Planning and Environment Act 1987

# South Gippsland Shire Council PLANNING SCHEME

# AMENDMENT C116

# EXPLANATORY REPORT

## Who is the planning authority?

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

The Amendment has been made at the request of Melbourne Water and the West Gippsland Catchment Management Authority (WGCMA).

## Land affected by the Amendment

The lands affected by the amendment are:

* Lang Lang River, Little Lang Lang River and their tributaries
* A section of Muddy Creek on the western urban edge of Toora
* Lands adjoining the Tarwin River and its branches where private land is incorrectly included in a public land zoning
* 79 Jupiter Boulevard & 4 Paris Crescent Venus Bay.
* Part of 28 Linforths Road & Crown Allotment 25C Section A at Welshpool.

## What the amendment does

The Amendment proposes to:

* Apply the Land Subject to Inundation Overlay on 144 properties in accordance with updated flood mapping data from Melbourne Water and the West Gippsland Catchment Management Authority.
* Correct zone mapping errors on 80 parcels by rezoning private freehold land adjoining waterways from the Public Conservation and Resource Zone (PCRZ) and Public Park and Recreation Zone to the Farming Zone (FZ) or Township Zone.
* Rezone 79 Jupiter Boulevard & 4 Paris Crescent Venus Bay from the PCRZ to the Township Zone (TZ).
* Rezone part 28 Linforths Road & Crown Allotment 25C Section A at Welshpool from PCRZ to the Farming Zone.
* Amend Planning Scheme maps;
  + Zone Maps 6, 7, 10, 12, 13, 14, 18, 24, 31 & 33
  + LSIO Maps 1, 6, 28 & 30.

## Strategic assessment of the Amendment

### Why is the Amendment required?

Melbourne Water and the WGCMA have recently updated the flood mapping for their respective catchments in South Gippsland Shire. This work has resulted in a total of an additional 144 properties identified as being potentially affected by inundation. The amendment is required to implement this work by updating the existing boundaries of the LSIO in the South Gippsland Planning Scheme to include these properties.

The LSIO is a Victoria Planning Provision (VPP) that aims to ensure that land subject to flooding and overland flow is developed in a way that minimises the risk to life and damage to properties.

Floodplain management in South Gippsland Shire is divided between Melbourne Water (area west of Korumburra) and the West Gippsland Catchment Management Authority (WGCMA) – balance of the Shire east of Korumburra. The areas of responsibility are mapped in the current LSIO Schedule in the Planning Scheme.

LSIO flood mapping in the Melbourne Water area was initially introduced by Amendment C55 in 2011. The Amendment applied the LSIO to the Bass River and its tributaries and did not include other waterways due to a lack of available flood data at the time. Flood mapping in the WGCMA area has existed for 20 years and was last updated by Amendment C81, approved in 2016.

The provisions of the LSIO require that particular buildings and works require a planning permit and consideration from Melbourne Water or WGCMA (relevant floodplain management authority) to ensure that new development is protected from flooding and does not cause any significant rise in flood levels or flow velocities, which may adversely affect other properties.

Amendment C116 only affects the LSIO mapping and does not change the Planning Scheme Schedule which controls the planning permit triggers (requirements) on LSIO affected land.

Through the recently completed Planning Scheme Review it was found that there are a number of properties along waterways that are zoned PCRZ that are privately owned. This is contrary to the requirements of the Ministerial Direction – the Form and Content of Planning Schemes which states “A planning scheme may only include land in a Public Use Zone, Public Park and Recreation Zone or Public Conservation and Resource Zone if the land is Crown land, or is owned by, vested in or controlled by a Minister, government department, public authority or municipal council.”

Properties incorrectly zoned PCRZ will be rezoned to the adjoining (underlying) property zoning, FZ or TZ. Only one property is to be rezoned from PPRZ to FZ. Two privately owned lots in Venus Bay township are to have part of their land rezoned from PCRZ to TZ. The PCRZ identifies land that was formerly a coastal access walkway which is now privately owned.

Applying the correct zoning removes an anomaly from the planning scheme and reduces the burden on landowners.

### How does the Amendment implement the objectives of planning in Victoria?

Section 4 of the *Planning and Environment Act 1987* incorporates the following relevant objectives:

*“to establish a system of planning schemes based on municipal districts to be the principal way of setting out objectives, policies and controls for the use, development and protection of land;”* (Section 4(2)(b))

*“to enable land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels;”* (Section 4(2)(c))

*“to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land;”* (Section 4(2)(d))

*“to facilitate development which achieves the objectives of planning in Victoria and planning objectives set up in planning schemes;”* (Section 4(2)(e))

The amendment will positively implement the objectives of planning in Victoria by providing for accurately applied planning overlay controls that ensure that water management issues are considered during the development process.

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

The proposed amendment is expected to deliver positive environmental outcomes through requiring particular building and works for land affected by the LSIO to consider and respond to potential inundation issues and require consent for the works from Melbourne Water and the WGCMA.

Further, the update of the existing LSIO boundaries in the South Gippsland Planning Scheme will ensure that inundation issues are accurately identified at an early stage in the development process. This will avoid the potential for timely and costly modifications to buildings, as well as damage to buildings, in the event of a flood or overland flow.

Therefore, it is considered that the amendment supports positive social, economic and environmental outcomes.

### Does the Amendment address relevant bushfire risk?

The application of the LSIO has no effect on bushfire risk.

### Does the Amendment comply with the requirements of any Minister’s Direction applicable to the amendment?

The amendment is considered to be consistent with the *Ministerial Direction on the Form and Content of Planning Schemes* under Section 7(5) of the *Planning and Environment Act 1987*.

Ministerial Direction No.9 - Metropolitan Strategy

The amendment is consistent with Minster’s Direction No. 9 – Metropolitan Strategy (pursuant to Section 12 of the *Planning and Environment Act 1987* - that requires planning authorities to have regard to the Metropolitan Strategy (*Plan Melbourne*). It is noted that the Melbourne Water waterways affected by this amendment flow into Western Port Bay which is in the Plan Melbourne area.

The amendment supports the following directions of the Metropolitan Strategy- Plan Melbourne.

Direction 5.5 Integrate whole-of-water-cycle management to deliver sustainable and resilient urban development, in order to, amongst other things, *“minimise the impact of flooding”*.

The amendment will enable Council and Melbourne Water to better manage development on land that is subject to flooding and help protect the regions water quality. This is in keeping with direction 5.5 of Plan Melbourne.

By improving and implementing better flood shape modelling, Council and Melbourne Water can better plan for future flood impacts, and can reduce through planning permit applications, the impacts of flooding within the municipality. The catchment boundaries of the WGCMA is outside of the Plan Melbourne area.

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

The proposed amendment has been assessed against the objectives of the State Planning Policy Framework and is considered to be consistent with the principles of State Policy, in particular:

Clause 13.03-1S (Floodplain Management) of the State Planning Policy directs that:

*Identify land affected by flooding, including land inundated by the 1 in 100 year flood event or as determined by the floodplain management authority in planning schemes.*

*Avoid intensifying the impact of flooding through inappropriately located use and development.*

State Planning Policy places a clear onus on councils to ensure that flooding and drainage information is clearly shown in planning schemes and taken into consideration as part of the planning process. The proposed amendment will assist in the achievement of this intention.

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

Updating the LSIO boundaries in the South Gippsland Planning Scheme will enable Council, Melbourne Water and the WGCMA to better manage future development on land subject to these overlays.

Application of the LSIO is consistent with the Vision (Clause 21.04-2) that “Development on floodplains is compatible with the level of flood risk”.

Clause 21.07-2 Land and Catchment Management

Application of the LSIO is consistent with the Objective “To achieve a measurable improvement in the health of the Shire’s land and water resources” and the related Strategies to

* (Strategy 1.4) Ensure that development does not reduce the natural functions of floodplains to store and convey floodwaters.
* (Strategy 1.5) Ensure that development on floodplains is compatible with the level of flood risk.

### Does the Amendment make proper use of the Victoria Planning Provisions?

The amendment proposes to retain the existing LSIO overlays in the Planning Scheme and update its boundaries to include additional properties. It is considered that the LSIO is the appropriate mechanism within the Victoria Planning Provisions to consider flooding and overland flow in a proposed development.

### How does the Amendment address the views of any relevant agency?

The proposed amendment does not propose to alter the existing Section 55 (*Planning and Environment Act 1987*) referrals that require Melbourne Water or the WGCMA’s consent as part of a proposed development on land affected by the LSIO control.

Importantly, the proposed amendment was requested by Melbourne Water and the WGCMA, which are the relevant statutory planning authorities for flooding and overland flow matters.

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

There are no relevant requirements of the Transport Integration Act 2010.

## Resource and administrative costs

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

It is not expected that council officer workload will increase significantly as a result of the proposed amendment and therefore, additional staff resources are unlikely to be required.

## 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, 9 Smith Street, Leongatha
* South Gippsland Shire Council website www.southgippsland.vic.gov.au
* Melbourne Water website [www.melbournewater.com.au](http://www.melbournewater.com.au)
* West Gippsland Catchment Management Authority website www.wgcma.vic.gov.au

The Amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at [www.delwp.vic.gov.au/public-inspection](http://www.delwp.vic.gov.au/public-inspection).

## 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 close of business on Friday 8 February 2019.

A submission must be sent to:

South Gippsland Shire Council

Strategic Planning Department

Private Bag 4, Leongatha, VIC 3953

council@southgippsland.vic.gov.au

## 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 22 April 2019
* panel hearing: week commencing 27 May 2019

## Attachment A

Lands on which the Land Subject to Inundation Overlay is to be applied

|  |  |  |
| --- | --- | --- |
| **Locality** | **Land / Are Affected** | **Mapping Reference** |
| Nyora | McDonalds Track | 1 |
| Lang Lang | Off McDonalds Track | 1 |
| Lang Lang | 50 Cams Road | 1 |
| Lang Lang | 775 McDonalds Track | 1 |
| Lang Lang | 785 McDonalds Track | 1 |
| Lang Lang | 805 McDonalds Track | 1 |
| Loch | 255 Henrys Road | 1 |
| Loch | 7155 South Gippsland Highway | 1 |
| Loch | Road Reserve - South Gippsland Highway | 1 |
| Nyora | 60 Watts Road | 1 |
| Nyora | 95 Raftis Road | 1 |
| Nyora | Mount Lyall Road | 1 |
| Nyora | Mitchell Street | 1 |
| Nyora | 770 Mount Lyall Road | 1 |
| Nyora | 288 Glovers Road | 1 |
| Nyora | 290 Glovers Road | 1 |
| Nyora | 1000 Mount Lyall Road | 1 |
| Nyora | 920 Mount Lyall Road | 1 |
| Nyora | 895 Mount Lyall Road | 1 |
| Nyora | 210 Cochranes Road | 1 |
| Nyora | 200 Cochranes Road | 1 |
| Nyora | 15 Kennys Road | 1 |
| Nyora | 295 Kennys Road | 1 |
| Nyora | 275 Kennys Road | 1 |
| Nyora | Kitteltys Road | 1 |
| Nyora | 287 Glovers Road | 1 |
| Nyora | 65 Hills Road | 1 |
| Nyora | Hills Road | 1 |
| Nyora | 156 Cams Road | 1 |
| Nyora | 870 McDonalds Track | 1 |
| Nyora | 1230 McDonalds Track | 1 |
| Nyora | 1090 McDonalds Track | 1 |
| Nyora | 5815 South Gippsland Highway | 1 |
| Nyora | 220 Horsburgh Road | 1 |
| Nyora | 5875 South Gippsland Highway | 1 |
| Nyora | 185 Horsburgh Road | 1 |
| Nyora | 6105 South Gippsland Highway | 1 |
| Nyora | 5975 South Gippsland Highway | 1 |
| Nyora | 20 Hookers Road | 1 |
| Nyora | Hookers Road | 1 |
| Nyora | Hookers Road | 1 |
| Nyora | Hookers Road | 1 |
| Poowong | 90 Timms Road | 6 |
| Poowong | 225 Houlihans Lane | 6 |
| Poowong | 233 Houlihans Lane | 6 |
| Poowong | 250 Houlihans Lane | 6 |
| Poowong | 425 Olsens Road | 6 |
| Poowong | 125 North Poowong Road | 1 |
| Poowong | 200 Ogilvys Lane | 1 |
| Poowong | Ogilvys Lane | 1 |
| Poowong | 384 Houlihans Lane | 6 |
| Poowong | 423-425 Olsens Road | 6 |
| Poowong | 423 Olsens Road | 6 |
| Poowong | 1885 Drouin-Korumburra Road | 1 |
| Poowong East | 2470 Main South Road | 6 |
| Poowong East | 130 Schmidts Road | 6 |
| Poowong East | 335 Olsens Road | 6 |
| Poowong East | 343 Olsens Road | 6 |
| Poowong East | 290 Olsens Road | 6 |
| Poowong East | 275 Olsens Road | 6 |
| Poowong East | 200 Olsens Road | 6 |
| Poowong East | 85 Olsens Road | 6 |
| Poowong East | 80 Olsens Road | 6 |
| Poowong East | 132 Olsens Road | 6 |
| Poowong East | 279 Olsens Road | 6 |
| Poowong East | 145 Waterfall Road | 6 |
| Poowong East | 135 Waterfall Road | 6 |
| Poowong East | 175 Schmidts Road | 6 |
| Poowong East | 100 Schmidts Road | 6 |
| Poowong East | 230 Waterfall Road | 6 |
| Poowong East | 195 Waterfall Road | 6 |
| Poowong East | 210 Waterfall Road | 6 |
| Poowong East | 70 O'Mearas Road South | 6 |
| Poowong East | 170 O'Mearas Road South | 6 |
| Poowong East | 2545 Main South Road | 6 |
| Poowong East | 2559 Main South Road | 6 |
| Poowong East | 22 Fitzgeralds Road | 6 |
| Poowong East | 75 Fitzgeralds Road | 6 |
| Poowong North | Road- Treadwells Road | 6 |
| Poowong North | 145 Timms Road | 6 |
| Poowong North | 230 Timms Road | 6 |
| Poowong North | 610 Timms Road | 6 |
| Poowong North | 550 Timms Road | 6 |
| Poowong North | 140 Beverly Road | 1 |
| Poowong North | 30 Beverly Road | 1 |
| Poowong North | 130 Allchins Road | 6 |
| Poowong North | 30 Cochranes Road | 1 |
| Poowong North | Kitteltys Road | 1 |
| Poowong North | 25 White's Road | 6 |
| Poowong North | Standfields Road | 6 |
| Poowong North | Treadwells Road | 6 |
| Poowong North | 120 North Poowong Road | 1 |
| Poowong North | 141 Pine Grove Road | 1 |
| Poowong North | 154 Standfields Road | 6 |
| Poowong North | Drouin-Korumburra Road | 1 |
| Poowong North | 140 Pine Grove Road | 1 |
| Poowong North | 160 Treadwells Road | 6 |
| Poowong North | 270 O'Mearas Road North | 6 |
| Poowong North | 1450 Drouin-Korumburra Road | 1 |
| Poowong North | Road- Drouin-Korumburra Road | 1 |
| Poowong North | 1520 Drouin-Korumburra Road | 1 |
| Poowong North | 1589 Drouin-Korumburra Road | 1 |
| Poowong North | 1671 Drouin-Korumburra Road | 1 |
| Poowong North | 1225 Drouin-Korumburra Road | 6 |
| Poowong North | 1215 Drouin-Korumburra Road | 6 |
| Ranceby | 1005 Korumburra-Warragul Road | 6 |
| Strzelecki | 145 Bromfields Road | 6 |
| Strzelecki | 55 Bromfields Road | 6 |
| Strzelecki | 60 Bromfields Road | 6 |
| Strzelecki | 408 Territory Road | 6 |
| Strzelecki | 431 Territory Road | 6 |
| Strzelecki | Bromfields Road | 6 |
| Strzelecki | Rear of 295 McDonalds Track | 6 |
| Toora | 51 Grip Road | 28 |
| Toora | 45 Grip Road | 28 |
| Toora | 15 Grip Road | 28 |
| Toora | 65 Lower Toora Road | 28 |
| Toora | 13 Grip Road | 28 |
| Toora | 21 Victoria Street | 28 |
| Toora | 2C Mill Street | 28 |
| Toora | 17 Victoria Street | 28 |
| Toora | 4930 South Gippsland Highway | 28 |
| Toora | 30 Toora Jetty Road | 28 |
| Toora | 19 Victoria Street | 28 |
| Toora | 19A Victoria Street | 28 |
| Toora | 115 Grip Road | 28 |
| Toora | 25 Grip Road | 28 |
| Toora | 95 Grip Road | 28 |
| Toora | 110 Grip Road | 28 |
| Toora | 18A Mill Street | 28 |
| Toora | 24 Mill Street | 28 |
| Toora | 26 Mill Street | 28 |
| Toora | 24 Toora Jetty Road | 28 |
| Toora | 85 Grip Road | 28 |
| Toora | 100 Grip Road | 28 |
| Toora | 60 Downings Hill Road | 28 |
| Toora | 26A Foster Road | 28 |
| Toora | 20 Mill Street | 28 |
| Toora | 23-25 Victoria Street | 28 |
| Toora | 2-52 Victoria Street | 28 |
| Toora | 22 Mill Street | 28 |
| Toora | 30 Mill Street | 28 |
| Toora | 34 Mill Street | 28 |
| Toora | 20 Grip Road | 28 |

Lands to be rezoned from Public Conservation and Resource Zone & Public Park and Recreation Zone to Farming Zone & Township Zone

|  |  |  |  |
| --- | --- | --- | --- |
| **Locality** | **Land / Area Affected** | **Mapping Reference** | **Rezone too** |
| Agnes | 65 Leach Road | 31 | FZ |
| Allambee South | 3375 Grand Ridge Road | 7 | FZ |
| Allambee South | 50 Harveys Road | 7 | FZ |
| Allambee South | 16 Harveys Road | 7 | FZ |
| Allambee South | 25 Mirboo-Yarragon Road | 7 | FZ |
| Allambee South | 35 Old Yarragon Road | 7 | FZ |
| Allambee South | 45 Harveys Road | 7 | FZ |
| Bena | 60 Suraces Road | 10 | FZ |
| Bena | 55 Fitzgeralds Road | 10 | FZ |
| Bena | 185 Greens Road | 10 | FZ |
| Bena | 126 Greens Road | 10 | FZ |
| Bena | 520 Andersons Inlet Road | 10 | FZ |
| Bena | 118 Fitzgeralds Road | 10 | FZ |
| Bena | 10 James Road | 10 | FZ |
| Bena | 152 Greens Road | 10 | FZ |
| Bena | 465 Andersons Inlet Road | 10 | FZ |
| Bennison | 505 Port Franklin Road | 28 | FZ |
| Foster | 74 Dyrings Road | 28 | FZ |
| Hallston | 160 O'Bryans Road | 7 | FZ |
| Jumbunna | 50 Enboms Lane | 10 | FZ |
| Jumbunna | 120 Goochs Road | 10 | FZ |
| Jumbunna | 265 Goochs Road | 10 | FZ |
| Kardella | 193 Huttons Road | 13 | FZ |
| Kongwak | 22-24 Williams Street | 12 | FZ |
| Kongwak | 20 Williams Street | 12 | FZ |
| Kongwak | 16 Williams Street | 12 | FZ |
| Kongwak | 12 Williams Street | 12 | FZ |
| Kongwak | 26 Williams Street | 12 | FZ |
| Kongwak | 25 Church Road | 12 | FZ |
| Kongwak | 44 Brownes Road | 10 | FZ |
| Kongwak | 70 Armstrongs Road | 10 | FZ |
| Kongwak | 1601A Korumburra-Wonthaggi Road | 10 | FZ |
| Kongwak | 66 Armstrongs Road | 10 | FZ |
| Kongwak | 1551 Korumburra-Wonthaggi Road | 10 | FZ |
| Kongwak | 5 Scott Crescent | 12 | TZ |
| Kongwak | 105 Korumburra-Inverloch Road | 10 | FZ |
| Kongwak | 1601 Korumburra-Wonthaggi Road | 10 | FZ |
| Kongwak | 1515 Korumburra-Wonthaggi Road | 10 | FZ |
| Kongwak | 1487 Korumburra-Wonthaggi Road | 12 | FZ |
| Kongwak | 1494 Korumburra-Wonthaggi Road | 12 | FZ |
| Kongwak | 1492 Korumburra-Wonthaggi Road | 12 | FZ |
| Kongwak | 1486-1488 Korumburra-Wonthaggi Road | 12 | FZ |
| Kongwak | 54 Wolonga Estate Road | 10 | FZ |
| Kongwak | 270 Korumburra-Inverloch Road | 10 | FZ |
| Kongwak | 240 Korumburra-Inverloch Road | 10 | FZ |
| Kongwak | 40 Kongwak-Inverloch Road | 12 | FZ |
| Kongwak | 1591 Bena-Kongwak Road | 10 | FZ |
| Kongwak | Scotts Estate Road | 10 | FZ |
| Koonwarra | 175 Buckingham and Fowler Road | 13 | FZ |
| Korumburra | 11 Amiets Road | 13 | FZ |
| Korumburra | 86 Wallis and Hawkes Road | 13 | FZ |
| Meeniyan | 75 Wilsons Road | 18 | FZ |
| Meeniyan | 44 Armstrongs Road | 13 | FZ |
| Mirboo North | 3400 Grand Ridge Road | 7 | FZ |
| Mirboo North | 3402 Grand Ridge Road | 7 | FZ |
| Mirboo North | 95 Markleys Road | 7 | FZ |
| Mirboo North | 3610 Grand Ridge Road | 7 | FZ |
| Mirboo North | Lanes Road | 7 | FZ |
| Mirboo North | 245 Markleys Road | 7 | FZ |
| Mirboo North | 3440 Grand Ridge Road | 7 | FZ |
| Mirboo North | 3415 Grand Ridge Road | 7 | FZ |
| Moyarra | 272 Andersons Inlet Road | 10 | FZ |
| Moyarra | 210 Hairs Road | 10 | FZ |
| Moyarra | Road- Andersons Inlet Road | 10 | FZ |
| Moyarra | 275 Andersons Inlet Road | 10 | FZ |
| Moyarra | 140 Armstrongs Road | 10 | FZ |
| Outtrim | 320 Outtrim-Inverloch Road | 10 | FZ |
| Outtrim | 220 Outtrim-Inverloch Road | 10 | FZ |
| Poowong East | 230 Waterfall Road | 6 | FZ |
| Poowong East | 195 Waterfall Road | 6 | FZ |
| Poowong East | 210 Waterfall Road | 6 | FZ |
| Poowong East V | 2470 Main South Road | 6 | FZ |
| Poowong North | 550 Timms Road | 6 | FZ |
| Poowong North | Standfields Road | 6 | FZ |
| Strzelecki | 145 Bromfields Road | 6 | FZ |
| Strzelecki | 55 Bromfields Road | 6 | FZ |
| Strzelecki | 1463 Korumburra-Warragul Road | 6 | FZ |
| Venus Bay | 4 Paris Crescent | 24 | TZ |
| Venus Bay | 79 Jupiter Boulevard | 24 | TZ |
| Welshpool | Telegraph Road | 31 | FZ |
| Welshpool | 28 Linforths Road | 31 | FZ |
| Whitelaw | 365 Sullivans Road | 10 | FZ |
| Whitelaw | 40 Sullivans Road | 10 | FZ |