



AGENDA APPENDIX
Council Meeting
Wednesday 25 March 2015

AGENDA ITEM FOR SEPARATE DISTRIBUTION TO COUNCILLORS AND EXECUTIVE LEADERSHIP TEAM DUE TO DOCUMENT SIZE.

THE ITEM IS ACCESSIBLE VIA THE COUNCIL WEBSITE OR BY CONTACTING COUNCIL ON 03 5662 9200.

E.9 PLANNING SCHEME REVIEW 2014 – ADOPTION AND SUBMISSION TO MINISTER FOR PLANNING

Appendix 1 – South Gippsland Planning Scheme Review 2011-2014

A number of appendices are contained within this document – a summary is itemised below:-

1. Appendix (1) - Review 2014 – Consolidated Recommendations
2. Appendix (2) - South Gippsland Planning Scheme Review 2010
3. Appendix (3) - Summary of Planning Permit Application Performance



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South Gippsland Planning Scheme Review 2011-2014



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1.0 Introduction

Council is required by Section 12B of the *Planning and Environment Act 1987* to review its Planning Scheme every four years and report to the Minister for Planning on the review results. The Review is required to be supplied to the Minister by the end of March 2015.

The review must:

- Identify major planning issues facing the municipality;
- Identify matters requiring further strategic work to strengthen the scheme's efficiency and effectiveness in meeting planning objectives;
- Identify operational or process improvements for the scheme and Council's planning department; and
- Outline issues that require the engagement or assistance of the (then named) Department of Sustainability and Environment (DSE).

The form of the review is guided by *General Practice Note - Review of Planning Schemes (DSE February 2006)* and the *Continuous Improvement Review Kit: for planning and responsible authorities (Department of Sustainability and Environment, Victoria, 2006)*.

Tests of the scheme's efficiency and effectiveness include:

- Comment on work since the previous review;
- Alignment with the State Planning Policies and Council Plan;
- Assessment of fulfilment of the scheme's objectives (including comment on changes or gaps due to changing circumstances) based on;
 - A review of VCAT decisions during the previous 4 years;
 - A planning file audit; and
 - Analysis of feedback invited from internal and external stakeholders;
- A review of operations of Council's Statutory and Strategic Planning processes.

The issues identified and discussed, plus the consequent recommendations as part of the Planning Scheme Review 2011-2014 (PS Review), are noted in the body of the report and contained in detail in a series of appendices. A consolidated list of recommendations is located in Appendix 1.

The previous review was the South Gippsland Planning Scheme Review 2010. This was adopted by Council in December 2010. An earlier review was undertaken in 2006 by Coomes Consulting Group Pty Ltd.

2.0 Progress since Review 2010

The Review 2010 was conducted by Council staff. Appendix 2 contains the Review 2010 report and the summary report to Council.

Table 1 lists the Review 2010 recommendations and progress to date. VC Amendments are included where there is a notable impact for South Gippsland.

Table 1

	2010 RECOMMENDATION	STATUS	DETAILS
1	Undertake a holistic policy-neutral review of the Municipal Strategic Statement (MSS) in conjunction with DPDC and Planning Panels Victoria. This is underway in consultation with DPCD.	Completed	Amendment C68 (Municipal Strategic Statement policy-neutral review) was gazetted on 28 November 2013.
2	Address climate change issues through liaison with the State Government.	Completed in terms of 2010 Review scope.	<p>C55 Land Subject to Inundation Overlay (LSIO) Bass River Catchment gazetted 31 March 2011.</p> <p>C81 – apply more accurate LSIO mapping and allow for climate change storm inundation, is in progress. Has been worked on since 2012.</p> <p>VC94 Climate change impacts –related to sea level rise gazetted 4 July 2012.</p> <p>Bushfire Management Overlay now in place. VC83 gazetted 18 November 2011.</p>
3	Once the above has occurred, further policy review of the MSS may be required. However this should be determined after the policy neutral review.	Partly completed. Revision by topic relating to specific amendments rather than a comprehensive policy-positive review.	<p>C70 Korumburra Structure Plan gazetted 28 February 2013.</p> <p>C76 Southern Leongatha Outline Development Plan gazetted 30 May 2013.</p> <p>C72 Loch, Nyora, Poowong and Meenyan Structure Plans gazetted 3 October 2013.</p> <p>C77 (Part 1) Eastern District Urban Design Frameworks gazetted 7 November 2013.</p> <p>C77 (part 2) Eastern District Urban Design Frameworks gazetted 25 September 2014.</p> <p>C77 (part 3 – Agnes) on hold pending information.</p> <p>C85 (Leongatha Parking Strategy) was gazetted on 13 February 2014.</p> <p>C80 (Safe, Healthy and Active Communities) gazetted 5 June 2014.</p>

			<p>Amendment C93 (Korumburra Town Centre Framework Plan) gazetted 23 October 2014.</p> <p>C95 (Leongatha Industrial Land Supply) gazetted 28 August 2014.</p>
4	Complete and implement the Rural Strategy;	Completed	Amendment C63 (Rural Land Use Strategy) was gazetted on 8 March 2012.
5	Review the local policy section (Clause 22) with a view to removing or significantly altering some policies;	Completed	<p>C63 (RLUS) significantly revised and the clause 22 policies relating to rural dwellings and rural subdivision. It also introduced the Rural Activity Zone policy into clause 22. C63 was gazetted on 8 March 2012.</p> <p>C68 (MSS policy neutral review) removed redundant clause 22 policies, moved some clause 22 policies into the MSS and streamlined and renumbered the remaining ones. C68 was gazetted on 28 November 2013.</p> <p>C95 (Leongatha Industrial Land Supply) gazetted 28 August 2014.</p>
6	Consider the need to introduce Business 2 Zone areas, particularly in Leongatha.	<p>Completed</p> <p>Completed</p> <p>Completed</p> <p>In progress</p> <p>Future amendments at the discretion of landowners and developers.</p>	<p>C98 (Policy-neutral zone reform translation replaced Business Zones with the new Commercial Zones) gazetted 13 June 2014.</p> <p>C76 Southern Leongatha Outline Development Plan gazetted 30 May 2013.</p> <p>C98 Policy-neutral translation of new residential and commercial zones gazetted 13 June 2014.</p> <p>C104 Southern Leongatha Special Use Zone – amendment currently in preparation</p>
7	Undertake a Housing and Settlement Strategy after implementation of a Rural Strategy.	Completed	<p>Housing and Settlement Strategy (HSS) adopted 25 September 2013. Includes 17 new Framework Plans for settlements and 11 Restructure Overlay areas.</p> <p>Amendment C90 to implement the HSS key recommendations is in progress. Exhibition anticipated mid-2015+.</p>
8	Develop a Developer Contribution Plan	Progress on hold	State Government changes to the development contributions system underway. Council

	Overlay for future urban growth areas.		currently using Section 173 agreements to secure contributions funding.
9	Develop a Parking Precinct Plan in order to implement cash in lieu for CBD developments / change of use applications.	Completed	<p>Amendment C85 (Leongatha Parking Overlay and Schedule) gazetted 13 February 2014.</p> <p>Korumburra Parking Study found there is an excess of parking spaces. Included as a Reference document and policies within Amendment C93 (Korumburra Town Centre Framework Plan) gazetted 23 October 2014.</p>
10	Develop a schedule to clause 52.01 [public open space contribution and subdivision] for cash in lieu.	Completed 5 June 2014	Amendment C80 introduced 5% (default) cash or land open space contribution via the Schedule to 52.01.
11	<p>Review the application of public zones in western areas of the Shire where overlays should apply instead. Specifically, waterways zoned PCRZ on land which is privately owned. These need to be rezoned to the underlying zoning and have an ESO applied to protect the waterway.</p> <p>Road Zone 1 applications west of Korumburra</p>	<p>Partly completed</p> <p>Not done</p>	<p>Amendment C79 General amendment applied appropriate rezoning where public zones had been inappropriately applied in the west. Gazetted on 27 March 2014.</p> <p>More work required to complete. Non-urgent as low risk and low number of applications affected. Proceed if resources permit.</p> <p>Waiting on VicRoads as proponent to undertake the amendment work or request amendments by Council.</p>
12	Review content and application of overlays, particularly Environmental Significance Overlay 5 (Areas Susceptible to Erosion) and Erosion Management Overlay;	<p>Partly done</p> <p>In progress</p>	<p>Amendment C55 – application of the Land Subject to Inundation Overlay (LSIO) to areas susceptible to flooding in the Bass River Catchment was gazetted on 31 March 2011.</p> <p>Amendment C81 – LSIO (to replace Environmental Significance Overlay 6) is in progress. Anticipate exhibition to start mid-2015.</p> <p>Shire-wide review of ESO5 and EMO is expensive and requires geological expertise. However risks exist where they are not currently applied (e.g. some landslip locations) and conversely, some permit applications unnecessarily triggered.</p> <p>GC (Tarwin Declared Catchment ESO2) in progress in cooperation with other Gippsland municipalities and South Gippsland Water.</p>

	Possible review of ESO5 application for coastal towns via Eastern Districts Urban Design Frameworks	Scoping Not done	Turtons Creek Significant Landscape Overlay See comments above.
13	Review the application of DDO1 [Township approach];	Not done.	Not urgent due to low risk/impact and low number of applications affected. Proceed if resources permit.
14	Review internal processes and ensure staff are kept up to date with relevant training.	Done	<p>Statutory and Strategic Planning Processes significantly reviewed and altered during 2011-2012.</p> <p>Full complement of statutory and strategic planning staff achieved in 2011. Some periods when this was not maintained occurred during 2013 and 2014.</p> <p>Staff training (including internal and external forms at varying levels) kept up to date as part of improved processes in the planning department and further supported by reintroduction of Performance Reviews for all staff in 2012 and has continued.</p> <p>VicSmart and Spear training conducted.</p> <p>Support being given to staff studying for relevant higher qualifications.</p>

Other strategic projects done during 2011-2014 are listed in Table 2 below.

Table 2

	Other Planning Scheme Amendments Completed	Topic	Gazetted
1	C56	Road Zones rezonings, Koonwarra	8-12-2011
2	C60	Rezone Korumburra Saleyards and apply DDO.	15-12-2011
3	C57	Rezone for Wilsons Promontory Gateway Tourist Facility, Yanakie	5-12-2012
4	C62	Simons Lane rezoning, Leongatha	10-5-2012
5	C69	Rezone Mirboo North Police Station site	14-6-2012
6	C61	Strzelecki Hwy Public Acquisition Overlay	11-10-2012
7	C50	Rezone to Rural Living Zone, Foster	2-5-2013

8	C84	Rezoning for SP AusNet depot, Leongatha	3-10-2013
9	C66	Rezone to Residential 1 and DPO, Korumburra	5-12-2013
10	C87	DDOs for Helicopter flight paths, Leongatha and Foster Hospitals	5-12-2013
11	C83 (part 1)	PAO for Children's Centre site, Korumburra	16-1-2014
12	C73	Rezoning and subdivision, Bena	30-1-2014
13	C82	Incorporated document – steel fabrication site Simons Lane, Leongatha	27-2-2014
14	C79	General 'tidy up' amendment	27-3-2014
15	C52 (part 1)	Rezone and Schedule, residential growth, Jumbunna Rd, Korumburra	10-4-2014
16	C71	Rezone Korumburra library site	24-4-2014
17	C98	Policy-neutral translation for Residential and Business Zones	13-6-2014
18	C91	Rezone South Gippsland Water Office site, Foster	11-7-2014
19	C74	PAO for South Gippsland Hwy, Korumburra	24-7-2014
20	C92	Heritage Overlay, 18 sites	30-10-2014
21	C101	Rezone to fix anomaly, Strzelecki	30-10-2014
	<i>Other Planning Scheme Amendments in progress</i>	<i>Topic</i>	<i>Status</i>
1	C52 (part 2)	Rezone and Development Plan Schedule, residential growth, Jumbunna Rd, Korumburra	Waiting on Ministerial approval since December 2014.
	C59	Western District Sewerage Scheme	Amendment lapsed due to alternative treatment implemented.
2	C64	Rezone to Low Density Residential Zone, Foster	Proponent allowed to lapse.
3	C65	Rezone from Farming Zone (FZ) to General Residential 1 Zone (GRZ1) and Development Plan Overlay (DPO)	Developer contribution being negotiated.
4	C86	Rezone from FZ to Industrial 1 & DPO, Leongatha	Developer contribution being negotiated.
5	C88	Rezone to LDRZ (Aged Care Facility), Leongatha	Waiting on proponent to action s.173 agreement.
6	C89	Walkerville Village	Waiting on proponent action with further information.
7	C96	Rezone to General Residential Zone (GRZ), Korumburra	Adopted by Council 17-12-2014
8	C97	Rezone to GRZ1, Nyora	Exhibition closed; Council to refer submissions to a Panel if required.
9	C99	Burra Foods Amenity Buffer	Consider adoption at Council Meeting 25-2-2015.
10	C100	General 'tidy up' amendment	On hold until Council

			resources permit.
11	C102	Rezone to GRZ1, Foster	In discussion
12	C103	Rezone to GRZ1, Mirboo North	In discussion
13	C104	Rezone to SUZ (Urban Gateway), Southern Leongatha	Council to consider seek authorisation to prepare amendment early 2015.
14	C105	Rezone & ESO, Meeniyan Wastewater Treatment Plant	Council to consider seek authorisation or Ministerial at 25 March 2015 meeting.
15	C106	Rezone to RLZ, Mirboo North	In discussion
		<i>Other strategic planning projects</i>	<i>Status</i>
1	2011	Bushfire Management Overlay	Completed
2	2012	Proposed Reform Zones submission	Completed
	2012	Input to Municipal Domestic Wastewater Management Plan Review	Completed
	2013	Input to National Climate Change Adaptation Research	Completed
3	2014	State Planning Policy Framework Review submission	Completed
4	2013	Port Welshpool Marina	In discussion
5	2013	Gippsland Regional Plan	Completed
6	2014	Koonwarra Agricultural Services	Developer contribution and proposed Special Use Zone provisions being negotiated.
7	2014	Planning Scheme Review 2014	Council to consider adoption in early 2015
8	2013	Rural Development Guidelines	Completed
9	2013-14	Leongatha Heavy Vehicle Bypass project	Completed
10	2013	Leongatha and Korumburra Traffic and Drainage Studies	Completed
11	2012	Sustainable Design Assessment in the Planning Process	On hold
12	2014-2015	Korumburra Town Centre Streetscape Master Plan	Scoping
13	2014-2015	Leongatha Town Centre Streetscape Master Plan	Scoping
14	2014-2015	Nyora Development Strategy Review	Researching
15	2014-15	Regional Coastal Development Plan submission	On hold - waiting on action from Gippsland Coastal Board

2.1 Assessment

The Strategic Planning Team was expanded in the first half of 2011/2012, enabling the amount of strategic planning work completed and in progress to accelerate significantly. The achievements listed in Tables 1 and 2 represent significant progress on the recommendations of the Review 2010 as well as responsiveness to other issues as they have arisen. Council's strategic procedures and staff skill levels have progressively improved during the Review period.

The Statutory Planning Team was also consolidated at the same time with contract staff replaced by permanent staff. By overhauling planning application processes and importing the additional skills, a large number of applications under consideration were completed. Applications are now assessed and determined consistently above the rural council average, and the use of contract staff for application assessment is only used to backfill vacancies.

There are gaps in the work identified by the Review 2010 that are still relevant. Reviewing the content and application of overlays, especially the landslip/erosion/flood overlays are the most important projects to be completed due to the risk component. The updated Land Subject to Inundation Overlay (LSIO) amendment (C81) is in progress. However expert geo-technical assessment is required to review the Erosion Management Overlay (EMO) to include high risk landslip areas not currently identified by the Planning Scheme. Conversely, the broad application of the ESO5 (Land susceptible to erosion) is triggering permits in some areas where the risk is not sufficiently justified. Again, more detailed review requires external expertise to ensure that only the medium to high risk locations and uses/developments are captured for permit assessment.

While progress has recently been made in application of the Heritage Overlay (HO), the heritage provisions are largely ineffective while the vast majority of features identified by the South Gippsland Heritage Study 2004 remain unprotected due the HO not being applied. Consequently identified heritage features of significance may have been demolished or removed in the intervening years without any consideration of their significance.

Review of incorrect application of public zones, notably to private land adjacent to watercourses in the western part of the Shire, is a low priority but outstanding task from the Review 2010. This also applies to review of the Design and Development Overlay 1 (Township approach).

As the Review 2010 suggests, a policy-positive Local Planning Policy Framework Review is required to pick up numerous improvements and corrections to improve the Planning Scheme. The current PS Review confirms this is necessary.

While Council has adopted the Housing and Settlement Strategy (HSS), its implementation into the Planning Scheme as Amendment C90 is still to be completed. At this stage it is anticipated that Council will consider draft amendment exhibition documents in the second half of 2015.

Implementation of scheduled developer contributions (public open space and growth areas) has been placed on hold while the State Government investigation of these issues has been underway. The Government's policies are yet to be announced. In the interim Council has been negotiating to obtain developer contributions in association with rezoning for urban growth. The negotiations have taken time but are being successfully completed. Significant future urban growth is consequently poised or closely positioned to go ahead in Leongatha, Korumburra and Nyora.

2.2 Recommendations

It is recommended that subject to funding and staff resources that Council:

1. Completes Amendment C81, application of Land Subject to Inundation and removal of ESO6 Areas susceptible to flooding as a priority matter.

2. Conducts outstanding strategic investigation required to minimise potential risks and liability in relation to application of the Erosion Management Overlay [EMO] (landslip risk areas) as a high priority.
3. Jointly reviews application of the Environmental Significance Overlay 5 (Areas Susceptible to Erosion) in association with the EMO investigation.
4. Carries out a holistic, policy-positive review of the Municipal Strategic Statement (MSS) and Local Planning Policy Framework (LPPF) to make the scheme more practical, consistent and current.
5. Updates the South Gippsland Heritage Study 2004 (to identify removed features and make other technical corrections) and undertake Heritage Overlay application, commencing with targeted encouragement of voluntary inclusion amendments for multiple properties.
6. Completes developer contributions scheduling – subject to clear direction being received from the State Government.
7. Reviews the incorrectly applied public land zonings and DDO1 as noted by the Review 2010.

3.0 Planning Permit Application Performance

3.1 PPARS data

Planning permit application performance has been assessed in two ways for the PS Review. Data from the State Government's Planning Permit Application Report System (PPARS) is tabled at Appendix 3. (The File Audit method is covered in sections 3.4 to 3.6 below). The PPARS data is available on the State Planning Department's web site. This information allows for comparisons between South Gippsland and the 'Rural Municipal Average' results. This is not the same group of similar 'Large Rural Municipalities' Council is compared to in the annual, State-commissioned Community Satisfaction Survey. Therefore the value of comparisons is restricted due to different circumstances behind the figures. Caution must also be used in comparing PPARS data over the period as the categories changed during this time. The change is noted in the Appendix.

Given the timing of the Review 2010 and the four year rolling timeframe for such reviews, the period of this Review covers 2011-2014 calendar years. Full PPARS information for other municipalities is provided by financial year reports. Since the period 1 July to 31 December 2014 is a half-financial year, comparison of the percentage information is advised rather than the raw numbers. Where percentages are not available, a rough rule of thumb for comparison purposes would be to double the half-year figures.

3.2 Assessment

Council's statutory planning obligations are being carried out effectively and efficiently. This service has been enhanced since the beginning of the Review period. The results are positive, consistent and compare favourably with the rural average and with other Gippsland councils.

The number of applications received annually has varied over the period. This may be due to a combination of changing economic circumstances affecting investment, and ongoing improvements to the planning system at both State and Council level. The value of works approved each year has also varied. The annual dollar value can be impacted by a single major development application, for

example Foster's new aged care facility. Nonetheless, the municipality is tracking well in terms of the current financial year and in comparison to the rural municipal average.

SGSC manages, on average, a higher number of planning permit applications than the rural average. The data does not include the factors influencing this. It may be that South Gippsland has a healthier building industry or it may be because South Gippsland has a combination of steep slopes, significant landscapes and areas susceptible to flooding. It might also be possible that the Planning Scheme has a greater number of permit triggers than that of other rural planning schemes. A policy-positive review could include a focus on reducing permit triggers while not compromising achievement of Planning Scheme objectives. The need for such a review was raised by internal and external stakeholders.

As a percent of applications received, the annual number of applications for development of a single dwelling has fluctuated noticeably during the period. In contrast, the percentage of applications to create lots by subdivision, to extend or renovate existing buildings (including dwellings) and to change land use have remained steady.

In several data categories (for example number of applications required to be advertised, referred etc), Council's results are consistent in percentage terms throughout the Review period. The positive exception is for the number of permits 'completed in 60 statutory days'. The average rural result has been steady over time. However the South Gippsland result has jumped from 49% of applications in 2010-11, up to 77% in 2012/13, and 81% in July-December 2014. The State average comparisons for these were 70%, 74% and 73% respectively.

Where the comparative information is consistently available, it shows that South Gippsland has a generally higher rate of permit applications requiring advertising, which nonetheless does not generate a higher level of submissions compared to the rural average. It would be worthwhile to review Council's notification processes, as advertising represents costs and time delays to applicants.

In the earlier period covered by the Review, Council also had a significantly higher rate of Requests for Further Information (RFIs) but this was not so in 2013/14 and comparison is not available for the July-December 2014 period. As amendments to permits represent 25-30% of applications made to Council, it may be worth investigating the reasons for such requests to determine if the occurrence can be reduced. Multiple factors could be involved - submission standards, local policy guidelines, user knowledge of the planning system and acceptance of sub-standard applications. (Council has little power to refuse to accept an application when it is submitted). Improvement could be obtained from methods ranging from pre-application meetings to providing FAQs material. The topic of RFIs was also raised by the file audit and from external stakeholders. If it were possible, a reduction in RFIs could benefit applicants and Council without compromising the objectives of the Planning Scheme.

The VicSmart system, introduced by the State Government to minimise 'red tape', redirects the simplest applications into a fast-track determination process. This system started state-wide on 4 September 2014 when Amendment VC114 was gazetted. Consequently, it is too early to have useful figures on the benefits of this new process. The potential introduction of Local VicSmart policies was raised via the Review's Internal Stakeholders.

Electronic tracking of applications throughout the assessment process has been recently upgraded and will assist with the next Review.

3.3 Recommendations

That Council:

1. Conduct a Policy-positive review of the MSS and LPPF to consider rationalisation of permit triggers.
2. Consider Local VicSmart scheduling to provide incentive for applications with complete information provided at submission.
3. Review causes and potential solutions to improve the level of information accompanying applications.
4. Review the decision process for application notification (advertising).
5. Review the reasons for permit amendments being sought.
6. Conduct the next Planning Scheme Review by financial year rather than calendar year.

3.4 Planning File Audit

The second method of assessing permit application performance was an audit of 30 planning application files chosen at random for the period 2011-2014. The selection was then adjusted to allow for a spread of assessment in terms of different uses/developments, geographic areas, issues, assigned officers and outcomes (granted/refused/withdrawn/lapsed/appealed). The Application Audit results are contained in Appendix 4.

In viewing the data, it should be noted that the number of business days between stages of the application assessment does not account for days the application was placed 'on hold' while the applicant completed tasks such as providing information or advertising. Further, the results are compiled for the entire period. Therefore, they do not wholly reflect improvements that have occurred during the Review period.

3.5 Assessment

The audit's results are very positive in terms of Council's accuracy, promptness and quality of assessment of applications according to the Planning Scheme provisions. As the discussion and issues are fairly detailed, they will not be repeated here. Refer to Appendix 4 for the discussion and recommendations. There are a few areas where there is further opportunity for improvement.

3.6 Recommendations

See Appendix 4 for details of recommendations. Some recommendations are very simple. Others will require a review by Council's Statutory Planning Team to see if there is a time and cost efficient method of achieving improvements with the resources available.

4.0 VCAT decisions

The Review process requires an audit of planning applications that have been appealed to the Victorian Civil and Administrative Tribunal (VCAT) for review.

Appendix 5 contains a summary of the VCAT Reviews for South Gippsland from 2011 – 2014. Full decision details are available online via the VCAT web site. The audit includes appeals lodged by the applicant against the Council's decision (including refusals, conditions imposed, amendment of conditions, and time extension requests) and by objectors against Council's decisions. The Review has not included assessment of VCAT hearings for other purposes, for example Planning Scheme enforcement, objection against a decision of the Minister for Planning (related to South Gippsland) and minor corrections or consent orders. Each of these occurred rarely.

Thirty decisions by Council were reviewed by VCAT in the period 2011-2014. This represents 1% of total applications received during the same period. One hearing was held in 2014, six in 2013, nine in 2012 and 14 in 2011. Of the seven VCAT appeals during 2013-2014, four (57%) were a result of objectors requesting a review of Council's decision to grant a permit. In contrast, of the 23 VCAT reviews in 2011-2012, four (17%) were appeals made by objectors. Apart from rural dwellings, appeals ranged across a variety of proposals. Issues included the impact of telecommunication towers, removal of significant vegetation in association with fire management safety for proposed dwellings, plus variations on neighbourhood amenity, character and traffic associated with larger developments.

VCAT reviewed two rural dwelling decisions in 2013 (Council's decision upheld both times), six in 2012 and eight in 2011, with Council decisions upheld in 3/6 and 3/8 respectively. Four of these hearings occurred prior to gazettal of C63 – Rural Strategy implementation. There were no reviews on this issue in 2014.

Council decisions overall were upheld (including variation to conditions) in 100% (1/1) of cases in 2014, in 67% in both 2013 (4/6) and 2012 (6/9), and in 57% (8/14) of cases in 2011.

Appendix 6 provides comparative information about VCAT Reviews for the 2013/14 and 2012/13 financial years.

4.1 Assessment

After the successful implementation of Amendment C63 (Rural Land Use Strategy) (RLUS) in March 2012, the number of appeals to VCAT about development of dwellings in the rural zones reduced significantly. Conversely, Council's decisions were increasingly upheld as the years progressed. This reflects the improvements to the Planning Scheme and Council's Planning Department processes. General community acceptance of the new rural policies and the clearance of appeals already in the VCAT system are also presumed to have contributed to the improving results. The low number of reviews is an excellent result for applicants and for Council as it reduces costs and time taken to finalise a decision.

While the majority of Council decisions were upheld, the result in the last two years is very good. Importantly for the Review purposes, VCAT members did not identify any significant gaps in the Planning Scheme. However several Panel members referred to deficiencies with wording (especially clarity and precise intent) of Section 173 agreements as conditions of planning permits. Local policy wording (Leongatha's commercial area and the Rural Dwellings policy) received some negative comment and inconsistency between different Significant Landscape Overlay provisions was

observed. Members noted a few errors with planning permit conditions. There were also occasions when Panel members appeared to interpret the same policies differently.

During 2011-2014, there were no appeals by referral authorities against Council's decisions or by applicants against Council's failure to make a determination within the statutory timeframe. Council used external assistance (a solicitor) in two cases during the four-year period. Council staff represented Council as the Responsible Authority at all other hearings. This significantly reduced Council costs in VCAT cases.

Although comparative information about VCAT reviews for other municipalities is not generally available, VCAT provided data on request. (PPARS only lists the number of applications currently being reviewed at the end of each month and quarter.) The data is not quite complete by Local Government Area but is very close, so reasonable comparisons can be made. South Gippsland's results are compared with the group of six Gippsland Councils, and also with Large Rural Shires (the same as in the Community Satisfaction Survey 2014.) This group differs from the PPARS reporting groups but is probably more familiar to Councillors.

South Gippsland consistently fares well in the comparisons. In 2013/14, 0.2% of South Gippsland applications resulted in VCAT reviews. In contrast, the Gippsland average was 1.7% and the Large Rural Shires average was slightly higher at 1.9%. In 2012/13, all figures were higher but again South Gippsland's results were relatively favourable with 1.5% of applications received going to VCAT review, compared to the Gippsland average of 1.8% and the Large Rural Shires average of 2.4%.

4.2 Recommendations

That Council:

1. Considers policy wording advice contained in VCAT reviews (South Gippsland and Red Dot decisions) when updating or inserting Local Policies.
2. Considers methods to improve wording of Section 173 agreements required by planning permit conditions and planning scheme amendments or amendment/permit combinations.
3. Considers peer review of VCAT submissions prior to hearings.

5.0 External Stakeholder Consultation

Thirty external agencies, government departments and authorities were invited to provide input to the PS Review. The agencies included service providers, public land managers, neighbouring municipalities and Planning Scheme referral organisations. The majority of these organisations were sent an individualised invitation requesting comment on specific, relevant parts of the Planning Scheme, as well as an invite for general comments on the Planning Scheme. Where relevant, comment was also requested on Council's planning/referral processes and the quality of interaction with Council staff.

Twelve (40%) of the external agencies provided a response to the review. Appendix 7 contains the Summary of Responses. Anecdotally, several mentioned it was the first time they had been invited to provide comment for a Planning Scheme Review. A further seven (23%) other agencies replied that they did not have any comments to make.

Forty-nine professionals that regularly use South Gippsland Planning Scheme were invited both to complete an online survey and to attend a drop-in discussion session on 4 December 2014 as part of the PS Review consultation. These invitees included planning and building consultants, drafting services consultants and real estate agents that are active in South Gippsland. Collectively, the external professionals' work covered all types of development from building new homes and extensions or commercial/industrial developments, through to urban and rural subdivisions. The practitioners also liaised with existing and potential property owners, advising clients on use and development designs, and options for their properties.

Of those invited, 16 (33%) responded by completing the survey. Only one attended the drop-in session. Appendix 8 contains the Summary of Responses. The respondents comprised two planning consultants, five building/drafting/engineering practitioners, eight real estate agents and one unknown. Comments emailed directly and received at a drop-in session held on 4 December 2014 were repeated in the survey responses so are not additionally counted. One of the respondents skipped many of the questions and a 17th respondent skipped every question so was not counted. As all answers to questions were voluntary, some results reflect fewer than 16 responses.

An invitation to the general community to make comment was included in a Council Noticeboard advertisement in local newspapers in December 2014. No responses were received. Given the topic and the general acceptance of Planning Scheme Amendments (PSAs) that have been well-advertised prior to implementation during the last four years, the lack of general community response is not unexpected.

5.1 Assessment

Cumulatively, the external respondents have made many suggestions to improve the Planning Scheme from their perspective. However in general, the respondents were supportive of the Planning Scheme overall and in comparison to other Planning Schemes. Comments relevant to the statutory planning processes were also primarily complimentary. Some negative comments (related to Council but not relevant to planning processes) were received.

A number of the same or related matters were raised by different stakeholders. These matters should be considered as a priority. A few of the external suggestions would add complexity, difficulty or impracticality to the Planning Scheme, so have not been recommended.

Many of the proposals could be pursued either by inclusion in a General Amendment (tidy up of non-controversial items) or by a Policy-positive Review of the MSS and LPPF where policy changes and community engagement are required.

The Planning Scheme Overlays received a significant amount of critical attention. For various reasons (resourcing and need for agreement with other organisations) work on Overlays has been slow or absent since the need for improvements was raised in the Review 2010. The level of comment about Overlays adds pressure for this work to be resourced and completed.

Policies about environment (risks, coasts, water resources and protection), heritage and transport were other areas for comment.

External stakeholders made several comments relevant to State Government directed parts of the Planning Scheme.

5.2 Recommendations

Subject to funding and staff resources that Council:

1. Completes Amendment C81, application of Land Subject to Inundation Overlay and related removal of ESO6 - Areas susceptible to flooding.
2. Completes an amendment for application of Environmental Significance Overlay 2 - Water Catchments, for the Tarwin Declared Potable Water Catchment.
3. Conducts outstanding strategic investigation required to minimise potential risks and liability in relation to application of the Erosion Management Overlay (landslip risk areas).
4. Review application of the Environmental Significance Overlay 5 (Areas Susceptible to Erosion) – a lower but nonetheless recognisable risk, which could be done in association with an EMO investigation.
5. Undertakes a holistic, policy-positive review of the MSS and LPPF to make the scheme more practical, consistent and current.
6. Updates the South Gippsland Heritage Study 2004 (identify removed features and make other technical corrections) and undertake Heritage Overlay application, commencing with targeted encouragement of volunteer amendments for multiple properties.
7. Reviews and rationalises other Overlays, notably Design and Development Overlays and Coastal Settlement Overlays.
8. Holds regular Planning Scheme and planning staff familiarisation sessions and provide educational updates (probably electronically) about planning application procedures and strategic planning changes. (Relevant to external practitioners and agencies as appropriate.)
9. Implements other recommendations as contained in Appendices 7 and 8.

6.0 Internal Stakeholder Consultation

Council's relevant internal teams were consulted. Numerous comments were received, with the Statutory Planning Team and the Sustainability Team generating the most feedback. Appendix 9 contains the responses and full list of recommendations.

Councillors were invited to provide feedback during December 2014. No comments were received.

6.1 Assessment

While many issues were raised, application of the Erosion Management Overlay (EMO) - which is applied to landslip risk areas - and the Environmental Significance Overlay 5 – Areas susceptible to erosion (ESO 5) were the topics of interest. Improvements have not been undertaken since being highlighted by the Review 2010. The ESO 5 was based on broad-scale landscape assessment. Internal stakeholders noted it triggers a significant number of permits yet does not give sufficiently useful guidelines for decision-making. It also includes some land which is not at risk, so there is potential to delete the ESO 5 in some locations. Where landslip risk is highest, it may be better to replace the ESO 5 with the EMO or Design and Development Overlays based on expert investigation. Some areas with a high landslip risk have also not yet had the EMO applied. Council could reduce this risk by

engaging geo-technical consultants to improve mapping of landslip and erosion risks in the municipality. This may prove expensive. Additional application of the EMO would require close consultation with affected landowners to assist their understanding of the risks and the need for controls.

As with the external stakeholders, internal teams pointed to many issues with a number of other overlays. Work is progressing on Amendment C81 to introduce a Land Subject to Inundation Overlay (LSIO) based on updated flood data from the West Gippsland Catchment Management Authority (WGCMA) and deletion of the ESO 6 (Land susceptible to flooding), which was based on less accurate information.

Consistency between similar provisions in different zones and overlays was another frequent concern. These could be improved by either a review of groups of Overlays or by a policy positive planning scheme review.

The Planning Scheme could be refined by scheduling more exemptions, including use of design performance parameters, and removing outdated overlay application. This was supported where it would reduce the number of unnecessary permit triggers while simultaneously improving achievement of objectives.

The Sustainability Team identified a suite of policies that could be introduced, expanded or reworded to address sustainability issues in agriculture, water supply, waste management, energy generation and climate change risk aspects.

6.2 Recommendations

See Appendix 9 for recommendations.

7.0 Alignment with the State Planning Policies

The localised parts (i.e. the MSS and LPPF and the relevant application of zones, overlays and schedules within the municipality) of the Planning Scheme match neatly with the State Planning Policy Framework (SPPF) since the policy-neutral review implemented by C68. This restructured the Planning Scheme into the 'modern' layout style required across planning schemes in Victoria. The nine State Planning Policies listed in the Planning Scheme from clauses 11 (Settlement) to 19 (Infrastructure) are locally expressed by the 10 Local Planning Policies. The minor difference is that the LPPF has a separate policy clause for 'Community Services' while the State Planning Policy Framework (SPPF) effectively covers this issue in the 'Settlement' clause.

While the State Planning Policies have a strong focus on Melbourne and large regional centres, clause 11.08 (Gippsland Regional Growth) has particular application for South Gippsland. Given its regional focus, Leongatha is the most frequently specified part of South Gippsland within this clause, with Port Welshpool, Port Franklin, Corner Inlet and Anderson Inlet also identified in regards to their specific qualities relating to the fishing industry and the environment. The balance of South Gippsland is covered by policy according to topic – for example agriculture, sustainability, the role of small settlements and the like.

7.1 Assessment

The Planning Scheme has been significantly improved since the Review 2010 in terms of its LPPF fit with the SPPF, local relevance, and clarification of rural policies to protect agricultural resources and removal, relocation and simplification of content. Amendments C63 (RLUS), C68 (MSS Review), and the several amendments providing direction for both the Shire's numerous settlements and the urban growth areas have been responsible for this progress. Council has also improved its ability to obtain development contributions at the rezoning stage to support construction and expansion of infrastructure to meet the population's needs.

In terms of the future direction of the SPPF, Council's submission to the SPPF Review Advisory Committee in May 2014 highlighted areas where the Planning Scheme could potentially have Local Policies developed and inserted.

Following the recent example of the City of Latrobe, a policy positive MSS review could be designed for easy translation into a new format planning scheme on the expectation that it is likely to be implemented within the next four year review period by the State Government.

7.2 Recommendations

That subject to funding and resources, Council:

1. Carries out a policy-positive planning scheme review (MSS and LPPF) to remove unnecessary duplications of State Policies and to prepare for alignment with the new format.
2. Considers development of policies in areas currently not addressed but which are likely in the new format planning scheme.

8.0 Alignment with Gippsland Regional Growth Plan

8.1 Assessment

The Gippsland Regional Growth Plan (GRGP) focuses most intently on the fast growth, economy-powering parts of Gippsland with larger populations and high capacity transport links closer to Melbourne. There is relatively little policy specific to South Gippsland but many generic GRGP policies apply. The Planning Scheme enhances the relevant aspects of the GRGP through local policies.

8.2 Recommendations

1. That Council continues its participation when the GRGP is reviewed.

9.0 Alignment with Council Plan

The Planning Scheme is also required to align with the Council Plan. Both the Planning Scheme and the Council Plan are reviewed every four years in line with the local government election cycle. The Planning Scheme Review occurs after the Council Plan has been reviewed, to ensure policy consistency flows from the prime Council document.

Tables 3 and 4 illustrate the comparable sections of the Planning Scheme with the Council Plan.

Table 3

Council Plan			Planning Scheme
Outcome	Objective	Strategies	Clause/Title
1. A prosperous Shire	1.1 Work with the business community to support existing businesses, diversify employment opportunities and to attract new businesses.	1.1.1: We will actively plan for growth and economic development. 1.1.2: We will protect and retain the unique identity of town, villages and farming districts. 1.1.3: We will actively encourage sustainable development and growth of agriculture, industry and commercial business. 1.1.4: We will promote and encourage tourism through development support.	Clause 21.06 Environmental and Landscape Values cl. 21.08 Natural Resource Management cl.21.09 Built Environment and Heritage cl.21.11 Economic Development cl.21.12 Transport cl.22.01 Advertising signs cl.22.02 Industrial Development cl.22.04 Heritage cl. 22.05 Rural Dwellings cl.22.06 Rural Subdivision cl. 22.07 Rural Activity Zone
	1.3 Improve the sustainability of the local and regional environment.	1.3.1: We will actively engage businesses, farmers, industries and individuals in creating a clean, green Shire, where environmental sustainability is embraced and practiced. 1.3.2: We will promote sustainable waste management practices, energy efficiency and management of our natural resources.	cl. 21.06 Environmental and Landscape Values cl.21.07 Environmental Risks cl. 21.08 Natural Resource Management
3. Integrated Services and Infrastructure	3.1: Deliver affordable modern community services and facilities through an integrated approach to planning and infrastructure development.	3.1.2: We will collaborate with other agencies and service providers to focus attention on growth areas and avoid duplication of services. 3.1.3: We will develop an integrated planning approach for our townships and villages, so that facilities are located in areas where they are most appropriate 3.1.4: We will plan for the service needs of the Shire's changing demographic.	cl. 21.05 Settlement cl.21.07 Environmental Risks cl.21.09 Built Environment and Heritage cl.21.10 Housing cl.21.13 Infrastructure cl. 21.14 Community Services 21.15 Local Areas cl.22.03 Interim telecommunications

		3.1.5: We will encourage sustainable development that promotes the health, well-being and unique character of the community.	Conduit Policy
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In terms of Council's ability to deliver efficient and effective planning services with appropriate opportunities for community engagement, the following section of the Council Plan is relevant.

Table 4

Council Plan			Planning Teams
Outcome	Objective	Strategies	Processes
4. A Leading Organisation	4.2: Pursue best practice in organisational development and operations of the organisation	4.2.3: We will make informed decisions and provide opportunities for the community to participate in the decision making process. 4.2.4: We will create an environment for people to be their best, to optimise the performance of the organisation and to deliver quality outcomes for the community.	Internal procedures ensure that statutory advertising and exhibition processes are appropriately applied for planning applications and Planning Scheme amendments. Community engagement is a strongly encouraged and planned aspect of projects providing strategic basis for future Planning Scheme amendments and social infrastructure policies.

9.1 Assessment

The Planning Scheme is closely and appropriately aligned with the Council Plan. As noted by the Sustainability Team, the current emphasis on sustainability needs a comparable updating in the Planning Scheme.

The Council Plan also links with many other Council documents relevant to the Planning Scheme, including Community Infrastructure Plans, the Economic Development and Tourism Strategy, forward budgets (for example streetscape master plan works), the Paths and Trails Strategy and the Municipal Public Health and Wellbeing Plan. The Municipal Domestic Wastewater Management Plan (MDWMP) 2012-2017 is a highly relevant document related to the Planning Scheme. It has yet to be adopted by Council. Council will likely be in a position to adopt this Plan by the end of the current financial year. It will need to be referenced as part of any policy positive review of local planning policies.

9.2 Recommendations

1. That Council's Strategic Planning and Development Team continue participation in the progressive development and implementation of the Council Plan and relevant documents that flow from the Plan, so that the Planning Scheme remains aligned and responsive to the aspirations of Council and its community.
2. That an MSS/LPPF policy positive review includes reference to relevant changes and updates in an adopted MDWMP 2012-2017.

10. Fulfilment of the Scheme's objectives

The Planning Scheme's key issues are outlined at cl. 21.03 Key Issues. The issues are listed as Settlement, Environmental and Landscape Values, Environmental Risks, Natural Resource Management, Built environment and heritage, Housing, Economic Development, Transport, Infrastructure and Community Services. These are addressed in detail through the balance of the Municipal Strategic Statement (MSS) with local policies and objectives in same-named clauses from 21.05 (Settlement) through to clause 21.14 (community services).

10.1 Assessment

No new issues have emerged over the period 2011-2014 that could be considered to be outside the scope of the broad topics covered by the key issues. At the time of the Review 2010, there were only five key planning issues in the MSS but eight local planning policies. The current set up was obtained with gazettal of C68 (MSS Policy neutral review) and aligns with the recent style of MSS required for planning schemes in Victoria.

Council's Sustainability Team commented in its feedback that the current objectives and policies in cl. 21.07-1 Environmental Risks - Climate Change, were too narrow. The Team noted that the clause was restricted to coastal climate change risks and did not address other climate change risks already occurring or anticipated in the municipality. (See Appendix 9) This team also identified out-dated alternative energy terminology used in the MSS.

Council's submission to the SPPF Review also highlighted a number of gaps in topics covered by other planning schemes or potentially to be included in a reformed SPPF. The topics where the Planning Scheme has gaps are: Bushfire risk management, Coastal acid sulphate soils, Contaminated and potentially contaminated land, Urban food production, Sites of Aboriginal cultural significance, Special housing, Gippsland Coalfields, Tourism (potential for (expansion), Rail Trail Networks (possibly a Gippsland Regional Policy), Agricultural airstrips and Whole of water cycle management. Based on community engagement, a policy-positive review of the Planning Scheme could fill these gaps.

Policies and objectives for many of the municipality's towns and districts are contained at clause 21.15 (Local Areas). This clause has been expanded during the Review period, with a number of Town Framework Plans and Urban Design Frameworks being inserted or revised. These included amendments C72 and C77 for localities in the western and eastern districts of the Shire respectively. C90 (HSS) is in progress. It proposes implementation of almost 20 framework plans for small settlements. Mirboo North Structure Plan is now 10 years old and due for review. Areas proposed (at the time of its adoption) for future expansion are developed or in the process for rezoning to enable higher density subdivision and development.

The changes to cl. 21.15 during the last four years have introduced geographically local policies for:

- Defining settlement boundaries;
- Enhancing town character;
- Supporting town economies; and
- Directing where Council prefers residential, commercial and industrial expansion.

Reticulated sewerage is currently being installed at Nyora, Loch and Poowong. Once completed, this infrastructure will facilitate growth that was previously not supported by the Planning Scheme due to a lack of infrastructure. Nyora, the closest town to the Melbourne Growth Boundary, is set to rapidly grow and develop as an urban settlement in South Gippsland. Potentially, it may overtake some of the Shire's existing towns in terms of population, services and facilities. Nyora Development Plan is currently a major work in progress for Council's Strategic Planning Team.

Local Planning Policy Framework clauses 22.01 to 22.07 address the issues of: Advertising signs, Industrial development, Interim Telecommunications Conduit Policy, Heritage, Rural Dwellings, Rural Subdivision and the Rural Activity Zone. As noted in Stakeholder feedback, it may be possible to delete some of these due to overlap with the SPPF, and integrate the remainder into the MSS as part of a policy-positive review.

The most common stakeholder complaint was that the Planning Scheme triggers, exemptions and assessment guidelines do not adequately support or relate to the Planning Scheme's objectives. While overall this is a concern, many of the changes suggested could be readily made. Other evidence generated by the PS Review, including VCAT decisions, indicates the Scheme is generally achieving its objectives.

10.2 Recommendations

Detailed recommendations are included in Appendices 7, 8 and 9.

11.0 Zones

In mid-2013 the State Government made a number of changes affecting planning schemes across the State with a series of amendments reforming zones. Changes to the provisions of the Rural, Commercial, Residential and Industrial Zones were progressively gazetted within a short period.

11.1 Assessment

The Rural Zones reforms introduced the possibility of increased industrial and commercial development/uses across the Shire. To date, there have been a small number of applications approved that would previously have been prohibited. While the amount of such development is not significant, there is potential for a cumulative change. If this occurs, the positive and negative impacts are unknown. The increased flexibility also enhances possibilities for tourism beyond the possibilities previously concentrated in the Rural Activity Zone (RAZ).

Council would benefit from keeping a record of previously non-traditional proposals being sought or approved in its rural zones during the review period 2014-2018. Benchmarking changes in development and land use that occur in other rural municipalities would also be helpful. In combination, this information would alert Council to emerging trends in land use changes, and their possible consequences.

While the reforms have reduced the difference in development opportunities between the FZ and the RAZ, the zonings have different purposes which provide sufficient point of difference to support continuation of the RAZ in the Planning Scheme. Stakeholders have requested the reversal of an inadvertent policy introduced in clause 22.07 Rural Activity Zone, which requires development of a

dwelling to be in association with a tourism development. There are circumstances where development of a house would be conditionally acceptable without the need for an associated tourism use.

The State reform of residential zones also affected the former Residential 1 Zone, which applied in the four largest towns. As Council opted for direct translation of the R1Z to the GR1Z, the impact has been minimal. There has been no discernible change in land use patterns as a result of the changes and Council has not received any amendment requests to use any of the other new residential zones. The reforms have not had noticeable effect on either the Township Zone, which applies to many of the Shire's small settlements, or the Low Density Residential Zone which is located on the edge of several towns.

Reforms to Industrial, Commercial and Mixed Use Zones have also made little change in South Gippsland. The change to the Industrial 3 Zone (IN3Z) has however prohibited development of a supermarket on any site with that zoning, including the former Korumburra Saleyards, because a supermarket is now prohibited in the IN3Z if it is outside metropolitan Melbourne and the urban growth boundary.

11.2 Recommendations

That Council:

1. Monitors the rate, type and spread of industrial and commercial developments in the FZ that either seek planning approval or occur without the need for planning approval.
2. Seeks information on changes (possibly via the Municipal Association of Victoria and/or the State Government and professional planning bodies) involving increased industrial and commercial development in the FZ in other large rural municipalities for the purpose of understanding trends, issues and solutions that may become relevant to South Gippsland.
3. Includes consideration of altering RAZ policy to allow for dwelling development in certain circumstances without associated tourism development in any policy positive review of the MSS and LPPF

12.0 Overlays

In November 2011, the State Government's VC83 brought in the Bushfire Management Overlay (BMO) to replace the former Wildfire Management Overlay. The provisions for creating defendable space through vegetation management, building materials, emergency vehicle access and the like had a significant effect in South Gippsland due to the extent of this overlay in the municipality.

Changes resulting from more accurate flood information are already in progress via C81 to implement the LSIO and to delete the ESO 6. Although not as advanced, negotiations and work is also underway on further application of the ESO 2 for land in the declared Tarwin River Water Supply Catchment.

12.1 Assessment

Development of small lots in fire risk areas (whether in coastal resort estates or scattered throughout the FZ) became more difficult after the BMO introduction. This is especially where they

are located close to vegetation on land in different ownership. Larger lots in the FZ were affected in terms of ability to provide safe access and ability to position a dwelling in cleared areas. The requirements increased application assessment complexity as re-siting and redesign was required for affected planning applications, and some refusals resulted. The refusals were upheld when appealed at VCAT. As there are no transitional provisions, amendment of permits with fire management conditions where the BAL rating has increased has become problematic. This situation will continue until all live permits in this situation are either completed or lapse.

External practitioners and internal stakeholders reported confusion and difficulties for applicants as a result of the Fire Management Plan template tool being withdrawn. They would welcome introduction of a tool to increase simplicity and certainty when making applications affected by the BMO. While the fire risk reduction conditions are strongly supported, it is a challenge for Council to provide resources to ensure ongoing compliance with fire management permit conditions.

12.2 Recommendations

That Council:

1. Requests the State Government to consider introduction of tools or other measures to simplify the application process for locations affected by the BMO.
2. Reviews the resources (and funding sources) available for compliance checking and enforcement in association with fire risk reduction conditions on planning permits.

13.0 Office Statistics

The CIR Kit addresses Council's Statutory and Strategic Planning operations for the purpose of identifying areas for benchmarking and cost reduction. Appendix 10 contains information about staffing levels, departmental costs, enforcement and VCAT/Planning Panels.

13.1 Assessment

The CIR seeks comparative information for the 2012/13 and 2013/14 financial years. Council's Finance Team was readily able to source information on budgeted EFT hours for specific staff positions in 2013/14 (and ongoing). Council's People and Culture Team provided Actual EFT information for specific staff positions. As the information was for the EFT status on 30 June for each of the financial years, it only provides a snapshot on a single day. Therefore this does not show any vacancies occurring between one employee leaving and another commencing in the position as a replacement. Analysis would be improved if the Review sought actual staff resourcing throughout the year against the budgeted EFT for the positions in the Planning Teams.

The gross cost of running Council's statutory and strategic planning services (not including overheads for corporate management but including items such as employee on-costs, share of Director's time etc) reduced from \$2.16 million in 2012/13 to \$1.83 million in 2013/14.

Cost savings are a result of reducing consultant expertise and resources for projects undertaken in 2013/14. Staff changes also resulted in savings. These include a reduction in hours for casual statutory planning officers and permanent strategic planning officers, and the ending of the fixed term contract strategic planning position. Savings have accrued with temporary vacancies following

resignations of Coordinators in both sections. While staff reductions bring savings, they are also associated with projects being delayed or postponed.

Application fees for development of land range from \$102 (development less than \$10,000) up to \$1,153 for developments in the \$1 million - \$7 million range. The fee scale continues to rise with the cost of development value until it is capped at \$16,130 for developments exceeding \$50 million in value. Fees for applications for a single dwelling and ancillary works or extensions range from zero (<\$10,000 value) up to \$490 (>\$100,000 value).

Processing of planning scheme amendments requested by external parties is similarly a cost burden on Council. Amendment stage fees are: Stage 1 (consider amendment request) and 2 (exhibition, consider submission and Panel report) \$798. Stage 3 (adoption and submission for approval) is \$524. The stage 4 fee of \$798 (consider approval and give notice) is forwarded to the Minister for Planning. While the actual cost to Council has not been calculated for processing requested amendments, the costs of assessing, reporting and processing amendments are anticipated to be significantly greater than the fees received.

Council's Planning Advisory Officer receives an average of 16 statutory planning enquiries per day. This figure has remained steady over the last two financial years. Council does not charge a fee for this service, unless a written response is requested.

Fees and charges for planning permits, subdivisions and amendments are set by State Government. The fees are not indexed and have not been increased since approximately 2009. This restricts Council's ability to recover the costs of assessing planning applications and of amending the Planning Scheme at the request of proponents.

13.2 Recommendations

That Council:

1. Requests the State Government to consider increasing and indexing fees and charges for Council planning services.
2. Approaches planning teams in other Gippsland and similar large rural municipalities with a view to benchmarking planning services costs and savings.

14.0 Work Plans

In addition to responding to amendment requests and continuing with amendments in progress, there are three funded projects for the Strategic Planning Team during 2014-16. These are:

- Nyora Development Plan;
- Korumburra and Leongatha streetscape projects; and
- Development of a Significant Landscape Overlay for Turtons Creek.

Mirboo North Structure Plan, and development of an Environmental Significance Overlay to protect the Giant Gippsland Earthworm are proposed to be funded in 2015/16.

Use of the State Government's Flying Squad (grant funded) to expand Council's ability to do more strategic planning projects in the period to 2016 is also being considered.

The Statutory Planning Team aims to improve planning information on Council's web site and is keen to improve any practices that may be highlighted in the Review.

14.1 Assessment

Formal plans are under development for the 2016-18 when the Review cycle is due again.

Recommendations

That Council:

1. Pursues opportunities to obtain grants, cooperative project input from other Gippsland municipalities and also assistance from the DELWP Flying Squad to extend its ability to undertake strategic planning work recommended in the Appendices to this report.
2. Gives high priority to projects that minimises risk and maximises economic development potential.
3. Gives medium priority to projects that will minimise permit triggers, focus on areas with broadest application across the Shire and improve reporting mechanisms for future reviews.
4. Generally undertakes proposed planning scheme improvements in a holistic manner rather than as piecemeal changes, as the latter are more susceptible to inconsistencies in content with other provisions. (Note: small error fixes can still be carried out in general amendments or in association with other amendments.)
5. Drafts a work plan for its Planning Teams for the period 2015-2018 to work through the preferred recommendations of the Review 2014.

15.0 Conclusion

While the South Gippsland Planning Scheme is fundamentally sound, its regular users have contributed a large number of suggestions for improvement. Many of the ideas are simultaneously raised by both internal and external stakeholders. Improvements are aimed at recognising issues of highest risk, clarity, consistency, increasing ability to implement the Planning Scheme's objectives and minimisation of burden on landowners/developers.

As a result, Council's Strategic and Statutory Teams have a list of possible projects. These need to be prioritised due to limitations on funding and staff resources. Council may also wish to seek funding contributions from external source.

Cooperation with other Gippsland Councils and with similar large rural Councils could bring mutual benefits in terms of both operations and planning scheme projects.

Council has the ability to make some process improvements across several teams (Development Services, Finance, Governance, and People and Culture) to assist with improved data analysis during the next Review.

The Review has also raised issues for State Government to consider, as they relate to matters of State Government influence in planning schemes.

Appendix (1) Review 2014 - Consolidated Recommendations

General recommendations	
High Priority	
1.	Review and amend application of Overlays and associated schedules (especially Environmental Significance Overlays, Significant Landscape Overlays, and Design and Development Overlays and Parking Overlay.). Especially ESOs 2, 5, 6, EMO, LSIO and DDOs 3-6 <ul style="list-style-type: none"> - Improve Overlay mapping accuracy and associated application by the Planning Scheme. - Complete Amendment C81 Land Subject to Inundation Overlay and deletion of ESO6.
2.	Develop an Environmental Significance Overlay to protect habitat of the Giant Gippsland Earthworm.
3.	Conduct a policy-positive review of the Municipal Strategic Statement and Local Planning Policies <ul style="list-style-type: none"> - Consider all suggestions/issues raised by stakeholders - Conduct regular 'tidy-up' reviews - Review cl.22.07 in relation to development of a dwelling not in association with a tourism use/development. - Update as required after Council adopts the Municipal Domestic Wastewater Management Plan 2012-2017.
4.	Review resources available for compliance checking and enforcement in association with fire risk reduction conditions on planning permits.
5.	Continue voluntary inclusions of heritage features in the Heritage Overlay.
6.	Review and update (focusing on technical corrections) the South Gippsland Heritage Study 2004
7. 1	Undertake a general tidy up amendment to implement quick fix errors identified by stakeholders
8.	Subject to clarification of State policy, complete developer contributions scheduling.
Medium priority	
9.	Consider inclusion of local policy guidelines for development of tourist facilities in the Rural Activity Zone and Farming Zone.
10.	Consider scheduling local VicSmart planning application categories
11.	Consider development of policies in areas currently not addressed but which are likely in the new format planning scheme.
12.	Monitor the rate, type and distribution of industrial and commercial developments in the FZ and explore the need for additional policy guidance.
13.	Consider introduction of a Vegetation Protection Overlay to protect trees of significance as well as vegetation clusters of significance.
14.	Monitor rural land ownership patterns for emerging trends and changes in land use patterns.
15.	Produce information for professional practitioners and the public to explain planning scheme changes and FAQs about planning applications.
16.	Request VicRoads as proponent to re-gazette highway routes in South Gippsland and tidy up inaccuracies in Public Acquisition Overlays.
17.	Hold regular (possibly annual) Planning Scheme and planning staff familiarisation sessions and provide educational updates (probably electronically) about planning application procedures and strategic planning changes. Relevant to external practitioners and agencies as appropriate.
18.	On completion of voluntary Heritage Overlay inclusions, consider a general HO amendment, subject to detailed community and landowner consultation.

Appendix (1) Review 2014 - Consolidated Recommendations

19.	Update land use and development hazard mapping (coastal inundation, inland flooding, fire, land slip) as new information becomes available and resource prioritising allows.
Low priority	
20.	Update public land zonings and DDO 1 as recommended by Review 2010.
21.	Review alignment and duplication of Planning Scheme and Local Laws provisions.
22.	Work with Gippsland councils and the state government on effective implementation of the key recommendations of the Gippsland Regional Growth Plan into the Planning Scheme.
23.	Consider use of new DDOs or new Residential Zone provisions for settlements.
24.	Review ESO 3 and ESO 7 both titled 'Coastal Settlements'
25.	Review alignment of Parking Overlay schedule provisions with VicSmart provisions.
26.	Seek interest from other Gippsland Councils in cooperative strategic investigations and amendments of mutual interest.
27.	Investigate improved mapping of Coastal Acid Sulphate Soil risk.
Recommendations related to Statutory Planning functions (no priority order)	
28.	Continually improve pre-application meeting processes, especially for applications with multiple planning scheme issues such as DDOs, BMO, wastewater etc. Include tick box for yes/no pre-app meeting notes required and copy of any notes to applicant.
29.	Review Request for Further Information process to explore ways to reduce RFIs.
30. 1	Review causes and solutions for applications being received with insufficient or sub-standard information both initially and in response to RFIs. Continue to consult with referral authorities to improve quality of information supplied to all parties.
31.	Identify improvements to internal referral processes to assist prompt distribution of referral information to external parties (where required), or prompt commencement of permit notification - advertising.
32.	Review response times from Biodiversity Team.
33.	Review process for condition wording to provide clarity and enforceability of conditions.
34.	Review reasons why planning permit amendments are required (common themes) and potential solutions to reduce the need for amendments.
35.	Collect data on planning applications to assess the number and types of applications being triggered where assessment is not considered to add planning value – especially in relation to overlays with permit triggers related to increases in floor area.
36.	Review the decision process for application notification (advertising).
37.	Review checking (peer review) methods to ensure accuracy of planning permits prior to issue.
38.	Consider methods to improve wording of Section 173 agreements required by planning permit conditions.
39.	Consider peer review of VCAT submissions prior to hearings.
40.	Continue participation in the progressive development and implementation of the Council Plan and relevant documents that flow from the Plan, such as the Annual Plan, the Economic Development and Tourism Strategy and the like, so that the Planning Scheme remains aligned and responsive to the aspirations of Council and its community.
41.	Draft a work plan for the period 2015-2018 to work through the preferred recommendations of the Planning Scheme Review 2014.
42.	Consider improvements to planning application registration dating accuracy.
43.	Consider Council's records system including the consultant's contact details if different to the applicant and/or owner.

Appendix (1) Review 2014 - Consolidated Recommendations

44.	Consider monitoring site inspection-recording processes to assess quality and availability of information, including photo documentation, in hard copy and electronic records.
45.	Complete reasons for requiring a planning permit in the record sheet for initial/early application.
46.	Document reasons for variations to permit conditions at any stage in the process but especially between the Delegation report and the permit issue.
47.	Cooperate with Governance Team to benchmark and simplify the Deed of Delegation
48.	Review solutions to reduce time period between the receipt of all information requested and the date a decision is made (Delegation report signed off).
49.	Keep files in date order and use dividers to highlight important items. Review practice of bringing documents forward when permit amendment sought or VCAT case.
50.	Reminder for file notes to be typed or printed, and meaningful to others.
51.	Review use of dividers and template sheets in files.
52.	Review retention of email print outs in files and ensure correct registration of emails in the (Trim) electronic system.
53.	In Gippsland Water catchment area, only refer applications to Gippsland Water where there is a documented environmental or public health issue.
Recommendations related to Strategic Planning functions (no priority order)	
54.	Ensure consistency with existing provisions in parallel circumstances when developing policies for Design and Development Overlays; Also consider impact on subdivision.
55.	Conduct the next planning scheme review on a financial year basis. Suggest 2014/15 to 2018/19.
56.	Consider policy wording advice contained in VCAT reviews (South Gippsland and Red Dot decisions) when updating or inserting Local Policies.
57.	Consider methods to improve wording of Section 173 agreements required in relation to planning scheme amendments or amendment/permit combinations.
58.	Continue participation in the progressive development and implementation of the Council Plan and relevant documents that flow from the Plan, such as the Annual Plan, the Economic Development and Tourism Strategy and the like, so that the Planning Scheme remains aligned and responsive to the aspirations of Council and its community.
59.	Review planning application Delegation reports from last two years to assess frequency and type of duplication/conflicts between SPPF and LPPF when policy-positive LPPF review conducted.
60.	Share Planning Scheme Review with other Gippsland Councils.
Forward comments to State Government (no priority order)	
61.	Request State Government to consider increasing and indexing planning fees and charges.
62.	Request State Government to consider development of assessment guidelines for tourism applications in the rural zones.
63.	Request State Government to review permit triggers for setbacks from features such as a watercourse, road zone etc. to minimise number of applications where assessment does not add planning value.
64.	Request State Government to consider definition improvements to the following: <ul style="list-style-type: none"> - Agricultural activity –which works are included/excluded - Brothel - Home occupation - Accommodation (removability) - Animal keeping

Appendix (1) Review 2014 - Consolidated Recommendations

65.	Advise State Government that lack of transition provisions and Bushfire Management Plan template is causing difficulties for applicants (especially where amending permits) and Council.
66.	Advise State Government of cl. 52.05-10 anomaly, with signage requiring illumination in Category 4 High amenity area.
67.	Advise State Government of cl.66.01-1 need for clarity re: Telecommunications mandatory condition - component numbers.
68.	Advise State Government that shared trenching policy has impracticality issues (cl. 56.09-1) – forward South Gippsland Water comments
69.	Advise State Government of VicRoads comments re: land adjacent to a Road Zone category cl. 52.29.
70.	Request State Government to consider development of a standard phrase to retain currency to Reference documents and references to government departments/agencies as referral bodies.
Seek State Government funding	
1	To assist with joint review (especially expert geo-technical consultancy) of Erosion Management Overlay (EMO) and Areas Susceptible to Erosion Overlay (ESO 5).
2	To assist with accurate mapping and Overlay development for areas with Coastal Acid Sulphate Soils.
3	To assist with compliance checking and enforcement of planning permit conditions (including Fire Management Plans) to reduce fire risk in areas where the Bushfire Management Overlay applies.
4	To assist with implementation of PS Review 2011-2014 recommendations generally. May include use of DELWP flying squad.



South Gippsland Planning Scheme Review 2010

Introduction

This report details the findings and recommendations of the review of the South Gippsland Planning Scheme as required by section 12B(1)(a) of the Planning and Environment Act 1987.

This section requires that within 12 months of the Council Plan being adopted pursuant to section 125 of the Local Government Act, a Planning Scheme review must be completed.

This is a high level review which will make recommendations on more specific work that needs to be undertaken in order to amend particular clauses in the Scheme. These projects will be identified in future Strategic Work Plans for the coming years.

This review will identify areas of the Scheme that are currently working well, areas for improvement and any aspects that are considered redundant. It will also identify areas of the Scheme that Council does not have power to directly influence where it is considered that improvement can be made (such as VPPs and SPPF).

The process of assessing Planning Permit Applications is also reviewed in this report with appropriate recommendations on how this process can be improved and what is required in order to achieve this.

The aim of this review is not to commence any specific Planning Scheme Amendments.

Process

The findings of this review were gathered by the following means:

- Consulting with regular users of the planning system in South Gippsland on 21 August 2009;
- Consulting with external referral authorities in December 2009;
- Consultation with senior planning department staff;

- Audit and analysis of randomly selected planning permit application files from 2009;
- Reviewing VCAT decisions;
- An audit of the contents of Planning Scheme itself; and
- Using some of the findings of the previous Scheme audit by Coomes Consulting, July 2006, as appropriate (the Coomes Report).

The South Gippsland Planning Scheme

Background

The South Gippsland Planning Scheme (the Scheme) was gazetted on 19 December 1999 in the new format (VPPs).

Notably, there have been four significant local amendments to the scheme in recent times:

- Amendment C48 which was an “interim” Ministerial Amendment effectively prohibiting the issuing of any planning permits for the use of land for a dwelling in the Farming Zone on lots less than 40 hectares in area as well as restricting the subdivision provisions further within that zone. This amendment was gazetted in May 2009;
- C45 implemented the Coastal Places and Spaces project including the Urban Design Frameworks for some of the Shire's coastal towns. This amendment also removed some overlay controls and implemented a number of new overlays into the scheme in these areas. This amendment was a significant step forward for the future planning and development of coastal townships;
- C26 was another Ministerial Amendment which implemented the Wildfire Management Overlays generally in line with the Bushfire Prone Areas mapping pursuant to the Building Act 1994.
- C51 replaced C48 and introduced new provisions relating to use and development of land in the Farming Zone.
- C46 Implemented town structure plans for the towns of Leongatha, Foster, Mirboo North and Loch.

A key aspect of the Scheme is its influence on the land use, development and subdivision of rural land. By way of background to this particular aspect of the scheme, the then Minister for Planning identified in 1999 that a Rural Strategy was required and raised concern that there were apparent intentions to encourage small lot subdivision and development within rural areas.

A Rural Strategy was completed in 2001 and implemented as part of amendment C10 which was gazetted in 2004. The gazettal, however, did not implement the key findings of the South Gippsland Rural Strategy. It should be noted, however, that significant progression has been made on a subsequent Rural Strategy. This will continue and the implementation of amendment C51 has again brought the development and implementation of a Rural Strategy into the spotlight. C51 is an “interim” amendment and is largely dependent upon the Strategy being implemented into the Scheme.

C45 was a major amendment that has resulted in some of the most significant changes to the Scheme in recent times. It was the culmination of the Coastal Spaces Landscape Assessment Study and Coastal Urban Design Framework Project. The ESO3 was removed from the townships of Venus Bay, Sandy Point and Waratah Bay and directly replaced with the ESO7. The ESO3 remains in all other areas where it previously applied. New DDO’s were also introduced to these three coastal township areas. The DDO’s give much greater direction and strength to decision making than previously possible under the ESO3. C45 saw the separation of environmental and development objectives into separate controls.

C45 also resulted in the SLO being introduced into the scheme for the first time with three schedules. The SLO’s are the recognition of two regionally significant and one state significant landscape along the South Gippsland Coast.

C26 was implemented to introduce Wildfire Management Overlays into the scheme. This was also a Ministerial Amendment which was similar to other Ministerial Amendments introduced to other Schemes throughout the state that did not contain WMO’s. The mapping for the WMO was derived from Bushfire Prone Areas mapping used under the Building Act. Council will continue to work with DPCD to ensure that these maps are refined as officers identified some areas that either should not have been included but were and vice-versa.

The recent implementation of C46 has seen structure plans introduced for Leongatha, Foster, Mirboo North and Loch. This now gives greater direction on the future development and growth of these towns.

The ‘Korumburra Structure Plan October 2008’ is yet to be implemented into the Planning Scheme due to a number of site specific matters of concern, including the proposed development of an out-of-Town-Centre supermarket-based shopping centre. The Structure Plan was referred to DPCD’s Priority Development Panel (PDP) for consideration. The PDP report was received in May 2010 and adopted by Council in June 2010. Council has amended the Korumburra Structure Plan, in accordance with the recommendations of the PDP and prepared a planning scheme amendment request to implement the key recommendations of the Structure Plan into the Local Planning Policy Framework. Council has requested the amendment be

introduced via a Ministerial Amendment. This request was under consideration at the time of the preparation of this report.

Implementation of the Korumburra Structure Plan into the Planning Scheme will complete the updating of township planning provisions for the main settlements in the municipality.

LPPF

The MSS and Local Policies section of the scheme is of a fairly standard structure and is relatively easy to follow. This was also noted by some stakeholders. A proposal to shift to an MSS structure that incorporates the local policies at clause 22 was not well received at the stakeholders meeting; the consensus was it would confuse the current readily accessible structure.

The current MSS identifies the profile and circumstances of the Shire, key influences, a vision statement, objectives, strategies and implementation objectives.

The strategies are broken down into five key themes:

1. Environment and Cultural Heritage
2. Economy
3. Settlement
4. Transport Infrastructure
5. Community Services

There are eight local policies:

1. Alternative Domestic Energy Supply
2. Dams
3. Advertising Signs
4. Industrial Development
5. Car Parking
6. Heritage
7. Rural Dwellings
8. Rural Subdivision

There are significant issues with the some of local policies and these will be discussed further below.

Policies and Strategies

The Coomes Report identified that the MSS did not provide appropriate direction to users and decision makers. This was a general comment aimed at the overall content of the MSS. Specific comment was also made about the lack of direction with respect to General Agriculture which underpins the Shire's economy. This is a major shortcoming and something that will be addressed through the current Rural Strategy. The introduction of C51 is seen to be both a step forward in the use and development of rural land but also an opportunity for Council to implement a holistic Rural Strategy. South Gippsland has attributes that make it one of the most productive agricultural areas in the state. These attributes must be protected to ensure that agricultural production is maintained and increased to ensure that the Shire's economy is protected. Council therefore views the preparation and implementation of the Rural Strategy as a high priority.

The Coomes Report also questioned the currency of references to other documents within the Scheme, and how much weight should be given to them when making decisions. Many of these issues remain. However, the recommendations of the Coomes Report included:

- Undertaking a holistic review of the MSS and local policies;

DPCD, in conjunction with Council officers, have commenced a 'Policy Neutral' review of the MSS. This has been identified as the first of a multi-step process that will aim to re-structure the MSS in order that a policy review can subsequently occur.

- Incorporate a Rural Strategy;

A new Rural Strategy has been prepared but not yet adopted by Council. This is likely to occur in the near future, particularly given the recent implementation of amendment C51.

- Complete and incorporate Coastal Structure Plans.

This has been completed through C45.

- Prepare and complete structure plans for the other major towns.

This process is currently occurring via amendment C46. Council has received a very favourable panel report adopting most of Council's recommendations.

The Coomes Report recommended greater clarity and detail in order to better prepare and assess planning permit applications. This still largely remains as the key issue regarding the MSS and local policies. However, progress has been made, with particular respect to the coastal townships and the Structure Planning process for

the larger towns. The introduction of C51 will also assist the assessment of planning applications in the rural areas.

Given the progress with the Rural Strategy, namely, the implementation of C51, C46 and C45, and the positive panel report for the major towns structure plans, improvements to the MSS are evident providing certainty for long term policy direction. However, the Rural Strategy and structure plans for the major towns need to be completed and implemented for this to be achieved.

Coastal townships were an area of the Scheme that the Coomes report identified as being of high importance. The implementation of C45 has addressed this and gives much clearer direction regarding coastal development. At the stakeholders meeting, it was identified that most of the coastal townships have a very established character, being residential, and therefore rezoning to Residential 1 should be considered by Council.

This desire is in direct conflict with MSS statements (at clause 21.04) that discourage higher density developments in small towns (including the coastal towns) until a number of prerequisites have been met. One of those prerequisites is the provision of reticulated sewerage and water. These utilities are unlikely to be provided in the foreseeable future. Considering Residential 1 contemplates higher density development than the current Township Zoning of these coastal towns, therefore, any rezoning of these areas is highly unlikely to occur in the foreseeable future.

Conclusion of MSS status:

With the introduction of C45, C51 and C46, it is considered that the MSS has improved markedly in the last 8 months. Whilst there are still sections of the MSS that need significant work, the above three amendments go a long way to updating the MSS and giving greater direction for decision making at the statutory level. In addition, the MSS is intended to be restructured in line with modern State Government expectations for planning schemes.

Local Policies

Local Policies require review in terms of their relevance and also their content. Local Policies are intended to be used when there is a Planning Permit trigger elsewhere in the scheme for specific subjects.

Given the minimal volume of planning permit applications (and triggers) for dams in recent times and the almost non-existent requests for alternative energy supply in order to meet mandatory requirements in the Farming and Rural Living Zones, clauses 22.02 and 22.03 are considered to be largely redundant as independent policies. These statements should be incorporated in to the MSS.

Clause 22.04 – 22.06 inclusive are considered to be more relevant given these matters are often considered as part of planning permit applications. Clauses 22.04

(Advertising Signs) and 22.05 (Industrial Development) are not considered to require wholesale review. Clause 22.05 has clear policy direction and performance criteria. Clause 22.04 is similar although some clearer performance criteria as part of the policy would assist in decision making.

It is considered that review of the content of clause 22.04 should be undertaken, in conjunction with the more holistic MSS review to give greater direction and clarity when dealing with such matters.

22.07 – Council’s Heritage Policy was updated as part of Amendment C9. A very limited number of planning permits are triggered by the heritage overlay (less than 5 in the past 3 years). However, the policy is considered to be adequate and not in need of updating or review at this point in time.

The Coomes Report identified that assessment of planning applications was inconsistent due to a lack of policy direction in the MSS.

Despite the changes to the MSS since the Coomes Report was produced these comments are still considered to be relevant. This is backed up by the audit of completed planning permit applications that were completed for this review. This audit identified that there should be an increase in the assessment level of applications against LPPF provisions.

The introduction of two new policies, 22.08 – Rural Dwellings and 22.09 – Rural Subdivision have not been reviewed as part of this overall review, as that will occur as part of the C51 review and auditing process.

Zones

Residential Zones:

The suite and application of the residential zones is considered to be generally appropriate and gives adequate direction and certainty for development outcomes. The Mixed Use Zone, whilst limited in application, needs to be reviewed in order to determine its relevance and whether it has any benefit compared with other zones which may be more appropriate.

The proposed new residential zones the State Government has considered are of little relevance to South Gippsland. They appear to be geared towards addressing issues in Melbourne in order to assist in achieving Melbourne 2030 and similar urban consolidation outcomes. They will provide no benefit to the South Gippsland Planning Scheme.

Business Zones:

The application of the Business 1 Zone is considered to be generally appropriate. However, there could be greater benefit in reviewing the application of the Business 1 Zone, particularly in Leongatha. Leongatha contains a number of different land

uses within its CBD that the Act and Scheme seek to separate. The general existence of retail and office uses appear to have a “natural separation” on the ground which is not reflected in the zones. Office type uses are generally confined to the outer limits or periphery of the CBD with retail uses more centrally located.

Industrial Zones

It is considered that there is an adequate amount of land zoned industrial for the needs of the four major towns within the Shire. However, market unavailability has created difficulties for some businesses wanting to secure industrial land. Obviously, the amount of industrial zoned land on the open market is not something that Council can control through planning measures, when there is an adequate amount of such zoned land.

In Leongatha and Korumburra a significant amount of the available supply of industrial zoned land is topographically constrained and / or affected by waterways and native vegetation. The costs involved in levelling sites and responding to the various environmental constraints means that much of the land currently in the Industrial Zone may be very costly and difficult to develop. The Leongatha Framework Plan (at Clause 21.04-4) identifies land that is suitable for application of the Industrial Zone – adjoining the Leongatha Recreation Reserve. This land is flat and located in close proximity to the established industrial estate, however the road infrastructure required (including a remodelled railway crossing) may provide a challenge. Additional industrial land (IND3) is earmarked to be provided at the former Korumburra Saleyards site and Authorisation has been obtained to exhibit this Planning Scheme Amendment.

The topographic, environmental and infrastructure constraints to securing additional Industrial land is an issue for Leongatha (in particular) and the greater region. Council will be required to investigate these matters further and work with developers and statutory authorities (particularly VicRoads and potentially VicTrack) to ensure that economic opportunities for the region are not lost.

Rural Zones

This has been a topic of contention for many years, culminating in the Minister for Planning implementing Amendment C48 which restricted the use and development of land for dwellings and small lot subdivisions. C48 has now been replaced with C51. The Minister has indicated a desire that a Rural Strategy be developed and implemented into the Planning Scheme to complement C51 by 31 December 2011.

As part of the Rural Strategy, the following should occur:

- Consideration of whether any current Farming Zone land should be rezoned to the Rural Activity Zone;
- Monitoring and review of current C51 provisions including 22.08 and 22.09;

- Review of the Incorporated Document introduced with C51 as part of the Rural Strategy.

Other Zones

Public Zones

The application of the public zones is generally considered to be appropriate. However, there are some public zones inappropriately applied to land in the west of the Shire, most notably in the former Shire of Korumburra. These inappropriately applied zones typically occur along waterways within private land ownership. Whilst the application of this zone in such locations may afford some control over these features, if this control is to be maintained, it should be utilised by overlay controls rather than zones. This would require further strategic work to be undertaken and appropriate controls applied.

Road Zones

The application of road zones is generally appropriate. However, there are some remnant RDZ1 areas that are no longer considered to be worthy of such zoning. In particular, the realignment of the South Gippsland Highway west of Korumburra in 2006 / 2007 is of particular note where some land is zoned RDZ1 where the highway no longer exists. VicRoads should undertake this project in collaboration with Council.

Overlays

ENVIRONMENTAL SIGNIFICANCE OVERLAY SCHEDULES

ESO1 AREAS OF NATURAL SIGNIFICANCE

The ESO1 has limited application in the planning scheme maps. It is typically used inland from the coast and provides control over development in areas of particular landscape significance. The most significant of which would be the Grand Ridge Road which is a specified tourist route starting to the north-west in Baw Baw Shire and extending through to Wellington shire to the east.

Other landscape features are also controlled through the ESO1. Few planning permits are triggered by this control. Its application, guidance and permit triggers are considered to be adequate and appropriate.

ESO2 WATER CATCHMENTS

This control is considered to adequately address its purpose. Few planning permits are triggered by this overlay due to its limited application and given much of the land it applies to is under the tenure of the water authority.

The introduction of the ESO2 to the Tarwin Catchment should be considered.

ESO3 COASTAL SETTLEMENTS

The ESO3 was reviewed as part of the recent C45 Coastal Spaces and Places project / amendment. ESO3 was altered and its application was also amended as part of C45.

The Urban Design Frameworks for the Eastern Districts of South Gippsland project is currently underway and may include review of the ESO3 application to some of the coastal towns in this region.

ESO4 SEWAGE TREATMENT PLANT AND ENVIRONS

In recent times, the impact of this control on planning permit applications has been negligible. However, with the expected growth around towns such as Leongatha and Korumburra, this particular control may become more important as rezoning and development encroaches. However, this is expected to be addressed as part of any rezoning or development applications as they occur. It is not considered necessary at this stage to undertake a holistic review of this control where it applies to the larger townships.

The impending introduction of sewer connection to Loch, Nyora, Poowong and Meeniyan will facilitate further growth of these towns and the structure planning process has commenced to complement this. Further work may be required when the sites for all of the treatment plants are identified to control buffer distances around these facilities.

ESO5 & EMO

The ESO5 has long been recognised as one overlay in much need of review.

It is considered that the use of an ESO in order to mitigate erosion is not the most appropriate tool when there is a specific Erosion Management Overlay that can more appropriately address these types of issues.

The application of the ESO5 has come under much criticism in that it often applies to land that is not likely to be subject to erosion.

The actual schedule gives little in the way of direction and guidance for officers and system users alike.

The ESO5 is often seen as a planning permit trigger that offers little benefit for what it is trying to achieve. The wording of the schedule also creates much ambiguity as to when it actually triggers a planning permit. Issues with swimming pools, the term “resultant floor area” in the permit requirements and some other matters have caused much confusion in its application to enquirers and permit applicants.

Considering the EMO is used elsewhere in the Shire for similar reasons, the ESO5 and EMO should be reviewed together.

It is recommended that these two overlays be reviewed and any project to do this should essentially start from “scratch” and address the following:

- Application of the ESO5 & mapping;
- Wording of the schedule in reference to permit triggers;
- Whether the ESO5 should be replaced with the EMO;
- The benefit of the ESO5 for its intended purpose.

ESO6

The ESO6 (areas susceptible to flooding) is currently being review in collaboration with the West Gippsland CMA. The intent of this project is to delete the ESO6 and replace it with a Land Subject to Inundation Overlay (LSIO). This project is also investigating the application of ESO6 to review the accuracy and relevance of its application. In other words, this is not a project of translating the ESO6 into an LSIO, rather, it is reviewing recent flood data and utilising this data to apply the LSIO and remove the ESO6.

Once the project is complete, it could be used as an example of how to approach the ESO5 / EMO matter discussed above.

Council has recently exhibited Amendment C55 which seeks to apply the LSIO to the Bass River and its tributaries in the region west of Korumburra. The amendment has been prepared at the request of Melbourne Water, the drainage authority for this catchment. Unlike the catchments of the West Gippsland CMA, the ESO6 was not applied to the Bass River catchment. Assuming the Amendment C55 LSIO is introduced, this will provide ongoing environmental and safety benefits for the affected waterways.

ESO7 COASTAL SETTLEMENTS

This overlay schedule was introduced as part of C45 and is not considered to require any review at this time.

DESIGN AND DEVELOPMENT OVERLAYS

DDOs

The use of DDO's in the South Gippsland Planning Scheme has been somewhat limited until recent times. The introduction of Amendment C45 saw the introduction of 4 schedules to the DDO for the coastal townships.

DDOs 3-6 were implemented as part of the C45 Amendment and are not considered to require review.

DDO1 has had limited impact on development in recent times. Its purpose, guidance and direction is considered to be appropriate.

The existence of DDO2 has had almost no benefit in recent times due to a lack of planning permit applications within the area it covers. There have been no planning permit applications on land covered by this overlay for more than 2 years. However, the overlay should remain as the area that is affected by it remains largely un/underdeveloped and the basis for its introduction still remains relevant (interface with residential land).

SIGNIFICANT LANDSCAPE OVERLAYS

SLOs

Whilst the introduction of the SLOs has been recent, one issue has arisen a number of times relating to cattle yards. Post and wire fences are the only allowable fences within an SLO. Council considers that cattle yards should be exempt in the SLO as they are usually low in scale (less than 2.0 metres).

Other Provisions Worthy of Review

This review of the South Gippsland Planning Scheme has provided an opportunity to include other aspects of the Scheme that are worthy of note, including parts of the Planning Scheme that are unable to be directly influenced by Council:

- The Existing Use rights provision (Clause 63.11 - which allows for uses that have been illegally operating for 15 years or more) appears to be in direct conflict with the Planning Objectives for Victoria and the whole thrust of the Planning Scheme. There are planning enforcement examples of where this provision has been used in attempts to establish prohibited uses where operators were in full knowledge of the prohibition. This provision allows for ongoing unconditional use of land even though an illegal use may have gone unnoticed for some time.
- The absence of common property from the definition of a “road” in the Act has caused issues in relation to subdivision of unit developments. The issue arises when a large area of common property is created as part of a multi-unit development (without a concurrent subdivision application) and essentially serves as a road. No referral to the CFA is required at that stage. When an application is received to subdivide the land, only then can an application be referred to the CFA as a section 55 referral. This is often too late for the CFA to make any meaningful comment as there is little or no opportunity to influence the layout of the proposal. Clause 56.09-3 should also be included in clause 55 as the requirement of clause 56.09-3 may be difficult to achieve after the development has been completed/approved. Furthermore, the creation of large lengths of common property should be a referral requirement to the relevant fire authority (identical to when a road is created).

An example of the referral provision could be (under clause 66.01):

*To subdivide land outside the metropolitan fire district which creates a road **or common property serving more than X dwellings or longer than X metres**, where the requirements of Clause 56.09-3 are not met.*

South Gippsland has encountered an example whereby a referral to the CFA was only required as part of a subdivision application after a development permit (17 units) was issued. This has caused difficulty for the applicant, the Planning Department and the CFA in attempting to resolve this issue.

- Because of the narrow focus of the Farming Zone (sections 1 and 2) there should be more decision guidelines incorporated into the Farming Zone for section 2 uses.
- In reference to clause 62.04, the term “realign” is used with no definition or guidance as to what constitutes a realignment. There is little in the way of VCAT case history to assist in this regard. Clearer direction needs to be provided for both urban and rural realignments and to what extent they are allowed to occur. There have been many cases within South Gippsland where this exception has been used by proponents to create outcomes not otherwise supported by the Planning Scheme.
- The issue of climate change needs further direction than the State’s “Precautionary Principle” approach in the SPPF and Ministerial Direction 13. Whilst South Gippsland has some very vulnerable developed areas, it is not the only coastal municipality in such a situation and the VCAT decision for Waratah Bay does not recognise this. There have been subsequent VCAT decisions that also requested Coastal Vulnerability Assessments and this demonstrates the difficulties for Councils in regards to lot-specific assessment of sea level rise issues.
- The definitions and zone provisions relating to Animal Husbandry, Animal Keeping, Animal Boarding are rather confusing and the definitions are lacking. Whilst the nature of the Planning Scheme often allows for interpretation and application in different circumstances, South Gippsland Shire has experienced much difficulty with this aspect of the Scheme. For example, it is difficult to determine whether the term “keep” under Animal Husbandry refers to the ordinary meaning of the word or does it refer to the subset-definition of Animal Keeping? Depending on how the word “keep” is interpreted, the outcomes in different zones are almost polarised.
- Definition of tenement is unclear and confusing. The definition should be clarified and simplified, particular part (a) which uses confusing language. Suggestion: *“Lots in the same ownership not adjoining each other e.g. two or more lots in the same ownership that are separated by a road.”*
- There are buildings and works permit triggers in some zones (such as FZ and RLZ) where they are to occur within 100 metres of a waterway. Under the Water Act, CMA’s can only have regard to proposals within 30 metres of a waterway. Furthermore, there are no specified referral requirements pursuant to

section 55 of the Planning and Environment Act for such applications. The combination of the discrepancy between the Water Act and relevant zones and the lack of referral requirements creates inconsistency, unnecessary referrals and ambiguity in the process. In addition the zones and the Water Act should be aligned with appropriate referral requirements placed in the Victorian Planning Provisions (VPPs).

- The construction of cattle yards in close proximity to a road usually does not require a planning permit, as cattle yards are a series of fences, and fences generally do not require a planning permit. They would not be classed as buildings or works. As cattle yards are usually constructed on private property but often in very close proximity to road reserves, there appears to be no control in place for the construction of cattle yards (from any jurisdiction at any level) and the subsequent consideration of cattle trucks blocking the adjacent roadway when loading / unloading. Of course, there may be road laws restricting trucks from blocking roadways, however, this is an issue once the yards have been constructed in a location that forces trucks to block the roadway when loading / unloading. Consideration should be given to having some control (planning or otherwise) requiring all cattle yards within a certain distance from a road reserve requiring some form of permission, so that the potential blocking of a roadway is dealt with prior to the cattle yards being constructed.
- Shade sails on private land should be exempt from permit requirements, in much the same manner that certain decks and veranda's are exempt.
- Clause 52.17-6 – Table of Exemptions: under the Fire Protection exemption at dot point 6 of that exemption refers to section 8 of the Local Government Act 1989. Section 8 of that Act was repealed in 2003 and so any reference to that particular section should be removed.

Review of VCAT decisions

In 2009, there were 20 VCAT decisions for South Gippsland in the Planning and Environment List. Almost all of these decisions upheld Council's original decision. So far in 2010, there have been approximately 10 decisions, the majority of which upheld Council's decision.

These results demonstrate that Council is, for the most part, applying the planning scheme provisions appropriately. In cases where the VCAT decision set aside Council's decision, officers have analysed the decision findings carefully to understand why the decision was made and what, if anything, could be improved upon in determining similar matters.

File Audit Review

Processes

Meetings were held with DSE & VicRoads as well as with a group of local stakeholders including surveyors, draftspersons and planners.

Some common themes emerged from the feedback of VicRoads and DSE meeting. These included:

- Applications being referred under incorrect sections of the Act (e.g. under section 52 when it should be section 55 and vice-versa);
- Poor quality of application documentation submitted by applicants. This can cause lengthy delays in interpreting plans, requesting further information and so on.
- Documentation that is required under some Planning Scheme provisions is occasionally missing from referral documentation;
- Officers should call the relevant referral authority if comments or conditions are not clear;
- Both DSE and VicRoads are keen to receive and reply to referrals electronically.

These issues are currently being addressed, particularly as part of the STEP Planning improvement process.

Feedback from the Stakeholders Meeting:

The issues raised are summarised as follows:

Comments regarding the Planning Scheme

- The current structure of the MSS is easy to read and you can find what you want quickly. It compares well in structure to the schemes of surrounding Councils.
- Do not like the idea of rolling Clause 22 into the MSS as they believe it will complicate the format of the MSS.
- The scheme does not have too many overlays in comparison to other schemes. The zones are generally well applied – although issues in the rural areas.
- The ESO 5 is a problem. It is applied too broadly and commonly on flat areas that will not suffer from erosion. The control needs to be more appropriately applied. The control could be amended to have a trigger for building on a slope of more than, for example, 10% or 15% slope.
- Similar to ESO5, the ESO6 is also a big problem because of lack of accurate application. It needs to be paired back to just those areas likely to flood. Examples given of ESO6 100m above the floodway. Council officers agreed that this is a problem and is likely to be rectified with an upcoming amendment with the CMA to fix the maps and to roll the ESO6 into an LSIO.
- The Planning Scheme needs structure plan maps in the small townships – such as Fish Creek. One consultant said that we have FZ going into the middle of Fish Creek and this makes no sense. More structure planning is required across the small towns.
- The extensive use of the Township Zone in places like Sandy Point makes no sense. These towns have enough land use structure to allow the normal zones to be applied. This would create greater land use certainty.
- Concern was expressed about the lack of ability to approve tourism uses in the Farming Zone. Officers noted that this was outside the scope of the current Planning Scheme Review process.

- Car parking reductions and waivers need to be formalised in the Scheme. The current system of Council consideration of parking is perceived as inconsistent. Need to have parking precinct plans and from this to know quantity and cost of each space.
- There is a lack of small lots 500 – 700m² in the major towns. We need to cater for all sectors of the market and this is not occurring. The lots need to be wider and not deeper. People want long frontage to the street to provide for double garage plus wide house.
- Additional provisions should be built into the overlays to allow for dwelling additions bigger than 50m² to not require a permit.

Stakeholder Comments in relation to the planning processes

- Dislike of using the Planning Scheme online, would prefer to come into Council to discuss planning matters with staff. Find access to staff is good.
- Need to have drainage plans in place before land is released. Some consultants are struggling to get drainage across third party land.
- Some stakeholders would like to return to the process of creating carriageway access under the Transfer of Land Act.
- Expressed concern at problems accessing individuals in the Engineering Dept.
- Council officers should have more delegation and less going to Council. The Council process introduces vagaries and inconsistent decision making. If a permit is to go to Council it must be clear why it is going. There is current a perceived lack of clarity as to why particular applications are going to Council. This issue has now been clarified with a Notice of Motion allowing the department to make decision in most cases where there are less than 5 objections.

Summary Comments from Stakeholders Meeting

- In overview the matters raised as concerns are matters that the Planning Department is largely aware of already and is seeking to address.
- In terms of the Planning Department's functions in conducting its requirements under the Act and the Scheme the feedback was largely positive.

Overall Recommendations:

1. Undertake a holistic policy-neutral review of the MSS in conjunction with DPDC and Planning Panels Victoria; This is underway in consultation with DPCD.
2. Address climate change issues through liaison with the State Government.
3. Once the above has occurred, further policy review of the MSS may be required, however this should be determined after the policy neutral review.
4. Complete and implement the Rural Strategy;
5. Review the local policy section (Clause 22) with a view to removing or significantly altering some policies;

6. Consider the need to introduce Business 2 Zone areas, particularly in Leongatha;
7. Undertake a Housing and Settlement Strategy after the implementation of a Rural Strategy;
8. Develop a Developer Contribution Plan Overlay for future urban growth areas;
9. Develop a Parking Precinct Plan in order to implement cash in lieu for CBD developments / change of use applications;
10. Develop a schedule to clause 52.01 for cash in lieu;
11. Review the application of public zones in western areas of the Shire where overlays should apply instead;
12. Review content and application of overlays, particularly ESO5 and EMO;
13. Review the application of DDO1;
14. Review internal processes and ensure staff are kept up to date with relevant training.

Appendix (3) - Summary of Planning Permit Application Performance

During the period 2010/2011 to 2013/14, Council processed a total of 2,328 permit applications.

Note: As the State Government reporting processes and definitions have changed during the last four years, some caution needs to be exercised in interpreting the data as not all figures are measuring the same item. For example from 2011/12 onwards, land use/development category figures are for permits issued while in 2010/11 category figures are for applications received.

Number of	July 2014 – Dec 2014 YTD <i>Note: half year period only</i>	July 2013 - June 2014	July 2012 – June 2013	July 2011 – June 2012	July 2010 – June 2011
<i>Comparison with rural municipal average shown in (brackets) where information is available</i>					
Permit applications Received	302	477	577	623	651
New	236/78%	342/72%	421/73%	420/67%	449/69%
Amendment sought	66/22%	135/28%	156/27%	203/33%	202/31%
Further information required	154/51%	243/51%	293/51%	320/45%	298/48%
Public notice required	177/59%	281/59%	340/59%	435/61%	392/63%
Submissions received	13/4%	25/5%	60/10%	61/9%	50/8%
Referrals	155/51%	255/53%	307/53%	364/51%	328/53%
Withdrawn/not required/lapsed	26/8%	45/9%	44/8%	45/7%	38/6%
Approved/NOD	281/91%	448/89%	525/91%	649/97%	556/95%
Permits refused	3/1%	9/2%	11/2%	23/3%	29/5%
Completed in 60 statutory days	81% (73%)	77% (74%)	74% (71%)	61% (68%)	49% (70%)
<i>Received or issued (counting method varies during the period)</i>					
For alterations or extensions to houses and buildings	54/18%	91/19%	110/19%	103/16%	71/11%
For development of a single new dwelling	60/20%	117/37%	142/25%	261/42%	268/41%
For development of	60/20%	7/1%	6/1%	15/2%	19/3%

Appendix (3) - Summary of Planning Permit Application Performance

2 or more new dwellings					
For extension or change of land use	16/5%	26/5%	32/6%	35/6%	22/3%
Land subdivision*	27/9%	36/8%	51/9%	75/12%	55/8%
	July 2014 – Dec 2014 YTD	July 2013 - June 2014	July 2012 – June 2013	July 2011 – June 2012	July 2010 – June 2011
Total value of works approved	\$35 million (\$6M)	\$74 million	\$45 million	\$103 million	\$77 million

**Note including subdivision of buildings, boundary realignments, change to easements, restrictions and covenants & title consolidations.*