

Planning and Environment Act 1987

Panel Report

South Gippsland Planning Scheme Amendment C65

23 February 2016

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Panel Report pursuant to Section 25 of the Act

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

Michael Kirsch, Chair

Contents

	Page
Executive Summary	1
1 Introduction.....	2
1.1 Panel process.....	2
1.2 The proposal.....	3
1.3 Background to the Amendment.....	5
1.4 Post-exhibition changes to the Amendment	5
1.5 Issues dealt with in this report.....	5
2 Planning Context.....	6
2.1 State Planning Policy Framework.....	6
2.2 Local Planning Policy Framework.....	6
2.3 Discussion and conclusions	8
3 Discussion of issues.....	9
3.1 The General Residential Zone	9
3.2 The Development Plan Overlay.....	10
3.3 Infrastructure funding	12
3.4 Stormwater drainage	13
3.5 Other issues.....	14
Appendix A Submitters to the Amendment	
Appendix B Document list	
Appendix C Recommended Development Plan Overlay Schedule 9	

List of Tables

	Page
Table 1 Parties to the Panel Hearing.....	2

List of Figures

	Page
Figure 1 Plan showing the extent of the exhibited GRZ1 and DPO9 (Source: Explanatory Report)	4
Figure 2 Leongatha Framework Plan (Clause 21.15-1, South Gippsland Planning Scheme)	7

List of Abbreviations

DELWP	Department of Environment, Land, Water and Planning
DPO	Development Plan Overlay
ESO	Environmental Significance Overlay
FZ	Farming Zone
GRZ	General Residential Zone
IDM	Infrastructure Design Manual
IPO	Incorporated Plan Overlay
LDRZ	Low Density Residential Zone
LPPF	Local Planning Policy Framework
MSS	Municipal Strategic Statement
PPN23	Planning Practice Note 23: Applying the Incorporated Plan and Development Plan Overlays, August 2015
SPPF	State Planning Policy Framework
VPP	Victoria Planning Provisions
WGCMA	West Gippsland Catchment Management Authority

Executive Summary

(i) Summary

Amendment C65 to the South Gippsland Planning Scheme seeks to provide for the future residential growth of Leongatha. The Amendment applies the Development Plan Overlay to a 40ha site to the west of Leongatha and rezones 12ha of this site to the General Residential Zone. The Amendment also rationalises existing overlays to take account of the proposed Development Plan Overlay.

The key issues raised in submissions related to:

- Infrastructure funding
- Off-site impacts
- The appropriate zone and overlay
- Road construction

The Panel concludes that the Amendment has strong strategic support and is consistent with the Leongatha Framework Plan and the Leongatha Planning Scheme. The Framework Plan identifies the Amendment site as an 'Urban Expansion Area', an outcome that will be facilitated by the General Residential Zone and Development Plan Overlay.

The Development Plan Overlay Schedule 9 includes comprehensive guidance for preparing the various Development Plans that will be required and it will provide Council with a sound basis on which to manage the development of this area. The Panel also supports Council's commitment to undertaking further consultation with stakeholders before approving future Development Plans.

Following its consideration of submissions, Council proposed a number of relatively minor changes to the Development Plan Overlay Schedule 9 in order to better address various issues. The Panel generally supports those changes, and has recommended some additional changes that are also intended to better address some issues.

(ii) Recommendation

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

South Gippsland Planning Scheme Amendment C65 be adopted as exhibited, subject to including the Development Plan Overlay Schedule 9 included in Appendix C of the Panel's report.

1 Introduction

1.1 Panel process

South Gippsland Planning Scheme Amendment C65 (the Amendment) was prepared by the South Gippsland Shire Council as Planning Authority. As exhibited, the Amendment proposes to:

- Rezone part of 77 Gibson Street, Leongatha from Farming Zone (FZ) to General Residential Zone (GRZ)
- Apply a Development Plan Overlay (DPO) to 77 Gibson Street
- Remove the Environmental Significance Overlay 5 (Erosion) (ESO5) from the proposed DPO area
- Remove the Environmental Significance Overlay 6 (Flooding) (ESO6) from the proposed DPO area.

The Amendment was prepared at the request of S Murphy (the Proponent) and was authorised by the Department of Environment, Land, Water and Planning (DELWP).

The Amendment was placed on public exhibition between 30 July and 31 August 2015, and attracted 17 submissions.

At its meeting of 28 October 2015, Council resolved to refer the submissions to a Panel. As a result, a Panel to consider the Amendment was appointed under delegation from the Minister for Planning on 6 November 2015 and comprised Michael Kirsch (Chair).

A Directions Hearing was held in relation to the Amendment on 2 December 2015. Following the Directions Hearing, the Panel undertook an inspection of the subject site and its surrounds.

The Panel then met in the Council offices, Leongatha on 5 February 2016 to hear submissions about the Amendment. Those in attendance at the Panel Hearing are listed in Table 1.

The Panel undertook a further inspection of the site and general area on the day of the Hearing.

Table 1 Parties to the Panel Hearing

Submitter	Represented by
South Gippsland Shire Council	Ken Griffiths (Strategic Planning Coordinator)
G Murphy (the Proponent)	John Cicero (Best Hooper) who called expert evidence in traffic from Jim Higgs (TTM Consulting Pty Ltd)
David Ziebell	
Robyn Begg	
Jane Wright	
Leo Argento	

1.2 The proposal

(i) The subject site

The subject site is part of a larger farming property located to the west of Leongatha and adjacent to the Leongatha urban area.

Council's submission described the site and surrounding area as follows:

- . *The subject land at 77 Gibson Street, Leongatha comprises 5 separate lots which are all under the same ownership. Of these lots, 60ha of this land is affected and the lots are L1 PS330446R, L2 PS404151C, L1 PS404151C, part of L1 LP212865U and part of Lot 2 PS330446R (Parish of Leongatha). The subject land adjoins FZ (north, south and west), Low Density Residential Zone (LDRZ) (east) and the GRZ1 (north and east).*

- . *Land over the road at the north eastern corner of the subject land was rezoned for residential development in 2005 (Amendment C25) and is already highly developed. Of the lots directly fronting Shingler Street only 2 empty lots remain without dwellings. This stretch also contains the entrance to 'Shingler Rise' (through Floraston Drive) which is a housing subdivision that contains over 50 lots which have mostly been developed.*

To the west, the adjoining FZ land has traditionally been used for grazing beef cattle. The LDRZ to the east is well developed and contains a variety of lot sizes, resulting from older established blocks, to newer blocks, subdivided at the minimum 2000m² lot size that run along the southern side of Higg Street.

Gibson Street runs along the eastern boundary of the subject land and is constructed for approximately 260m. This road contains 10 residences and two access points, Hillview Court and Burrows Way that lead to more high density residential lots.

The entire site is covered by the ESO5 Areas Susceptible to Erosion and it also contains some small pockets of ESO6 Areas Susceptible to Flooding. These overlays were carried over from the former Shire of Woorayl Planning Scheme and applied as blanket controls. They affect considerable areas of the Shire and do not necessarily reflect the site specific characteristics of affected land. In this case, this site does contain water management issues but are better addressed by investigating their impacts on the local area and how their effects can be specifically managed.

The site is within the Tarwin River (Meeniyar) Special Water Supply Catchment (affected by the referral requirements of clause 66.02-5), which is administered by South Gippsland Water.

The land is undulating and slopes gently upwards from the north eastern corner of the site towards a ridge line that runs diagonally north-east to south west. The site also contains steep slopes around depressions which can contain water features such as creeks and soaks...

(ii) Amendment Description

The Amendment proposes to:

- Rezone part of 77 Gibson Street, (L1 PS404151C (Vol. 10381, Folio 343, approx. 12ha) from Farming Zone (FZ) to General Residential Zone (GRZ)
- Apply a Development Plan Overlay Schedule 9 (DPO9) to 77 Gibson Street, specifically, lots:
 - L1 PS404151C (Vol. 10381, Folio 343, 12ha)
 - L2 PS404151C (Vol. 10381, Folio 344, 28.3ha)
 - L1 PS330446R (Vol. 10177, Folio 076, 0.8ha)
 - Part L2 PS330446R (Vol. 10177, Folio 077, approx. 17.2ha)
- Remove the Environmental Significance Overlay 5 (Erosion) from the proposed DPO9 area
- Remove the Environmental Significance Overlay 6 (Flooding) from the proposed DPO9 area.

The extent of the proposed GRZ1 and DPO9 are shown on Figure 1 below.

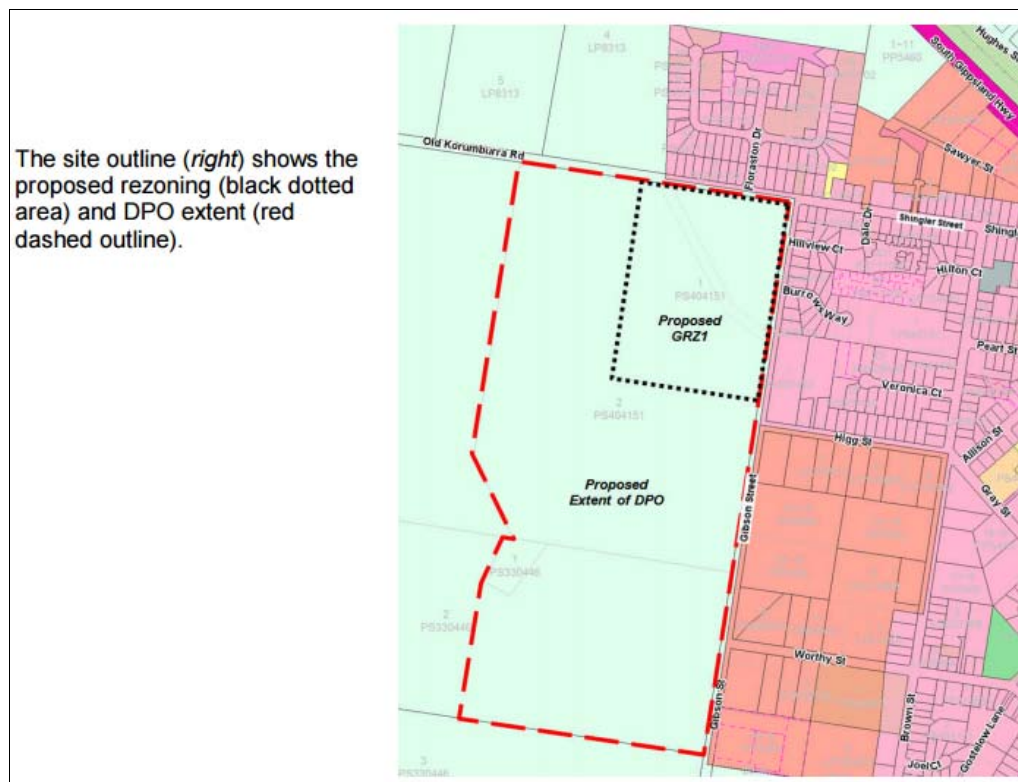


Figure 1 Plan showing the extent of the exhibited GRZ1 and DPO9 (Source: Explanatory Report)

Mr Griffiths, of Council advised that the Amendment was exhibited with a draft 'Outline Development Plan' prepared for the Proponent. This plan includes a detailed subdivision plan for the area proposed to be zoned GRZ and an indicative road layout and land use arrangement for the remainder of the Amendment site. The Panel notes that this plan does not form part of the Amendment or the DDO9 and was not included with the Amendment documentation on the DELWP Planning Scheme Amendments website.

1.3 Background to the Amendment

Council's submission provided a comprehensive description of the background to the Amendment, and highlighted that:

- The initial Amendment request was lodged in July 2009 and proposed the residential rezoning of Lot 2.
- The request led Council to investigate various issues associated with residential land supply, infrastructure and preferred growth areas.
- The revised Leongatha Structure Plan was adopted by Council in June 2008 and implemented through Amendment C46 that was approved in July 2010. This process identified the subject site as part of an 'urban expansion area'.
- Following discussions with Council, the proponent undertook a range of further investigations relating to traffic, drainage and infrastructure funding. This led to the proposed Amendment being modified to reduce the area of the proposed rezoning and to apply the DPO.
- Council and the proponent completed an agreement under section 173 of the *Planning and Environment Act* in February 2015 relating to infrastructure funding arrangements.

1.4 Post-exhibition changes to the Amendment

Following its consideration of submissions, Council agreed to modify the DPO9 to address various issues raised in submissions. These changes were circulated before the Hearing and did not attract any opposition.

Prior to the Hearing, Council officers had discussions with VicRoads about various matters raised in the VicRoads' submission and proposed further changes to the DPO9. These changes were tabled at the Hearing and are discussed in section 3.5.1 of this report.

1.5 Issues dealt with in this report

The Panel considered all written submissions, as well as submissions presented to it during the Hearing. In addressing the issues raised in those submissions, the Panel has been assisted by the information provided to it as well as its observations from inspections of the Amendment site and surrounding area.

This report deals with the issues under the following headings:

- Planning Context
- The General Residential Zone
- The Development Plan Overlay
- Infrastructure funding
- Stormwater drainage
- Other issues.

2 Planning Context

Council provided a response to the Strategic Assessment Guidelines as part of the Explanatory Report and discussed the relevant State and local planning policies in its submission at the Hearing.

The Panel has reviewed this material and has also identified and reviewed the key elements of the planning context that are relevant to the Amendment and submissions.

2.1 State Planning Policy Framework

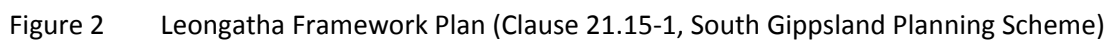
The key clauses in the State Planning Policy Framework (SPPF) include:

- Clause 11 (Settlement) that directs that planning (amongst other things) provide appropriate zoned land and facilitate sustainable development
- Clause 11.02-1 (Supply of urban land) that supports accommodating projected population growth over at least a 15 year period
- Clause 11.08 (Gippsland regional growth) that supports the urban growth of various centres including Leongatha
- Clause 15 (Built environment and heritage) that requires a high standard and consistent approach to development
- Clause 16.01-1 (Integrated housing) that promotes a housing market that meets community needs
- Clause 16.01-2 (Location of residential development) that supports locating housing in proximity to services and transport
- Clauses 18.02-1 (Sustainable personal transport) and 18.02-2 (Cycling) that establish the need to improve walking and cycling links.

2.2 Local Planning Policy Framework

The key elements of the Local Planning Policy Framework (LPPF) include:

- Clause 21.05-1 (Growth of towns) that identifies Leongatha as the principal town in the Shire and promotes the residential use and development of land in accordance with the township framework and structure plans at Clause 21.15
- Clause 21.09-1 (Urban environment) that supports continuously improving all aspects of the urban environment
- Clause 21.10-1 (Housing choice and diversity) that supports diversity in housing types to meet changing needs
- Clause 21.15-1 (Leongatha) that includes various 'residential' strategies that support: sequential and staged development, the rezoning of land in accordance with the Leongatha Framework Plan, maintaining a 15 year land supply and requiring the preparation of development plans. The Amendment site is within an 'urban expansion area' and subject to the designation 'direction of development' within the Leongatha Framework Plan included as Figure 2 below.



2.3 Discussion and conclusions

Council's submission provided a detailed assessment of the strategic justification for the Amendment, highlighting that:

- the subject site is identified in the South Gippsland Planning Scheme as an 'Urban Expansion Area' and within the designation 'Direction of Development'
- there is a need for additional residential land within Leongatha.

At the Panel's request, Mr Griffiths provided an assessment of residential land supply and demand following the Hearing. This assessment confirmed that Leongatha has a limited supply of zoned and subdivided residential land, well below the 15 year supply referred to in State and local policy.

Mr Cicero made similar submissions, concluding that:

...the strategic basis for the rezoning of the Proponent's land is unarguable, and therefore it really is just a matter of detail to be dealt with at the development plan stage initially and subsequently at a planning permit application stage.

While some submitters opposed or raised issues with specific elements of the Amendment, none of them challenged the underlying proposition that the subject site was suitable for some form of residential development.

For these reasons, the Panel concludes that the Amendment is generally supported by and implements the relevant sections of the State and Local Planning Policy Framework. Consequently, the Panel recommends that Amendment C65 be adopted, subject to its further findings and recommendations in relation to specific issues that are discussed later in this report.

3 Discussion of issues

3.1 The General Residential Zone

3.1.1 The issue

The issue is whether the General Residential Zone (GRZ) is the appropriate zone to apply, or whether the Low Density Residential Zone (LDRZ) should be applied instead.

The purposes of the GRZ are:

To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

To encourage development that respects the neighbourhood character of the area.

To implement neighbourhood character policy and adopted neighbourhood character guidelines.

To provide a diversity of housing types and moderate housing growth in locations offering good access to services and transport.

To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

3.1.2 Submissions

L and K Matera submitted that the density of development that would occur under the GRZ¹ would be too high and that it would be inconsistent with the *'semi-rural environment of the area'*. They also expressed concerns about the lack of open space on lots of this size and their potential vulnerability to bushfire. They submitted that blocks should be a minimum of 3,500sqm, preferably 4,000sqm.

D and J Zeibell proposed that the area to the west of Gibson Street, between Higg and Worthy Streets be zoned LDRZ. This area is within the exhibited DPO9 area, but south of the area being zoned GRZ as part of the Amendment.

3.1.3 Discussion and conclusions

The preferred land use of this area was considered during the development of the Leongatha Structure Plan, 2008 and in the preparation of the Leongatha Framework Plan in Amendment C46. Both processes identified the Amendment site for future urban residential development. Notably, the Leongatha Framework Plan distinguishes between future 'urban', 'low density residential' and 'rural living' areas, but specifically identifies the Amendment site for 'urban' residential development. The Panel is satisfied that the GRZ is consistent with this designation.

¹ The draft Outline Development Plan prepared for the Proponent shows lots generally ranging between 600 and 700 sqm in the area proposed to be zoned GRZ.

Submitters proposed that the Amendment site (or part of it) be developed at a lower density to protect the 'semi-rural' character of the broader area and in response to the natural characteristics of the site itself.

As Leongatha grows and farming land is developed for urban purposes, it is unavoidable that the character of the town (particularly on the urban fringe) will continue to change. This is not a reason to apply the LDRZ, for which the Planning Scheme already makes extensive provision. The Amendment site has been identified for the urban expansion of Leongatha and the Panel is satisfied that the GRZ is an appropriate zone to facilitate this.

In terms of the physical characteristics of the site itself, the Panel agrees with Mr Ziebell that some areas might warrant larger lot sizes in order to deal with slope and drainage issues. This approach is foreshadowed in the DPO9 which provides for larger lots where the slope exceeds 10%. These issues will need to be further explored during the Development Plan process in order to determine a suitable subdivision arrangement and preferred lot sizes, however, even if larger lots are necessary, they can be provided under the GRZ and would not necessarily warrant the LDRZ.

The Panel concludes that the GRZ is the appropriate zone for the area being rezoned by the Amendment.

3.2 The Development Plan Overlay

3.2.1 The issues

The issues are:

- whether the Development Plan Overlay (DPO) or Incorporated Plan Overlay (IPO) should be applied
- whether there should be an opportunity for third party involvement in the Development Plan process.

The purposes of the DPO are:

To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

To identify areas which require the form and conditions of future use and development to be shown on a development plan before a permit can be granted to use or develop the land.

To exempt an application from notice and review if it is generally in accordance with a development plan.

3.2.2 Submissions

The submission from R Begg raised concerns about the use of the DPO, including:

- The lack of an 'indicative plan' within the schedule
- The limits on third party involvement (particularly in light of the lack of an indicative plan on which submissions could be made as part of the Amendment process).

Ms Begg submitted that the IPO was a more appropriate planning tool for the area being rezoned, particularly because it would provide a formal opportunity for third party review of the proposed development. Ms Begg also raised a number of detailed design issues that are discussed elsewhere in this report.

Mr Ziebell sought further involvement in the Development Plan process in order to contribute to the identification and resolution of various issues, particularly drainage and stormwater issues.

Mr Cicero supported the use of the DPO and submitted that it was an appropriate element of the approvals process.

Mr Griffiths submitted that the use of the DPO was consistent with *Planning Practice Note 23: Applying the Incorporated Plan and Development Plan Overlays*, August 2015 (PPN43). He also advised that Council intends to advertise the 'Whole of Site Development Plan' and the subsequent Development Plan/s and to seek comments from the public before considering their approval. In relation to drainage issues, he added that *'It might be beneficial ... to amend the Schedule to specifically comment on the need to engage the surrounding landowners in the process'*.

3.2.3 Discussion and conclusions

The Panel agrees with Ms Begg that community involvement in the Amendment process might have been better served had the DPO9 included an 'indicative plan' to provide a basis for the subsequent Development Plan/s². Many DPO schedules include such a plan and this can be a useful inclusion. Instead, the DPO9 includes a requirement that a 'Whole of Site Development Plan' be prepared as a precursor to more detailed Development Plan/s. The DPO9 also includes some reasonably detailed requirements that will inform the preparation of this plan.

While it would have been useful to include an indicative plan (or even the 'Whole of Site Development Plan') in the exhibited Schedule, this is not fatal to the DPO9 or a reason to apply the IPO.

Ms Begg's concern about the lack of opportunity for third party involvement in the 'Whole of Site Development Plan' and the subsequent Development Plan/s is a legitimate concern, but not one that warrants the use of the IPO. The IPO is too onerous a planning tool in this situation and is more appropriate where there is greater complexity, a high degree of certainty is necessary, and a formal process for third party involvement is justified. This is particularly so given that varying an Incorporated Plan typically requires the time and expense of a planning scheme amendment.

The Panel is satisfied that Council has addressed concerns about further consultation by committing to consult with the community before it considers and approves the 'Whole of Site Development Plan' and the subsequent Development Plan/s. The Panel supports this approach and agrees with Council that the DPO9 should be modified to reflect this

² The Panel does not believe that the draft 'Outline Development Plan' informally exhibited with the Amendment served that purpose.

commitment. These changes are included in the recommended DPO9 included at Appendix C of this report.

3.3 Infrastructure funding

3.3.1 The issue

The issue is whether infrastructure funding issues, particularly the upgrading of Worthy and Gibson Streets need further resolution before the Amendment proceeds.

3.3.2 Submissions

A number of submitters from Worthy and Gibson Streets raised concerns about how the cost of upgrading these streets to accommodate the development of the Amendment site would be apportioned. They were concerned that existing residents would be required to contribute to the upgrading of these streets and argued that any upgrades would be a consequence of the proposed development and not necessary to service existing development. They opposed the Amendment and sought various changes to the DPO9 to provide more certainty about funding arrangements.

Mr Cicero advised that the Proponent and Council had entered into an agreement under section 173 of the *Planning and Environment Act* in relation to infrastructure funding, including off site works. This agreement was signed in February 2015 and was a pre-condition for Council seeking authorisation for the Amendment.

Mr Griffiths addressed funding issues in detail, describing Council's capital works program and general approach to funding infrastructure works. He highlighted that the Proponent would be required to fund the upgrading of external roads to the level necessary to support development of the Amendment site. He also noted that although funding could be secured from other landowners by way of a Special Charge Scheme under the *Local Government Act*, Council would, for various reasons, be unlikely to adopt this approach. He also canvassed the potential to secure funding from the redevelopment of existing residential areas to the east of Worthy Street, citing the possible resubdivision of land zoned LDRZ as an example.

Mr Griffiths noted that the exhibited DPO9 includes a 'Development Contributions' section, that provides some general commentary on Council's approach to infrastructure funding, but submitted that this was *'more of a note than a requirement of the schedule'*.

In response to submissions, Mr Griffiths advised that Council did not support modifying the DPO9 to specifically require funding from the Proponent, on the basis that:

- It was unnecessary in light of Council's standard practice to secure funding from developers, including the use of section 173 agreements
- The DPO9 should not 'lock in' funding arrangements that might need to change over time, including situations where other land in the area is developed before the Amendment site.

Mr Griffiths also noted that the revised DPO9 provided at the Hearing included a requirement for a Traffic Impact Assessment Report that addresses the *'costings of off-site infrastructure upgrades'*. He noted that this would be a useful requirement to establish the extent and cost of future works, but it was not intended to address, nor should it address cost apportionment issues.

3.3.3 Discussion and conclusions

The Panel acknowledges the concerns raised by submitters and the comprehensive response provided by Mr Griffiths.

While the section 173 agreement provides direction about how infrastructure will be funded, it does not provide the level of certainty that some submitters sought, particularly in relation to possible contributions from existing residents to upgrading the road network.

Ultimately, this is a matter for Council to resolve within the context of the Agreement and its general approach to infrastructure funding described by Mr Griffiths in his submission. There is often some uncertainty about infrastructure funding when land is rezoned and, as Mr Griffiths noted, there are well established principles that Councils rely on to resolve such issues.

Some submitters sought revisions to the DPO9 that would effectively 'quarantine' some landowners from having to contribute to upgrading off-site infrastructure. Firstly, it is not clear to the Panel that this would be an appropriate use of the DPO, but more fundamentally, the Panel does not have adequate information on which to reach conclusions or make recommendations about the nature and cost of any infrastructure upgrades that will be required by the development or how they should be funded.

This lack of certainty does not mean that the Amendment should be abandoned or deferred - it is not necessary to resolve funding issues before the land is rezoned. These issues will be resolved by Council, in consultation with affected parties, as part of the Development Plan and planning permit processes.

3.4 Stormwater drainage

3.4.1 The issue

The issue is whether the Amendment makes adequate provision for identifying and addressing stormwater drainage issues.

Following its consideration of submissions, Council proposed changes to the DPO9 to better address stormwater drainage issues.

3.4.2 Submissions

A and B Dunstan raised concerns about stormwater discharge at the intersection of Worthy and Gibson Streets and the capacity of existing drainage infrastructure in this area. They submitted that the Development Plan/s should address this issue.

D and J Ziebell raised concerns about stormwater impacts on their Gibson Street property, including the quantity and quality of stormwater. Mr Ziebell attended the Hearing and relied on a set of photographs in support of his submission. He also raised concerns about stormwater capacity at the intersection of Worthy and Gibson Streets.

Mr Cicero noted that stormwater drainage issues would be addressed as part of the Development Plan process.

Mr Griffiths acknowledged the concerns of these submitters and agreed that stormwater drainage was a key issue that needed to be addressed in the Development Plan and

subdivision processes. He submitted that the revised DPO9 gave greater prominence to this issue and included appropriate requirements.

3.4.3 Discussion and conclusions

The Panel supports Council's response and its proposed changes to the DPO9 that place greater emphasis on identifying and addressing stormwater drainage issues. For example, the 'Whole of Site Development Plan' requires:

- *A Stormwater Management Plan (SMP) detailing the location / size of drainage reserves, drainage retardation and treatment systems with consideration to WSUD principles. The SMP must consider off site drainage impacts and/or infrastructure upgrades that may be required in a full development scenario and indicate at which stage the requirements are to be carried out. The SMP must specifically consider and respond to stormwater requirements in waterways and easements on public and private land east of Gibson Street and south of Higg Street.*

The Panel also notes that these submitters will have the opportunity to review and comment on draft Development Plans as part of Council's approval process.

3.5 Other issues

Submissions raised a number of other issues that are discussed below.

3.5.1 VicRoads

VicRoads sought various changes to the DDO9, including:

- A requirement that the Transport Impact Assessment Report (TIAR) for the 'Whole of Site Development plan' address off-site design issues relating to the South Gippsland Highway/Shingler Street and Worthy Street/Bass Highway intersections.
- A requirement that the permit applications be referred to VicRoads
- A requirement that the TIAR for individual development plans be consistent with the 'Whole of Site Development plan' TIAR and address various off-site arterial road design issues.

Mr Cicero submitted that the additional requirements were unnecessary, although he did not fundamentally oppose their inclusion in the DPO9. He also relied on the evidence of Mr Higgs who generally supported the proposed revisions; although he believed that including a requirement to refer applications to VicRoads was unnecessary in light of existing referral arrangements.

Mr Griffiths tabled a revised DPO9 at the Hearing that was developed following discussions with VicRoads. He advised that the revisions were supported by VicRoads but because of timing issues had not been formally adopted by Council.

The Panel is satisfied that the proposed revisions are reasonable to address VicRoads' submission and supports their inclusion in the recommended DPO9 at Appendix C of this report.

3.5.2 West Gippsland Catchment Management Authority

The West Gippsland Catchment Management Authority (WGCMA) submitted that the DPO9 should require:

- waterway reserves at least 30m wide on either side of all designated waterways on the site
- a plan that addresses revegetation and ongoing maintenance of the waterway reserve
- that any development plans be referred to the WGCMA.

Mr Griffiths advised that Council has agreed to various post exhibition changes to the DPO9 *'to help guide the preparation of the Stormwater Management Plan and management of waterways'*. He also advised that these changes have accommodated the WGCMA's concerns but are not a *'verbatim'* reflection of the WGCMA's submission. He also noted that the WGCMA is a referral authority for planning permit applications and will have the opportunity to comment on the subdivision design of the proposal.

The Panel accepts Mr Griffiths' advice in relation to this submission and supports Council's proposed changes to the recommended DPO9 at Appendix C of this report.

3.5.3 Infrastructure Design Manual

The DPO9 includes various requirements relating to the design and specification of roads, and relies on the standards in the Infrastructure Design Manual (IDM). The IDM is a 'Policy Guideline' and 'Reference Document' in the South Gippsland Planning Scheme.

Mr Higgs for the proponent gave expert evidence in relation to the appropriate carriageway width of the *'main access road from Shingler Street to Worthy Street'* (Collector/Connector Street Level 1) and *'other'* road design standards drawn from the IDM.

He concluded that the IDM carriageway width relating to the *'main access road from Shingler Street to Worthy Street'* was excessive and should be reduced. He also opposed the DPO9 requirement that the specification of other roads must be consistent with the IDM.

The DPO9 provision relating to *'main access road from Shingler Street to Worthy Street'* requires that it 'should' be constructed as a Collector/Connector Street Level 1 in accordance with the IDM. This provides Council with the opportunity vary the IDM standard depending on the final content of the Development Plan/s. The Panel supports this flexibility and does not believe that it is in a position to form a view about the final specification of the proposed road - this is a matter that will need further analysis during the Development Plan process.

Mr Higgs opposed the DPO9 requirement that all *'other'* subdivision roads must be constructed in accordance with the IDM. Although the Panel generally supports the IDM, it is not satisfied that there are adequate grounds on which to make compliance with its road standards mandatory. It is appropriate that there be a degree of flexibility and discretion around these standards, and consequently the Panel has replaced *'must'* with *'should'* in the relevant provision in the recommended DPO9 at Appendix C of this report.

3.5.4 Impacts on Worthy Street

Residents within the Worthy Street LDRZ area raised concerns about the ‘character’ impacts of upgrading Worthy Street, increased vehicular traffic and the potential for ‘spill over’ on-street parking along Worthy Street.

Mr Griffiths submitted that the size and density of lots within the development will ensure that parking impacts will be contained within the Amendment site and that ‘spill over’ parking should not occur. He agreed that upgrading Worthy Street to service the Amendment site will impact on the character of the LDRZ area, and that Council would need to manage this process. He advised that affected landowners will be consulted on any plans for the upgrading of Worthy Street or Gibson Street or any other street directly affected by the development of the Amendment site.

The Panel agrees with Mr Griffiths that the character of the surrounding area (including Worthy Street) will inevitably change as development of the Amendment site proceeds. This is a consequence of providing for the future growth of the town and expanding its urban area. The Panel does not believe that these impacts will be unreasonable or provide a reason for abandoning the Amendment.

3.5.5 Impacts on Gibson Street

The submission from D and S Mitchell raised concerns about the impacts of vehicle lights on their dwelling from vehicles exiting the Amendment site onto Gibson Street.

Mr Griffiths advised that ‘*none of the indicative subdivision plans prepared thus far has indicated the potential for this to occur*’. In light of the existing road layout and Council’s requirement that dwellings face Gibson Street, the Panel agrees with Mr Griffiths’ observation that it is unlikely that there will be an access road opposite the Mitchell’s property. In any event, such a scenario is not uncommon in an urban residential environment and would not be a reason for abandoning or modifying the Amendment.

3.5.6 Active open space

Some submitters raised concerns about the need to provide additional active open space to service the increased residential population that will flow from development of the Amendment site.

The Panel is satisfied that this issue is adequately addressed in the DPO9 which includes the following requirement as part of the ‘Whole of Site Development Plan’:

The location of active and passive open space addressing (at minimum) the Open Space provisions and requirements of the Planning Scheme and specifically identifying land the developer will provide as a flat ‘active open space’ area unencumbered by drainage requirements. The active open space reserve should be located on a connector street and have active frontage wherever possible. Details of the staging (timing) of all open space provision is required.

3.5.7 Native vegetation

D and J Ziebell raised concerns about the creation of vehicle crossovers along the western side of Gibson Street and the potential loss of existing native vegetation. This concern was also raised by the Department of Environment, Land, Water and Planning (DELWP) although it did not provide any detailed information about the values of this vegetation.

The exhibited DPO9 includes a 'requirement' that lots adjoining Shingler and Gibson Streets be oriented to '*front the road*' and that '*Internally facing subdivisions will not be supported*'. The Panel supports this design approach although it is possible that it will require some existing vegetation to be removed.

Mr Griffiths agreed that some vegetation might be lost, but noted that the site is large enough to allow off-set planting. He also noted that the Gibson Street vegetation, while quite well advanced in growth, was planted relatively recently.

3.5.8 Detailed design issues

Some submitters raised detailed issues relating to subdivision design and connectivity. The Panel agrees with Mr Cicero's observation that the approval process provides for these types of issues to be addressed during the preparation of the 'Whole of Site Development Plan' and the subsequent Development Plan/s. The Panel supports this approach and is satisfied that the requirements of the DPO9 are sufficiently comprehensive to ensure that relevant design issues are identified and addressed. This process will also be assisted by Council's commitment to informally consult with residents and other stakeholders.

Nevertheless, the Panel encourages the Proponent and Council to review the design issues raised in submissions on the Amendment to help inform the 'Whole of Site Development Plan' and the subsequent Development Plan/s.

3.5.9 Outline Development Plan

Some submitters raised concerns about elements of the Outline Development Plan prepared for the Proponent and made available in conjunction with the Amendment.

As discussed earlier, this plan does not form part of the Amendment or the DPO9 and has no formal status. For these reasons the Panel does not make any recommendations about this plan or provide any commentary on its content. Nevertheless, the Panel encourages Council and the Proponent to consider the matters raised in the relevant submissions on this plan when preparing and considering the 'Whole of Site Development Plan' and subsequent Development Plan/s in accordance with the DPO9.

Appendix A Submitters to the Amendment

No.	Submitter
1	VicRoads
2	N and A Martin
3	P and L Allman
4	N and L Grist
5	D and S Mitchell
6	F and K Materia
7	G and S Funnell
8	D and J Wright
9	A and B Dunstan
10	C and C Mark
11	D and J Ziebell
12	Gippsland Water
13	Department of Environment, Land, Water and Planning
14	West Gippsland Catchment Management Authority
15	A Clark
16	R Begg
17	L and K Argento

Appendix B Document list

No.	Date	Description	Presented by
1	5/2/2016	South Gippsland Shire Council Submission	K Griffiths
2	5/2/2016	Submission attachments	K Griffiths
3	5/2/2016	Revised DPO9	K Griffiths
4	5/2/2016	DELWP authorisation	K Griffiths
5	5/2/2016	Original Argento submission	K Griffiths
6	5/2/2016	Submission on behalf of the proponent	J Cicero
7	5/2/2016	Submission	R Begg

Appendix C Recommended Development Plan Overlay Schedule 9

This recommended Development Plan Overlay Schedule 9 is based on the exhibited schedule, but modified to include the changes proposed by Council (and supported by the Panel) and additional changes recommended by the Panel.

The changes are highlighted as follows:

[Added by Council](#)

~~[Deleted by Council](#)~~

[Added by the Panel](#)

~~[Deleted by the Panel](#)~~

SCHEDULE 9 TO THE DEVELOPMENT PLAN OVERLAY

Shown on the planning scheme map as **DPO9**

WESTERN LEONGATHA RESIDENTIAL GROWTH AREA

Situated along the western boundary of Leongatha's urban area, the DPO9 land represents a strategically significant residential development opportunity for the township. Its proximity to the town centre, size, landform and consolidated ownership suits urban residential growth over an extended period of time. The site offers expansive views that capture a 'rural sense of place' and an undulating landform with which a responsive subdivision design can use to achieve a development layout sympathetic to the landform.

The DPO9 has been applied to the entire western 'Urban Expansion Area' identified in the Leongatha Framework Plan and will include (for an extended period of time) both urban and rural zoned land. The DPO9 will guide the integrated development of the entire area as land is rezoned in stages over time as demand requires.

1.0 Requirement before a permit is granted

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

- The use and development of land for agriculture that does not prejudice the future residential use and development of land, or the residential amenity of surrounding areas.
- A fence.
- To remove, destroy or lop vegetation.
- Minor drainage and/or earthworks.

2.0 Conditions and requirements for permits

A planning permit application for the subdivision or development of the land in accordance with the approved Development Plan must include a town planning report prepared by a suitably qualified person demonstrating how the permit application addresses the requirement of the Planning Scheme and the approved Development Plan. The report must specifically demonstrate how the subdivision of land responds to and facilitates the integrated development of the entire DPO9 area.

A planning permit for the residential subdivision of land must include the following permit conditions (unless specifically otherwise agreed to by the Responsible Authority):

- Where subdivision creates lots adjoining Shingler Street (Old Korumburra Road) and Gibson Street, a condition requiring construction of a 2.5m wide shared pathway adjoining the land being subdivided.
- Where the Development Plan identifies minimum lot size and boundary setback requirements on steep sloping land, a permit condition requiring the restrictions are registered on the lot titles to be created by the subdivision via covenant, Section 173 Agreement, restriction on a plan of subdivision or other mechanism as agreed to by the Responsible Authority.
- An appropriate mechanism to identify and apportion development costs of land and services, payable by the developer/landowner commensurate with each stage of development, by way of Section 173 Agreement or alternative means agreed by the Responsible Authority.
- The provision of infrastructure, open space and landscaping maintenance periods in accordance with Council's Infrastructure Design Manual.

[Planning permit applications for each residential subdivision stage must consider the views of VicRoads in regards to the potential impact of additional traffic movements on the major arterial road network.](#)

3.0 Requirements for development plan

Development Plan Explanatory Note:

The residential development of the land in DPO9 is anticipated to occur over an extended period of time. Accordingly, flexibility is beneficial for the timing of when highly specific Development Plan information is required to be provided. However to achieve integrated / coordinated development across the entire area it is important that a 'Whole of site Development Plan' be approved to establish key development principles before any smaller stage of the Development Plan is approved. This process will ensure that each stage has appropriate regard to the complete development of the DPO9 land.

'Whole of site Development Plan'

Before a Development Plan stage is approved, a 'Whole of site Development Plan' must be prepared by the developer and approved by the Responsible Authority.

[Before approving the 'Whole of site Development Plan' the Responsible Authority will seek and consider the views of residents and landowners in the immediate area and other relevant stakeholders.](#)

The Plan must consider all land in DPO9 and should be guided by Council's Infrastructure Design Manual 'Outline Development Plans' Objectives and Requirements. The Plan must be based on a site analysis and design response and provide / consider (at minimum):

- A Traffic Impact Assessment Report addressing the location of Connector Streets across the land, road intersections around the boundaries of the land, how the road network integrates and impacts the existing road network [including the major arterial road network](#) (details of road [and intersection](#) upgrading that may be required, [including concept plans](#)), the provision of road connectivity to the west and south of the DPO9 area, pedestrian / cycle connectivity, costings of off-site infrastructure upgrades. [The Report must specifically consider:](#)
 - Upgrading of Worthy Street (west of Brown Street) to achieve Connector Street access standard and the timing (related to staging) when upgrading will be required.
 - Traffic impacts on the arterial road network and specifically the intersection of Worthy Street / Bass Highway and Shingler Street / South Gippsland Highway and the timing (related to staging) when any upgrades might be required.
- A Stormwater Management Plan (SMP) detailing the location / size of drainage reserves, drainage retardation and treatment systems with consideration to WSUD principles. The SMP must consider off site drainage impacts and/or infrastructure upgrades that may be required in a full development scenario and indicate at which stage the requirements are to be carried out. [The SMP must specifically consider and respond to stormwater requirements in waterways and easements on public and private land east of Gibson Street and south of Higg Street.](#)
- The location of active and passive open space addressing (at minimum) the Open Space provisions and requirements of the Planning Scheme and specifically identifying land the developer will provide as a flat 'active open space' area unencumbered by drainage requirements. The active open space reserve should be located on a connector street and have active frontage wherever possible. Details of the staging (timing) of all open space provision is required.
- Staging details of future land rezoning and / or subdivision stages within rezoned land.
- An assessment against the residential subdivision provisions of the Planning Scheme.
- The [Whole of site](#) Development Plan may be amended with the written consent of the Responsible Authority

Development Plan

The Development Plan may, to the satisfaction of the responsible authority, be approved in stages. A Development Plan stage must not be approved until the 'Whole of site development plan' has been approved by the responsible authority.

[Before approving a Development Plan the Responsible Authority will seek and consider the views of residents and landowners in the immediate area and other relevant stakeholders.](#)

The Development Plan for each stage must show/provide (unless set aside or varied by the Responsible Authority):

General Requirements

- A report demonstrating how the Development Plan stage addresses / responds to the provisions / requirements of the 'Whole of site development plan'.

Land use and subdivision layout

- Dwelling densities are to reflect the opportunities and constraints of the land. Lower densities should generally be provided on land with slopes greater than 10% and higher densities should generally be provided on flatter land and adjacent to open space.
- Where the pre development slope equals or exceeds 10%, larger lots should be created (increasing in size commensurate to the slope of the land). Within these lots building envelopes must be identified and sited to:
 - Minimise earthwork requirements for slab construction dwellings.
 - Avoid the requirement for earthwork retaining walls within 1.0m of a lot boundary.
 - Protect passive solar access to dwellings sited in cuts.
 - Provide additional front setbacks (not less than 7m) where the slope falls predominantly down the length of the lot.

Note: The lot size, building envelope and retaining wall restrictions will be made an ongoing restriction on the lot titles via the planning permit conditions for the subdivision of the land.

- Lots adjoining Shingler Street and Gibson Street must be oriented to front the road. Internally facing subdivisions will not be supported.
- Street network designs promoting passive surveillance of the street network.

Drainage

- ~~A Drainage Management Plan (DMP) addressing~~ The Stormwater Management Plan (SMP) must address all internal and external catchments that may impact on the proposed development.
- The catchment area relevant to each stage is to be identified along with drainage outfall locations, new drainage works, detailed flow and flood levels for the 1% 'Annual ~~Recurrence Interval~~ Exceedance Probability' (ARI) storm event as a result of development.
- How the subdivision of the land will cater for flooding and waterway enhancement works (including WSUD), including setbacks from waterways and protection of riparian values either side of designated waterways on the land to be rezoned.
- How it is intended to ~~manage deal with the existing~~ waterways and flows that run through the land.
- Any SMP must show how water flow rates will not exceed pre-development levels beyond the boundary of the subject land to the satisfaction of the responsible authority.

Geotechnical Report

- Where land exceeds a slope of 15% a geotechnical report must be prepared by an appropriately qualified person demonstrating the suitability of the land for development. The

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

Infrastructure Services

- A comprehensive Traffic Impact Assessment Report identifying the pattern and location of the major arterial road network of the area including;
 - Existing roads
 - Effects to surrounding intersections that might be affected by the proposal
 - Proposed treatments to intersections affected by the development stage under consideration and how they integrate with future and existing road networks
 - The location and details of any required:
 - road widening
 - intersections
 - access points
 - pedestrian crossings or safe refuges
 - cycle lanes
- The main access road from Shingler Street should to the satisfaction of the responsible authority be constructed as Collector/Connector Street Level 1 along its entire length from Shingler Street internally through the site to Worthy Street and the design agreed to in writing by the Responsible Authority.
- All other subdivision roads should ~~must~~ at a minimum be constructed to the specifications included in the Infrastructure Design Manual and agreed to in writing by the Responsible Authority.
- The pattern and location of the internal road system based on a safe and practical hierarchy of roads including safe pedestrian and bicycle connections and crossing points.
- An accessible and integrated network of walking and cycling routes allowing safe and convenient travel to future and existing developments, open spaces and integrated with the established residential area to the east.
- Each Development Plan stage must consider the views of VicRoads in regards to the potential impact of additional traffic movements on the major arterial road network.

Open Space and Landscaping

- The location of open space reserves and details of the provisions of infrastructure/ buildings / works / equipment within open space reserves.
- Details of when open space reserves are to be provided within the staging of the development of the land. Timing of open space provision must accord with anticipated demand with key open space reserves provided by the early to mid-stages of the development of the ODP area and specifically not left to final stages.
- Public open spaces should, to the satisfaction of the Responsible Authority, be:
 - Designed to integrate with other reserves and public areas where possible
 - Designed to provide active frontages and opportunities for visual surveillance to promote safety of users.
 - Located on flatter land and capable of easy drainage.
 - Located in areas not required for stormwater management nor should they contain a slope angle greater than 5%.
- A landscaping plan, prepared by a suitably qualified person, identifying all proposed native vegetation removal and new landscaping with particular regard to the interface with surrounding residential areas, open space and roads.

- The landscape plan must include canopy tree plantings within both the internal and external road network adjoining the development to soften the visual impact of new development when viewed from within and outside the development area.
- The landscape plan must provide a high level of detail where new development is adjoining Shingler Street and Gibson Street and new connector street.

Land Contamination

A limited desktop assessment must be undertaken by an appropriately qualified person of 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 as necessary. The investigation must consider, but not be limited to, agricultural chemical use and informal land dumping.

Development Contributions

It is the expectation of the Responsible Authority that a developer commitment to provide an appropriate level of developer contributions will be made in association with the residential rezoning and subdivision of land in the DPO9 area. The commitment to developer contributions should preferably occur as part of the rezoning process.

In recognition of the likely extended timelines of the development of the DPO9 land (and likely changes to the planning system across this timeframe in relation to how developer contributions are secured), each Development Plan stage must provide details of how each stage has addressed the provision of developer contributions commensurate to the additional demand on development and community infrastructure resulting from the subdivision of land.

Process and Outcomes

An implementation plan must be submitted as part of each Development Plan stage, indicating the proposed staging of subdivision land release within the Development Plan Stage and the development and timing of infrastructure provision.