") and with the Council's meeting procedures local law.

The Committee cannot exercise its delegated powers when gathered outside the formal meeting structure as described above. For example, an informal coming together of members would not resolve to act under delegation.

Similarly, the delegations do not extend to individual members of the Committee.

The only opportunity for individual Committee members to be granted delegated powers exists where the Committee member is a member of Council staff and subject to a delegation under section 98 of the Act.

All delegations must be read in conjunction with this document and any other policies and guidelines that may be adopted by the Council from time to time.

Reporting Back

These guidelines have been developed to support the concept of delegation as a means of ensuring that the functions of Council are conducted in an efficient and timely manner.

Reporting back of delegations exercised may be necessary to ensure that adequate information regarding those actions is available to other staff, management and the Council.

Such reporting back would be by presentation of reports to Council within the time specified in the Instrument of Delegation; and production of minutes of meetings that will be circulated or available for inspection at any time.

It is to be noted that the reporting back requirements on this policy are a minimum standard only and that nothing will preclude more detailed or extensive reporting back of delegated actions if individual circumstances warrant.

Insurance

After receiving Special Committee Details Form, within 1 month of appointment, Council will, upon appointment of each committee, effect and pay for an annual public liability insurance policy to protect hirers. For events involving large numbers of people (more than 50), alcohol, some children's activities and some sporting events, Council will effect and pay for cover but may require the committee to ensure that hirers complete an insurance form which is to be directed to the insurance company by the committee. Council must be contacted before events such as carnivals, large sporting events and 'pop/rock' concerts are booked or organised, as cover may not be available for some events.

All of the above insurance arrangements are subject to Council approval based on reasonable use of facilities and frequency. If a committee is unsure about any aspect of insurance cover, they must contact Council's Risk Management Department.

The actions of committee members, in the proper execution of the committee power and responsibilities, are covered by Council's existing public liability policy.

E.13 APPROVAL OF TENDER 'SGC15/25 DESIGN & CONSTRUCTION OF THREE PUBLIC TOILETS - FISH CREEK, TOORA, YANAKIE' TO BE AWARDED UNDER CEO DELEGATION

Engineering Services Directorate

EXECUTIVE SUMMARY

The purpose of this report is to seek Council approval for the Chief Executive Officer to have delegated authority to award Tender 'SGC15/25 Design & Construction of Three Public Toilets - Fish Creek, Toora, Yanakie' on the basis that the successful Tender falls within the allocated budget.

The Contract details will be reported to Council at the earliest possible date after the Tender is awarded. This is due to the fact that there is no Council meeting in January and this approval will allow Council to complete this project this financial year.

LEGISLATIVE/ ACTION PLANS/ STRATEGIES/ POLICIES

- Local Government Act 1989 - Section 98(1)
- Local Government Procurement Best Practice Guidelines

INTERNAL POLICIES / STRATEGIES / DOCUMENTS

- Procurement Policy 2014
- Instrument of Delegation to the Chief Executive Officer
- 2014/15 Capital Works Program

COUNCIL PLAN

Outcome:	3.0	Integrated Services and Infrastructure
Objective:	3.1	Deliver affordable modern community services and facilities through an integrated approach to planning and infrastructure development..
Strategy:	3.1.4	We will plan for the service needs of the Shire's changing demographic.

CONSULTATION

Tender specifications were developed in consultation with the Projects Coordinator, Engineering Coordinator, Building Coordinator and the Projects Engineer to comply with Council's Procurement Policy.

REPORT

Background

The design and construction of three public toilets at Fish Creek, Toora and Yanakie were budgeted and planned to be implemented within the 2014/15 financial year.

Tender SGC15/25 was advertised in The Age on 22 November 2014 and in the local papers week commencing 24 November 2014. Tender submissions closed on 16 December 2014.

Discussion

There is insufficient time to assess the tenders, clarify any tender issues, carry out the necessary referee checks and complete the report for Council in time for the December Council meeting. As there is no Council meeting in January, the Contract would not be awarded until the February meeting which is too late into the construction season and could place the project at risk by not completing it over the summer and autumn months.

If Council provides approval for the Chief Executive Officer to have the delegated authority to approve this Tender, the awarding of Tender SGC15/25 could potentially occur late December. This is around 10 weeks earlier than the likely date if the report was tabled at the February 2015 Council meeting.

It is important that the works for the project commence at the earliest possible date to maximise the available period for the Contractor over the summer and autumn months. Authorising the Chief Executive Officer delegated powers to award this Tender will allow Council to achieve this aim.

FINANCIAL CONSIDERATIONS

The design and construction of three public toilets at Fish Creek, Toora and Yanakie is accommodated within Council's adopted Capital Works Program.

Proposal

It is proposed that Council:

1. Delegate to the Chief Executive Officer authority to award Tender 'SGC15/25 Design & Construction of Three Public Toilets - Fish Creek, Toora, Yanakie' subject to the successful Tender being within budget.
2. Receive a further report with the Contract details, the name of the successful contractor and the lump sum amount at the earliest possible Council meeting once the Tender is awarded.

Risks

There is a significantly greater risk of the works being pushed into the 2015 wet winter months increasing the potential for suspension of the works if this Tender is not awarded at the earliest possible date.

With the Contract in place, Council mitigates the risk of:

- Continued deterioration of the existing public toilets.
- Current level of service declining.
- Higher maintenance costs.
- Future higher construction costs.

CONCLUSION

By delegating the authority to the Chief Executive Officer to award this Tender, will enable Council to commence and complete these works over the summer and autumn months.

RECOMMENDATION

That Council:

1. Delegate to the Chief Executive Officer the authority to award Tender 'SGC15/25 Design & Construction of Three Public Toilets - Fish Creek, Toora, Yanakie' subject to the successful tender being within budget.
2. Receive a further report with the Contract details, the name of the successful contractor and the lump sum amount at the earliest possible Council meeting once the Tender is awarded.

STAFF DISCLOSURE OF INTEREST

Nil

NOTE: The recommendation was **CARRIED UNANIMOUSLY** as part of a single motion, refer to page 143.

SECTION F - URGENT OR OTHER BUSINESS

There are two basic parts to this section of the Agenda:

1. Urgent Business

Normally no motion should be debated by Councillors unless the matter is already included as an item on the Agenda. However in some circumstances it is possible to raise urgent motions.

The Meeting Procedure Local Law No.3 (Clause 46) allows for where a situation has not been provided for under the Local law, the Council may determine the matter by resolution. Established practice has provided for urgent motions to be raised at Council provided the matter cannot be dealt with at the next ordinary meeting of Council or by officers under delegation.

It is necessary for the Councillor wishing to raise a matter of urgent business to raise a motion similar to the following: 'That consideration of (*the issue*) be dealt with as a matter of urgent business and Councillorbe allowed a 'short period' to indicate the reason(s) why the matter should be considered as a matter of urgent business". If the Chairperson accepts the motion as meeting the urgent business criteria, normal meeting procedures in Local law 3 will apply.

If the motion to accept the item as a matter of urgent business is passed by Council, the motion relating to the specific issue can then be put and debated in the normal way.

2. Other Business

This provides an opportunity for Councillors to raise items of general interest to the Council and the community. It may relate to an up coming event or the outcomes of a recent meeting with a Minister etc.

Nil

SECTION G – GENERAL QUESTION TIME

G.1 QUESTION TIME

Mr Ron Wangman addressed Council by asking questions regarding trade agreements and a register of foreign owned properties within the Shire and would this be of interest to Council and its future planning?

The question was taken on notice and will be answered at the next appropriate Council Meeting.

Question 2

In light of the new Labour Government would the Council be looking at the Coal Seam Gas (CSG) issue again, in the new year?

Mr Tim Tamlin, Chief Executive Officer (CEO) responded by referring to Council's 'Our Say' website (<http://oursay.org/southgippsland/budget>) which includes a response to this issue, he further noted that Council would continue to monitor and assess the State Government.

Mr Ron Wangman concluded by wishing Councillors and staff a happy Christmas and New Year and noted the complexities and criticism that Council has to deal with and the commitment in working through these complexities and sends his complements.

Mr Paul Norton addressed Council by presenting written questions and asked a question about the Leongatha Vehicle By-pass.
The CEO responded by indicating that it is an alternate not a designated route and that he would take the questions on notice. The questions taken on notice will be answered at the next appropriate Council Meeting.

Cr Fawcett left the Meeting at 3.06pm and returned to the Meeting at 3.08pm.

Cr Hill addressed Council by asking the CEO to pass on to staff his best wishes for Christmas and thank them for the work they have completed this year in promoting Council's agenda.

The Mayor expressed a few words regarding what is proposed by forecasters to be a difficult financial New Year. Cr Harding noted that Council will continue to do its best to serve the community but may need to cut costs and services in the future and that this may make for a difficult year.

G.2 ANSWERS TO PREVIOUS QUESTIONS ON NOTICE

Noted.

At the Ordinary Council Meeting 26 November 2014 a question was taken on notice from Mr Paul Norton and response is now provided.

Question 1

Would Mr Tamlin as CEO consider if possible under D4 Delegation allocate money for a pathway along the eastern side of Hassett Street from A'Beckett St to Ogilvy Street for what maybe better and safer than VicRoad's A'Beckett to Jeffrey Street pathway?

Response:

As part of Council's 'Footpath Missing Link Program' a footpath has been proposed along the eastern side of Hasselt Street from Turner Street (McIndoe Park) all the way to Ogilvy Street. These works are proposed for the 2016/17 financial year in the Capital Works Program.

The Capital Works Program is reviewed annually and our recent review has recognised that this footpath is one of the top priorities in the 'Footpath Missing Link Program' due to the Kindergarten located on the corner of Jeffrey Street / Hassett Street and the upcoming construction of the Leongatha Heavy Vehicle Bypass.

CLOSED SESSION

Consideration of confidential matters under the Local Government Act 1989, Section 89(2).

According to Section 89 of the Local Government Act 1989 (the Act), Council may consider items in closed session. There must be a resolution to move 'In Committee' stating the reasons why the matter(s) need to be considered in this way. The reasons provided for within the Act are matters concerning personnel, personal hardship, industrial issues, contracts, proposed developments, legal advice or any other matter that Council considers would be prejudicial, to it or any other person.

Once 'In Committee' discussions and debate have concluded, a further resolution to resume open Council is required.

ITEM 1 2015 AUSTRALIA DAY AWARDS SELECTION

ITEM 2 CONTRACTUAL MATTER

RECOMMENDATION

That Council close the meeting to the public to allow for consideration of:

1. 2015 AUSTRALIA DAY AWARDS SELECTION pursuant to section 89 (2)(h); and
2. A CONTRACTUAL MATTER pursuant to section 89(2)(d) as provided for by the Local Government Act 1989.

MOVED: Cr Fawcett

SECONDED: Cr Newton

THAT COUNCIL CLOSE THE MEETING TO THE PUBLIC TO ALLOW FOR CONSIDERATION OF:

1. **2015 AUSTRALIA DAY AWARDS SELECTION PURSUANT TO SECTION 89 (2)(H); AND**
2. **A CONTRACTUAL MATTER PURSUANT TO SECTION 89(2)(d) AS PROVIDED FOR BY THE LOCAL GOVERNMENT ACT 1989.**

CARRIED UNANIMOUSLY

SECTION H - MEETING CLOSED

NEXT MEETING

The next Ordinary Council Meeting open to the public will be determined as a Council Agenda Item E.9 COUNCIL MEETING TIMETABLE 2015 at the Meeting.

The Meeting closed at 3.36pm.

CONFIRMED:.....

CR JEANETTE HARDING – MAYOR

Date:.....