

## SOUTH GIPPSLAND PLANNING SCHEME

### AMENDMENT C97

#### EXPLANATORY REPORT

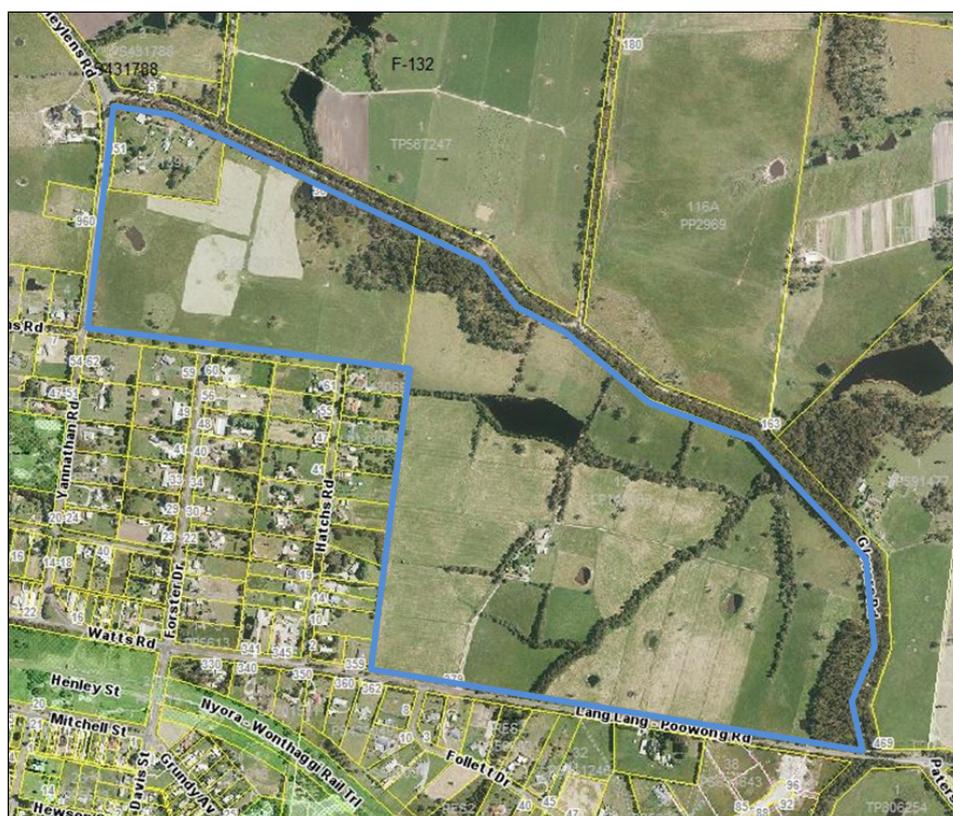
#### Who is the planning authority?

This amendment has been prepared by the South Gippsland Shire Council, which is the planning authority for this amendment.

The amendment has been made at the request of Wallis Watson (Nyora) Pty Ltd.

#### Land affected by the amendment

The amendment applies to 951 Yannathan Road, 30 Glovers Road and 379 Lang-Lang Poowong Road, Nyora. The land is currently zoned Farming Zone (FZ) and is not affected by any Overlays. The land has an area of approximately 104ha.



#### What the amendment does

The amendment:

- Rezones all of the Farming Zone (FZ) land at 951 Yannathan Road, 30 Glovers Road and 379 Lang-Lang Poowong Road, Nyora to General Residential Zone 1 (GRZ1);
- Applies the Development Plan Overlay Schedule 10 (DPO10) to the whole of the land. The DPO will facilitate the orderly and efficient development of whole of the land, which is identified in the Nyora Framework Plan as 'Future Residential Area' and 'Long Term Residential Area'.

## **Strategic assessment of the amendment**

### **Why is the amendment required?**

The amendment is required to facilitate the use and development of the land for residential development. Such development cannot be achieved whilst the land is currently in the Farming Zone. The rezoning of the subject land is supported by the Nyora Framework Plan and it is identified in the 'Future Residential Areas' and part in the 'Long Term Residential' area.

### **How does the amendment implement the objectives of planning in Victoria?**

The objectives of planning in Victoria are:

- a) to provide for the fair, orderly, economic and sustainable use and development of land;
- b) to provide for the protection of natural and man made resources and the maintenance of ecological processes and genetic diversity;
- c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;
- d) to protect public utilities and other assets and enable the orderly provision and coordination of public utilities and other facilities for the benefit of the community;
- e) to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e); and
- g) to balance the present and future interests of all Victorians.

The amendment implements the objectives as it will provide for the orderly, economic and sustainable development of the land for residential purposes in the most efficient manner. The subject land is located to the immediate north of the existing township area and has direct access to Yannathan Road and Nyora-Poowong Road. This provides for the logical expansion of the township and extension of existing services to the site. The township is currently being provided with reticulated sewer. The rezoning will also provide required additional infrastructure to the township via a developer contribution scheme.

The rezoning will not have a detrimental effect on the manmade or natural processes associated with the land. The site is comprised primarily of introduced pasture and patches of native trees, a number of which can be successfully incorporated into the future subdivision design. The Little Lang Lang River tributary that runs through the site will also be enhanced and developed as a feature of the estate.

There are no known sites of scientific, aesthetic, architectural, historical or cultural significance or interest identified on the subject land.

### **How does the amendment address any environmental, social and economic effects?**

#### **Environmental effects:**

The subject land is largely improved pasture land and has been extensively grazed for many years. Remnant native vegetation is unaffected by the proposed rezoning and can be appropriately protected within the future subdivision at the design stage.

The amendment has also considered the relevant strategies in clause 12.01-1 Protection of habitat in the State Planning Policy Framework. A small portion of the land is identified as potential habitat for the Giant Gippsland Earthworm, which is protected by the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)* and Victoria's *Flora and Fauna Guarantee Act 1988 (FFG Act)*. The landowner will need to, where relevant, obtain approval under the EPBC Act and the FFG Act.

The Development Plan Overlay will ensure that: 1) approval of future subdivision is informed by a flora and fauna survey, and 2) appropriate mitigation measures are undertaken.

Development must accord with the provisions in the Development Plan Overlay and permit.

### **Social and economic effects:**

The amendment will facilitate the development of the land for residential purposes. The scale of the proposal is such that the natural features of the site can be incorporated into the subdivision design and further enhanced to create the lifestyle quality that the existing residents value. This will help secure Nyora as a prominent and desirable residential location in the Shire.

The location of the site and existing road network provides opportunity to create pedestrian and cycle connections with the existing residential areas, local parks and town centre.

No adverse social impacts are considered likely as a result of the proposed rezoning.

The amendment will provide a net community benefit. It will encourage investment and growth in the residential sector and provide new housing opportunities in Nyora.

### **Does the amendment address relevant bushfire risk?**

The land is not affected by the Bushfire Management Overlay and one is not proposed to be introduced.

The entire township of Nyora and surrounds are designated as a Bushfire Prone Area. Development within a Bushfire Prone Area requires compliance with the Country Fire Authorities performance based objectives which include:

- Consideration at the landscape scale;
- Road access requirements;
- Water requirements;
- Requirements for the location of lots and building envelopes;
- Vegetation requirements.

Compliance with the CFA's requirements can be achieved through appropriate subdivision layout and mandatory connection to the reticulated water system in accordance with Clause 56 (ResCode).

In addition to the CFA requirements, the Development Plan Overlay to be applied to the site requires detailed consideration of bushfire risk in relation to future subdivision layout. Larger lots are proposed in the vegetated areas and building envelopes are to be applied to these lots to ensure separation of habitable buildings from high fire risk areas.

### **Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?**

The amendment has been prepared having regards to:

- Ministerial Direction No. 1 Potentially Contaminated Land – Preliminary assessment indicates that the application of an Environmental Audit Overlay (EAO) is not warranted. The DPO provisions require a high level assessment of the potential for land contamination.
- Ministerial Direction No. 11 – Strategic Assessment of Amendments. The Amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes under Section 7(5) of the Act.
- Ministerial Direction No. 15 – The Planning Scheme Amendment Process with timeframes set for completing steps in the planning scheme amendment process including a Directions Hearing and Planning Panel (if required).
- Ministerial Direction No.16 – Residential Zones. Application of the General Residential Zone 1 to the subject land is consistent with the requirements of the Direction.

No other Ministerial Directions Apply.

## **How does the amendment support or implement the State Planning Policy Framework and any adopted State policy?**

The amendment implements or supports the SPPF, in particular:

### **Clause 11 Settlement**

Clause 11 states that *planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure.*

Rezoning of the subject site to the General Residential Zone 1 will ensure that Nyora provides sufficient land for housing for the projected population growth now and in the long term.

### **Clause 11.02 Urban Growth**

Clause 11.02-1 Supply of urban land states that:

- *Ensure that sufficient land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.*
- *Plan to accommodate projected population growth over at least a 15 year period and provide clear direction on locations where growth should occur.*

The amendment will ensure a sufficient supply of land is available for residential development in accordance with the above requirements. It is considered that based on the current rates of growth the rezoning will provide sufficient residential land in conjunction with other developable land in Nyora until approximately 2030 but that developments in the surrounding areas such as the expansion of the south east Melbourne employment corridors may result in higher growth than anticipated.

It is anticipated that rezoning the land GRZ1 may yield approximately 700 residential lots or more, across the entire subject land at full development. How many lots to be created will become more evident when the Development Plan is prepared and closer consideration is made of the constraints and opportunities on the land. However it is important to realise that the GRZ1 is the normal zone found in township areas (like Leongatha and Korumburra) and allows for the creation of normal size township lots under 1,000sqm.

- *Restrict low-density rural residential development that would compromise future development at higher densities.*

Rezoning the land to General Residential Zone 1 will enable higher density residential development on the land and will assist in reducing pressure on nearby rural residential development on the outskirts of Nyora.

Clause 11.05-2 Melbourne's hinterland areas

- *Prevent dispersed settlement.*
- *Manage the growth of settlements to ensure development is linked to the timely and viable provision of physical and social infrastructure and employment.*

The proposed rezoning of the site is consistent with the Nyora Structure Plan and will facilitate the development of land for residential purposes within an established settlement boundary.

### **Clause 14 Natural Resource Management**

Clause 14.02-1 'Catchment planning and management' seeks to:

- *To assist the protection and, where possible, restoration of catchments, waterways, water bodies, groundwater, and the marine environment.*

There are designated waterways on the area proposed for rezoning to GRZ1 and Water Sensitive Urban Design (WSUD) can be integrated into any future subdivision proposal.

## **Clause 15 Built Environment and Heritage**

Clause 15.01-3 '*Neighbourhood and subdivision design*' seeks to:

- *To ensure the design of subdivisions achieves attractive, liveable, walkable, cyclable, diverse and sustainable neighbourhoods.*
- *Provide a range of lot sizes to suit a variety of dwelling and household types to meet the needs and aspirations of different groups of people.*
- *Protecting and enhancing native habitat.*

The rezoning will facilitate the development of the site for residential purposes and the Development Plan Overlay will provide the planning controls to ensure that the subdivision layout achieves the objectives of this clause including attractive, walkable, diverse neighbourhoods and protection of habitat.

## **Clause 16 Housing**

Clause 16.01-2 '*Location of residential development*' seeks to:

- *Facilitate residential development that is cost-effective in infrastructure provision and use, energy efficient, incorporates water efficient design principles and encourages public transport use.*

The Development Plan Overlay will ensure appropriate infrastructure arrangements on the land, taking into account the principles above.

Clause 16.02-1 '*Rural residential development*' seeks to:

- *Manage development in rural areas to protect agriculture and avoid inappropriate rural residential development.*
- *Encourage the consolidation of new housing in existing settlements where investment in physical and community infrastructure and services has already been made.*
- *Demonstrate need and identify locations for rural residential development through a housing and settlement strategy.*
- *Ensure planning for rural living avoids or significantly reduces adverse economic, social and environmental impacts by:*
  - *Protecting existing landscape values and environmental qualities such as water quality, native vegetation, biodiversity and habitat.*
  - *Minimising or avoiding property servicing costs carried by local and State governments.*

The proposed rezoning of the site is consistent with the Nyora Structure Plan and will facilitate the development of land for residential purposes, at a range of densities within an established settlement boundary. The extent of the site is such that the natural features of the land can be incorporated into the subdivision design and further enhanced to create the lifestyle quality that the existing residents value.

The subject land adjoins the existing township and can therefore maximise the use of established infrastructure. Development of the site will also facilitate the delivery of a reticulated sewerage system to Nyora and will help disperse the cost of the infrastructure to local residents, businesses and Council more sustainably. Financial contributions will also be generated from the development of the site, providing Council with needed funds to invest in the physical and community infrastructure of Nyora.

## **Clause 19 Infrastructure**

Clause 19.03 '*Development infrastructure*' seeks to:

- *To facilitate the timely provision of planned infrastructure to communities through the preparation and implementation of development contributions plans.*

Development contributions have been agreed to between Council and the proponent and will be formalised prior to the adoption of the Amendment via a Section 173 Agreement in order to provide for planned infrastructure and community facilities in a fair, reasonable and orderly manner.

- *To plan for the provision of water supply, sewerage and drainage services that efficiently and effectively meet State and community needs and protect the environment.*

The subject land adjoins the existing township and can therefore maximise the use of established infrastructure. Reticulated water services are currently provided to Nyora and reticulated sewerage is currently in the process of development. New residential development will assist in spreading the cost of provision and ongoing maintenance of the sewerage system.

- *To reduce the impact of stormwater on bays and catchments.*

Water Sensitive Urban Design will be incorporated into the subdivision – as required by provisions of the DPO Schedule. A key feature of the Development Plan is the enhancement of the Little Lang Lang River tributary that runs through the site. It is intended that this tributary will be designed to manage stormwater, retain important habitat for the Giant Gippsland Earthworm, function as a linear open space reserve for local residents and contribute to the rural character of the area.

### **How does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?**

The Municipal Strategic Statement identifies Nyora as a key urban centre within the Shire. It seeks to support the development and expansion of the township in an orderly manner and ensure that adequate land is available for future residential development.

**Clause 21.05-1 Growth of towns** sets out Council's Objectives, Strategies & Implementation approach to integrated land use planning for the Shire and each of the major towns in the municipality.

Council's specific policy for Nyora states:

#### 21.15-5 Nyora

##### *Local area implementation*

- *Ensure that any proposed use and development of land in Nyora is generally in accordance with the Nyora Framework Plan.*
- *Ensure that residential growth and land release is staged so that the provision of essential physical, retail and community infrastructure keeps pace with development and strengthens the town's role in providing services.*

The Nyora Framework Plan, located under the same clause, identifies the subject land as a future and long term residential area. The rezoning of the entire site is the most efficient means to deliver a well planned and integrated residential estate. The release of land within the estate will be managed through the staging of the development – as required by the DPO Schedule. In addition, should the population growth exceed the estimates identified in the Structure Plan, the development of the 'Long term residential area' can be brought forward as the need arises and subject to Development Plan staging approval. Staging of land release is a provision of the DPO Schedule. The Schedule also requires the 'Longer Term Residential Area' identified in the (Structure Plan and Nyora Framework Plan) form a later stage in the subdivision / residential development of the land. This is a logical response which reflects anticipated development patterns that will see development extend outwards from the existing residential development boundary across the subject land. Crossing the main waterway within the development site (as required by the DPO Schedule) will require significant infrastructure investment and it is reasonable to assume that this will delay development of the Longer Term Residential Area until most of the 'Future Residential Area' on the subject land is developed. How development is logically anticipated to occur across the subject land supports rezoning the 'Long Term Residential Area' now because its

development constraints mean it won't be developed until market demand requires. In consideration of orderly precinct (land unit) based planning, it is logical to rezone the entire land parcel now and guide staging and land release through a combination of market forces and the provisions of the DPO Schedule.

It is acknowledged that the Structure Plan and clause 21.15-5 encourage urban consolidation and infill development within Nyora, however, the complexities of subdividing land within the existing township (given the fragmented nature of the landholdings, the need to coordinate costly infrastructure provision and the limited availability of existing vacant residential land) threatens the timely provision of residential land to accommodate future populations.

The rezoning of the subject site in its entirety is therefore required to ensure a sufficient supply of appropriately zoned land is supplied and to help alleviate the potential increase for price distortion due to supply deficiencies which, in turn impacts on housing affordability.

Clause 21.15-5 'Nyora' identifies the need to consider as 'Further strategic work' the preparation of a Design and Development Overlay (DDO) or a Significant Landscape Overlay (SLO) to guide the development of the township in a manner responsive to the rural township character of Nyora. These requirements remain relevant to Nyora however in relation to Amendment C97 the proponent has agreed to the application of a highly detailed DPO Schedule, of which key subdivision layout and building siting provisions will be captured in legal agreements to be registered on the lots being created. For example, building envelopes setting out front setbacks, and setbacks to side road boundaries, are required for all lots adjoining main roads around and through the subdivision. Large lots are required in vegetated area to ensure tree cover remains a dominant visual character of the area. The main internal road design will require canopy tree planting to break up the 'sea of roofs' effect common in new outer suburban subdivision. The detailed requirements of the DPO Schedule set aside the need for either a DDO or an SLO as an additional form of planning control to guide the appropriate subdivision and development of the land. Not applying additional overlay controls also reduces the burden of planning permit controls on future landowners (post subdivision) and on Council who must assess permit applications.

Financial contributions will be generated from the development of the site, providing Council with needed funds to invest in the development and community infrastructure of Nyora. These contributions will be formalised via a Section 173 Agreement in accordance with the Development Plan Overlay Schedule 10.

The proposed amendment is consistent with the current planning policy context and previous Planning Panel Victoria reports.

### **Does the amendment make proper use of the Victoria Planning Provisions?**

The amendment makes proper use of the Victorian Planning Provisions and has been developed in accordance with the relevant directions (Planning Practice Notes) of the Department of Transport, Planning and Local Infrastructure.

The amendment seeks to include the subject land in the General Residential Zone 1 which is considered the most appropriate zone to achieve the desired residential outcome.

The application of DPO Schedule 10 will ensure that the relevant directions in the State Planning Policy Framework and Local Planning Policy Framework can be implemented.

### **How does the amendment address the views of any relevant agency?**

The amendment does not introduce any new formal or informal requirements for any referral authorities or any relevant agencies.

Relevant agencies were consulted in the preparation and adoption of the Nyora Structure Plan into the Planning Scheme in 2013.

A future planning permit application to subdivide the land will be forwarded to the designated referral authorities as specified in the Planning Scheme.

Further consultation with the relevant servicing authorities, especially the water & drainage authorities, will occur, both prior to the approval of the Development Plan, and during the process of planning application for the subdivision of the land.

### **Does the amendment address relevant requirements of the Transport Integration Act 2010?**

The amendment is not considered to have a significant impact on the transport system or the *Transport Integration Act 2010*. The future subdivision's internal roads will be designed and able to cope with the expected capacity. Access to the external road networks will require detailed assessment at Development Plan and subdivision stage to determine whether additional requirements are necessary at the time.

### **Resource and administrative costs**

- **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

The amendment will result in the assessment of a new Development Plan and the assessment of a planning permit application(s) for future subdivision.

Council will be required to assess all matters associated with the development of future subdivision(s) in both its roles, as the responsible authority for the administration of the South Gippsland Planning Scheme, and as the local authority for drainage and other appropriate services.

Both the *Planning and Environment Act 1987* and the *Subdivision Act 1988* set prescribed fees for the consideration of planning applications, certification of Plans of Subdivision and assessment of engineering plans and supervision of works etc. Accordingly no significant unfunded administrative costs are expected as a result of the proposal.

### **Where you may inspect this Amendment**

The amendment is available for public inspection, free of charge, during office hours at the following places:

- South Gippsland Shire Council - Customer Service Desk, 9 Smith Street Leongatha
- Council's web page [www.southgippsland.vic.gov.au](http://www.southgippsland.vic.gov.au).

The amendment can also be inspected free of charge at the Department of Planning and Community Development website at [www.dpcd.vic.gov.au/planning/publicinspection](http://www.dpcd.vic.gov.au/planning/publicinspection).

### **Submissions**

Any person who may be affected by the amendment may make a submission to the planning authority. Submissions about the amendment must be received by **Monday 19 January 2014**.

A submission must be sent to: Strategic Planning Coordinator, South Gippsland Shire Council, Private Bag 4 Leongatha 3953.

### **Panel hearing dates**

In accordance with clause 4(2) of Ministerial Direction No.15 the following panel hearing dates have been set for this amendment:

- Directions hearing: Week commencing 23 March 2015.
- Panel hearing: Week commencing 27 April 2015.

Panel dates (if required) will be confirmed following exhibition of the amendment. All submitters to the Amendment will receive postal notification of when these hearings are to occur.