Planning and Environment Act 1987

# South Gippsland Planning Scheme

# Amendment C131sgip

# Planning Permit Application CP2024/49

# Explanatory Report

## Overview

Amendment C131sgip proposes to rezone 108 & 110 Parr Street Leongatha (22.46ha) from Farming Zone to General Residential Zone Schedule 1, remove the Environmental Significance Overlay Schedules 2 and Erosion Management Overlay Schedule 1 from the land and amend the Land Subject to Inundation Overlay to reflect the most up to date flood modelling on the site.

The planning permit application seeks approval for the staged residential subdivision of the land into approximately 171 residential lots, including vegetation removal and the creation and removal of easements



*Figure 1: Subject land.*

### Where you may inspect this amendment

The amendment can be inspected free of charge at the South Gippsland Shire Council’s website at www.southgippsland.vic.gov.au and in hard copy during Customer Service office hours at South Gippsland Shire Council located at 9 Smith Street, Leongatha.

The amendment can also be inspected free of charge at the Department of Transport and Planning website at <http://www.planning.vic.gov.au/public-inspection> or by contacting the office on 1800 789 386 to arrange a time to view the amendment documentation.

### Submissions

Any person may make a submission to the planning authority about Amendment C131sgip and planning permit CP 2024/24. Submissions about the amendment and planning permit must be received by **Friday 13 December 2024**.

A submission must be sent to: South Gippsland Shire Council, Private Bag 4 Leongatha, 3953 or by email at [council@southgippsland.vic.gov.au](mailto:council@southgippsland.vic.gov.au) . Email submissions must include reference to Amendment C131sgip in the email title.

### 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 3 March 2025
* Panel hearing: Week commencing 7 April 2025.

## Details of the amendment

### 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 108 Parr Street Pty Ltd & 110 Parr Street Pty Ltd which are the companies proposing the development of the land.

### Land affected by the amendment

The amendment applies to 108 Parr Street Leongatha (formally described as Lot F PS448885 and approximately 5.74 hectares in area) and 110 Parr Street Leongatha (formally described as Lot 1 TP615766 and approximately 16.72 hectares in area). The amendment also applies to the Parr Street road reserve adjoining the subject land to the north.

The amendment is a combined planning permit application and planning scheme amendment under section 96A of the *Planning and Environment Act 1987* (the Act).

The planning permit application also applies to 108 & 110 Parr Street, Leongatha (Lot F PS448885 & Lot 1 TP615766 respectively).

### What the amendment does

The amendment rezones the subject land to allow for future residential development, consistent with the outcomes envisaged within the *Leongatha Structure Plan* (2008) and the *Southern Leongatha Outline Development Plan* (2013).

The amendment makes the following changes to the South Gippsland Planning Scheme:

* Rezones the land from Farming Zone (FZ) to the General Residential Zone Schedule 1 (GRZ1).
* Removes the Environmental Significance Overlay Schedule 2 (ESO2) from the land.
* Removes the Erosion Management Overlay Schedule 1 (EMO1) from the land.
* Amends the Land Subject to Inundation Overlay (LSIO) to correctly reflect the 1% Annual Exceedance Probability (1 in 100 year) flood extent based on updated flood data.

The planning permit application seeks approval for the staged residential subdivision of the land into approximately 171 residential lots, including vegetation removal and the creation and removal of easements.

The planning permit (draft) is exhibited as a separate document to this Explanatory Report.

## Strategic assessment of the amendment

### Why is the amendment required?

The amendment is required to provide more land for residential development in Leongatha which is currently experiencing an under supply of greenfield residential land. In 2022 it was estimated the township had approximately seven to nine years residential land supply (Ethos Urban Pty Ltd 2022).

Clause 11.01-1L-02 Leongatha

By rezoning the land from FZ to GRZ1 the amendment will allow for urban growth and residential land development consistent with the strategic direction as set out in the Leongatha Framework Plan at Clause 11.01-1L-02 of the South Gippsland Planning Scheme. The subject land is inside the township boundary identified in the Framework Plan and is identified as an ‘Urban Residential Expansion Area’. The rezoning will assist in providing 15 years residential land supply as required by the policy. The subdivision accords with policy requirements because it integrates with established residential development and urban infrastructure, provides pedestrian and cycle connectivity to the surrounding area and respects the environmental values of the land by avoiding development in the floodplain.

Clause 11.01-1L-03 Southern Leongatha Growth Area

The amendment rezones land in accordance with the requirements of the Southern Leongatha Growth Area policy. Specifically, the rezoning and subdivision provides for an efficient use of land providing a range of lot sizes, is contiguous and integrated with surrounding development, avoids placing roads and dwellings in the floodplain and supports pedestrian connectivity. The subdivision adjoins an existing open space reserve, and the drainage reserve will be available for passive recreation.

The subdivision does not ‘Encourage provision of a local park adjoining Coalition Creek’ as stated in the policy. The area of the subject land adjoining Coalition Creek is flood affected and generally subject to waterlogging. For safety, maintenance and usability reasons, the floodplain on the subject land is not well suited for open space use.

Clause 42.01 Environmental Significance Overlay Schedule 2 – Special Water Supply Catchment Areas

The amendment removes the ESO2 (Special Water Supply Catchment Areas) from the land in recognition that subdivision will require connection to the reticulated sewer network and in doing so, protect the potable water supply quality of the catchment. Regardless of the removal of the ESO2 the subject land will remain in a declared special water supply catchment pursuant to the *Catchment and Land Protection Act 1994*. Accordingly, should the planning permit not be acted upon, the catchment will remain protected.

Clause 44.01 Erosion Management Overlay Schedule 1 - Areas Susceptible to Erosion

The amendment removes the EMO1 from the land in recognition that the land is moderately undulating and is unlikely to be subject to landslip risk. Development of the land will require the installation of underground drainage infrastructure to Council’s standards. Effective management of stormwater will significantly reduce any erosion or land slip potential on the land.

Clause 44.04 Land Subject to Inundation Overlay

The amendment updates the application of the LSIO on the subject land in accordance with the best available flood mapping information available from the West Gippsland Catchment Management Authority. The changes to the LSIO are minor, affecting the delineation of the western boundary of the 1% Annual Exceedance Probability (1 in 100 year flood) flood area. All dwellings will be outside of the amended LSIO area.

Combined rezoning and planning permit

The combined rezoning and subdivision of land will bring additional housing stock to the market to accommodate the demand for housing in Leongatha and provide a diversity of lot sizes to provide for a range of housing choice.

A combined rezoning and subdivision permit application is sought for the following reasons:

* The Section 96A combined amendment and planning permit proposal represents an opportunity to ensure that a well-coordinated planning outcome can be achieved and will ensure an efficient planning process.
* A combined rezoning and planning permit will ensure the site is developed generally in accordance with the *South Leongatha Outline Development Plan* (2013) and the ‘Southern Leongatha growth area’ provisions located at Clause 11.01-1L.03.
* This approach will provide Council with development certainty and comfort that an acceptable layout can be achieved and that it can be adequately serviced with infrastructure.
* The subdivision will bring additional allotments to market to support land supply within Leongatha.

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

The proposal implements the following objectives of planning in Victoria, as set out in Section 4(1) of the *Planning and Environment Act 1987*:

*(a) provide for the fair, orderly, economic and sustainable use, and development of land;*

*(c) secure a pleasant, efficient and safe, work, living and recreational environment for all Victorians and visitors to Victoria;*

*(f) facilitate development in accordance with the objectives set on (a), (c) and (e);*

*(fa) to facilitate the provision of affordable housing in Victoria; and*

*(g) balance the present and future needs of Victorians.*

Leongatha currently has an under supply of land suitable for residential subdivision and housing development -estimated in 2022 at approximately seven to nine years supply (Ethos Urban Pty Ltd 2022). The subject land is inside the township boundary, adjoins existing residential development, has a landform suitable for economically viable development and will generate economic activity for the township. Development constraints on the land, such as potential flooding, can be managed without adverse consequences through planning permit conditions, restrictions on title and building construction standards in relation to noise. The proposal satisfies the objectives of planning in Victoria.

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

Environmental

The proposed amendment has considered all of the environmental elements of the site.

A Biodiversity Assessment has been undertaken in support of the planning scheme amendment to consider the existing flora and fauna within the subject site. Some native vegetation planted by landowners, and some natural regrowth, will require removal however the majority of the land is cleared agricultural land which is highly modified by agricultural production and has limited ecological value.

The proposal updates the flood mapping in accordance with data provided by the West Gippsland Catchment Management Authority and avoids development in the floodplain (except in relation to a drainage reserve), protecting the environmental qualities of the waterway.

A land contamination assessment has been undertaken for the site and a Preliminary Risk Screening Assessment has been submitted to the Environment Protection Authority Victoria (EPA). Council has satisfied itself that the land is considered suitable for residential development.

Social

The proposed development seeks to deliver diversity in lot sizes and future dwelling typologies to meet the needs of different types of households. The proposed rezoning and subdivision will attract residents to the area and promote growth within the township and support the retention and expansion of social and community services.

Economic

The rezoning of land supports population growth within Leongatha and assists with overall land supply. As noted within the land supply assessment, additional zoned residential supply is required to ensure the residential land market continues to operate efficiently and competitively. The residential growth of the township will promote greater commercial and business activity within the core of the town centre.

### Does the amendment address relevant bushfire risk?

The land is not affected by the Bushfire Management Overlay however it is within a designated Bushfire Prone Area. A Bushfire Management Plan has been prepared by Euca Planning Pty Ltd in support of the proposal and to address the requirements of Clause 13.02-1S (Bushfire Planning). The report has been considered by the CFA and CFA planning permit conditions have been included in the draft planning permit.

The Bushfire Management Plan includes a bushfire hazard assessment and provides recommendations to be adopted as part of the development in order to manage the bushfire risk. The subdivision provides for the following design elements as outlined within the Bushfire Management Plan:

* It provides an access network that facilitates connection to the broader street network.
* A boundary road exists along the northern side of the development.
* 12.5KW/m2 (BAL 12.5) is achieved for every lot in the proposed subdivision.
* There is egress away from the immediate bushfire hazard (grassland) with easy access to an area that meets the BAL-LOW definition.
* Opportunity exists to develop the land in stages, and manage the larger lots to the east. Any approved staging plan will require a boundary road between a development stage and undeveloped grassland.
* Landscaping and future management by Council of the basin reserve can be undertaken to not introduce fire threat to the settlement.
* A draft waterway management plan has been prepared for the land affected by inundation, including the proposed council drainage reserve, which has plantings of species, and at a density, that minimise bushfire risk.

## Through the implementation of the above measures and the standard bushfire conditions to be applied to the planning permit, the report concludes that no further modification of the proposed subdivision layout is required. The proposal adequately responds to the bushfire considerations of the South Gippsland Planning Scheme and does not increase the risk of bushfire to the township.

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

## The amendment complies with the *Ministerial Direction on the Form and Content of Planning Schemes* under Section 7(5) of the Act and *Ministerial Direction No.11 – Strategic Assessment of Amendments* under Section 12(2)(a) of the Act.

## The amendment has been prepared in the correct form and content outlined within the direction and adequate strategic justification for the amendment has been provided, as outlined earlier within this report.

## The amendment complies with Direction No. 1 *Potentially Contaminated Land*. An Environmental Site Assessment (Atma Environmental, May 2022) and a preliminary risk screening assessment (EHS Support, August 2023) have been undertaken and determined that the land is suitable for a sensitive land use (residential development) and that an Environmental Audit is not required. The EPA was consulted and provided recommendations to Council in the preparation of the amendment and the planning permit.

* The amendment complies with *Direction No 15 – The Planning Scheme Amendment Process*.

The amendment is able to comply with the timeframes and milestones set out in this direction. Exemptions are able to be applied for if timeframes or milestones cannot be met.

* The amendment complies with *Direction No. 19 -Preparation and content of Amendments that may significantly impact the environment, amenity and human health.*

Advice from the EPA has been received and amenity related conditions have been included in the draft planning permit. The potential amenity impacts of the bus depot adjoining the subject land can be addressed via noise attenuation construction standards for dwellings in close proximity to the depot.

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

The amendment supports and seeks to implement the Planning Policy Framework, particularly having regard to:

* **Clause 11.01-1S ‘Settlement’** and the Strategy “support sustainable development of the regional centres of Ararat, Bacchus Marsh, Bairnsdale, Benalla, Castlemaine, Colac, Echuca, Gisborne, Hamilton, Kyneton, Leongatha, Maryborough, Portland, Sale, Swan Hill, Warragul / Drouin and Wonthaggi.”
* **Clause 11.01-1R ‘Settlement – Gippsland’** and the Strategy “support urban growth in Latrobe City as Gippsland’s regional city, at Bairnsdale, Leongatha, Sale, Warragul / Drouin and Wonthaggi as regional centres, and in sub- regional networks of towns”.
* **Clause 11.01-1L-02 ‘Leongatha’** by promoting growth to the township within a designated growth area and working towards providing 15 years of residential land supply.
* **Clause 11.01-1L-03 ‘Southern Leongatha Growth Area’** by rezoning land identified in the *Southern Leongatha Outline Development Plan* with the designation of ‘future urban residential’.
* **Clause 11.02-1S ‘Supply of Urban Land’** by providing additional zoned residential supply in Leongatha to ensure the residential land market continues to operate efficiently and competitively.
* **Clause 11.02-3S ‘Sequencing of Development’** by staging the development in a coordinated manner to ensure the logical delivery of required infrastructure. The subject land adjoins existing urban development and can integrate into this development in regards to roads, pedestrian network, development infrastructure (sewer, water, stormwater) and use of nearby open space.
* **Clause 12.03-1S ‘River and riparian corridors, waterways, lakes, wetlands and billabongs’** by protecting the Tarwin River floodplain from development and securing the majority of the subject land’s environmental values in a single lot that will remain largely free of development.
* **Clause 13.02-1S ‘Bushfire Planning’** by ensuring that the proposed development appropriately responds to bushfire risk. A fire rating of no greater than BAL12.5 is achieved on every lot proposed in the subdivision.
* **Clause 13.03-1S ‘Floodplain management’** by ensuring that development is kept clear of the 1% Annual Exceedance Probability flood extent as agreed to by the West Gippsland Catchment Management Authority (WGCMA). The amendment includes minor changes to the Land Subject to Inundation Overlay mapping based on new WGCMA flood data. WGCMA planning permit conditions have also been included in the draft subdivision planning permit.
* **Clause 13.04-1S ‘Contaminated and Potentially Contaminated Land’** by ensuring that the land is suitable for residential development as confirmed by the Environmental Contamination Assessment and a Preliminary Risk Screening Assessment.
* **Clause 13.04-2S ‘Erosion and landslip’** by ensuring that the subdivision is designed so that each lot can contain a building area that avoids steeper land. The EMO1 is to be removed from the subject land. The subject land is moderately undulating and does not have slope or soil characteristics commonly associated with landslip risk. GIS analysis of the site shows that 90% of the site has a slope of less than 10 percent. The steepest land is 15 percent and is contained to land east of the eastern most road where development will not be able to occur due to building envelopes proposed for these lots.

The moderate slope of the subject land is consistent with the landform of the surrounding residential land which was removed from the ESO5 (predecessor control to the EMO1) when rezoned for residential development. There is no benefit to landowners, Council or public land manager in retaining the overlay and potentially triggering a planning permit when dwelling earthwork stability can be appropriately assessed as part of a building permit approval.

Urban development necessitates stormwater management which reduces the quantity of water percolating into the soil. This reduces erosion and landslip risk. Appropriate subdivision and dwelling development of the land can address any erosion and landslip risk making it appropriate to remove the planning scheme burden of the EMO1 on the land.

* **Clause 13.05-1S ‘Noise management’** by ensuring that planning permit conditions require noise attenuation construction for dwellings in close proximity to the bus depot situated on the northern side of Parr Street.

Noise management has been considered in the report *Enfield Acoustics Noise Vibration – Acoustic Report November 2023*. The report concluded that EPA noise protocol limits related to external noise impacts on residential land is broadly complied with except in relation to a small number of bus movements prior to 7am. These impacts can be readily managed via noise attenuation construction that will have minimal impacts on dwelling construction costs and only affect a small number of dwellings in close proximity to the bus depot.

* **Clause 14.02-1S ‘Catchment planning and management’** by ensuring that all new development on the subject land is connected to reticulated sewer so that water quality in the declared Tarwin River catchment is protected. The ESO2 (Special Water Supply Catchment Areas) is proposed to be removed from the subject land. This is a normal process for Council when land is to be rezoned in a sewer district and connection to reticulates sewer is mandatory. While the ESO2 does provide a planning permit exemption for new dwellings on land provided with reticulated sewer, retention of the ESO2 would be an unnecessary burden and potential source of confusion for future landowners.

In a situation where the ESO2 is removed and the subdivision planning permit is not acted upon and the land not subdivided, the catchment remains protected by the provisions of the *Catchment and Land Protection Act 1994*. The Act has the effect in the planning scheme of requiring planning permit applications for buildings and works to be referred to the water authority (South Gippsland Regional Water Corporation) for consideration as a Determining Authority. This additional level of catchment protection further supports the removal of the ESO2 from the subject land.

* **Clause 14.02-2S ‘Water quality’** by providing a stormwater treatment system that will capture and treat stormwater from the entire development to industry best standard which is essential for a development adjoining the Tarwin River.
* **Clause 15.01-3S ‘Subdivision design’** by providing a logical and permeable subdivision layout that will benefit from the surrounding amenity and integrate seamlessly with the adjoining estates. The subdivision plan provides a variety of lot sizes, good solar orientation, excellent connectivity to adjoining lands (has only one dead end road) and road frontage to an existing open space reserve with play equipment.
* **Clause 15.03-2S ‘Aboriginal Cultural Heritage’** by preparing a Cultural Heritage Management Plan that has been approved by the relevant Registered Aboriginal Party. A copy of the CHMP has been registered with First Peoples State Relations.
* **Clause 16.01-1L ‘Housing Supply in South Gippsland’** by rezoning and concurrently obtaining the planning permit to bring land to market as soon as practical. Leongatha has under 15 years residential land supply and there is currently a significant undersupply of vacant lots under 1,000sqm that are relatively flat. The subject land will form an important part of relieving the township’s current undersupply of affordable building sites.
* **Clause 16.01-2S ‘Housing Affordability’** by providing a lot-mix to accommodate a range of housing typologies, including conventional allotments and larger lifestyle allotments.
* **Clause 18.01-2R ‘Transport System – Gippsland’** by delivering a road network that is logical and efficient. Parr Street is a Council road. The Department of Transport have been consulted and have no specific planning permit requirements. The proposed subdivision does not, of itself, require upgrading of the intersection of Parr Street and the South Gippsland Highway. If a bus service is to be provided to the area in the future it is logical that Tarwin Ridge Boulevard (west of the subject land) will provide the route and not the subject land. The subject land has multiple road & pedestrian linkages to the existing adjoining network with the subdivision of the land requiring the construction of a shared pathway in Parr Street adjoining the subject land.
* **Clause 19.02-6S ‘Open Space’** by providing excellent connectivity with the existing open space reserve on Tarwin Ridge Boulevard and the proposed drainage reserve on the subject land that can be used for passive recreation.
* **Clause 19.03-1S ‘Development and Infrastructure Contributions Plans’** by entering into a Section 173 Agreement to facilitate contributions towards higher order infrastructure.
* **Clause 19.03-2L ‘Infrastructure design and provision’** by assessing and approving the development in accordance with the requirements of Clause 56 and the provisions of the Infrastructure Design Manual.
* **Clause 19.03-3L ‘Integrated water management’** by the provision of a high quality ‘end of system’ lagoon-based stormwater management system in combination with a requirement that each dwelling have a rain water tank to supplement domestic water use.

### How does the amendment support or implement the Municipal Planning Strategy?

The amendment seeks to support and implement the Municipal Planning Strategy through complying with the general strategies outlined within **Clause 02.03-1 ‘Settlement – Principal Centre – Leongatha’** including:

* *Promote Leongatha as the principal regional service centre in the Shire.*
* *Support housing growth, the provision of higher-level community services and economic development.*
* *Maintain the Town Centre as the hub for retail and service uses.*

Specifically, the South Gippsland housing strategies within the Municipal Planning Strategy include:

* *Accommodate housing growth that is sustainable and sympathetic to:*
  + *The hierarchy and existing character of the Shire’s settlements.*
  + *The availability and capacity of infrastructure and commercial, community and transport services.*
  + *Significant environmental features and landscapes.*
  + *Continuation of commercial agriculture in rural areas.*
* *Encourage diversity in dwelling type, size, adaptability and accessibility to provide greater choice and affordability to suit a range of needs.*

Furthermore, the amendment supports the implementation of Clause 02.03-1 – Strategic Directions – Settlement, Clause 11.01-1R – Settlement – Gippsland, Clause 11.01-1L-02 – Leongatha and Clause 11.01-1L-03 – Southern Leongatha Growth Area by rezoning land designated as a growth area for residential purposes.

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

The amendment is consistent with, and makes proper use of, the Victoria Planning Provisions by applying the General Residential Zone to the subject site.

The purpose of the General Residential Zone is as follows:

* *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
* *To encourage development that respects the neighbourhood character of the area.*
* *To encourage a diversity of housing types and housing growth particularly 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.*

This purpose is consistent with the envisaged outcomes and nomination of ‘future urban residential’ within the *Southern Leongatha Outline Development Plan*.

The application of the General Residential Zone is appropriate given the surrounding zoning pattern and development outcome sought for the subject land.

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

## The views of relevant agencies have been considered in the preparation of the amendment including the Country Fire Authority, West Gippsland Catchment Management Authority, South Gippsland Water, Environment Protection Authority, Department of Transport and Ausnet Services. The requirements of these agencies have been included in the draft subdivision planning permit conditions.

The views of relevant agencies will again be sought as part of the formal exhibition process.

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

## The amendment contributes to the transport network through the development of vacant land in a growth area that has excellent road, pedestrian and cycling integration with surrounding lands and the broader area. Upgrading of existing intersections, including highway intersections is not required to facilitate the development of the subject land. The Department of Transport and Planning (transport division) has no planning permit requirements for the subdivision of the land.

## Resource and administrative costs

It is not anticipated that resource and administrative costs for council will be increased as a result of the amendment. It is likely that the majority of the future development (single dwelling on a lot) will not trigger the requirement for a planning permit.