

# MOORABOOL PLANNING SCHEME

## AMENDMENT C91moor

### EXPLANATORY REPORT

#### Who is the planning authority?

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

The amendment has been made at the request of Melbourne Water which is the relevant floodplain management authority.

#### Land affected by the Amendment

The amendment applies to land identified as subject to inundation within the catchments of the Werribee River, Lerderderg River and Little River, in the eastern portion of Moorabool Shire.

#### What the amendment does

The amendment implements the findings of the three flood studies (*Report for Bacchus Marsh Area Floodplain Mapping*, *Ballan Township Flood Study Final Report*, *Lower Lerderderg Catchments Flood Mapping Report*), the *Melbourne Water Planning Investigations Models* which prepared flood extent mapping for rural areas not covered by the flood studies, and the peer review of this body of work commissioned by Council in 2017.

The amendment proposes to make the following changes to the planning scheme:

#### Ordinance changes

- Amending Clause 21.02 'Natural Environment', by:
  - Inserting reference to the Little River;
  - Recognising that some urban areas are prone to inundation by overland flows from the urban drainage system; and
  - Inserting an objective and strategy relating to flood management.
- Amending Clause 21.11, by adding the following to the list of reference documents:
  - 'Report for Bacchus Marsh Area Floodplain Mapping' (GHD November 2010);
  - 'Lower Lerderderg Catchments Flood Mapping Report' (Engeny Water Management, December 2011);
  - 'Ballan Township Flood Study, Final Report' (Halcrow Pacific Pty Ltd, November 2011);
- Inserting Clause 44.04 'Land Subject to Inundation Overlay' (LSIO), to ensure that flood risk is considered prior to the development of land affected by riverine flooding.
- Inserting a new Schedule to the LSIO, to provide planning permit exemptions for specified types of buildings and works, and to specify permit application and referral requirements.
- Inserting Clause 44.05 'Special Building Overlay' (SBO), to ensure that flood risk is considered prior to the development of land subject to inundation by overland flows from the urban drainage system.
- Inserting a new Schedule to the SBO, to specify permit application and referral requirements.

- Amending the Schedule to Clause 72.03 'What does this planning scheme consist of?', to update the list of maps forming part of the planning scheme.

#### Mapping changes

- Inserting planning scheme maps 04LSIO, 05LSIO, 06LSIO, 08LSIO, 13LSIO, 14LSIO, 15LSIO, 16LSIO, 17LSIO, 26LSIO, 26SBO, 27LSIO, 27SBO, 28LSIO, 28SBO, 29LSIO, 30LSIO, 31LSIO, 31SBO, 32LSIO, 32SBO, 33LSIO, 33SBO, 34LSIO, 34SBO, 35LSIO, 35SBO, 36LSIO, 37LSIO, 38LSIO, 44LSIO, 45LSIO, 46LSIO, 47LSIO, 52LSIO, 53LSIO, 54LSIO and 55LSIO.

### **Strategic assessment of the Amendment**

#### **Why is the Amendment required?**

Some land within the Moorabool Shire is affected by flooding associated with the Werribee River, Lerderderg River and Little River catchments. Council, as planning authority, has an obligation to identify flood prone land in its planning scheme, by mapping land which is affected by a 1% annual exceedance probability (AEP) flood event (also referred to as a 1 in 100 year flood event). By introducing appropriate flood controls into the Moorabool Planning Scheme, Council will ensure that flood risk and floodplain management issues are considered in land development decisions, thereby implementing the objectives of planning in Victoria.

The amendment will apply the Land Subject to Inundation Overlay (LSIO) to areas affected by a 1% AEP flood event from waterways and the Special Building Overlay (SBO) to overland flows associated with the urban drainage system, based on the latest available flood modelling and data. The LSIO and SBO mapping is based on the following flood studies undertaken by Melbourne Water within the Werribee, Lerderderg and Little River catchments in the eastern portion of Moorabool Shire, and a peer review of these studies commissioned by Council:

- *Report for Bacchus Marsh Area Floodplain Mapping* (GHD, November 2010);
- *Lower Lerderderg Catchments Flood Mapping Report* (Engeny Water Management, December 2011);
- *Ballan Township Flood Study, Final Report* (Halcrow Pacific Pty Ltd, November 2011); and
- *Melbourne Water Planning Investigations Models (flood extent mapping for rural areas)*.

The application of these overlays will ensure that areas at risk of flooding are shown on planning scheme maps. In areas covered by the LSIO or SBO, a planning permit will be required for subdivision and most new buildings and works (including some fences). The requirement for a planning permit will ensure that new development is protected from flooding and does not cause any significant rise in flood levels or flow velocities, which may adversely affect other properties. Any planning permit application will need to be referred to Melbourne Water as the relevant floodplain management authority for consideration and advice (as a determining referral authority). Council will be able to make informed planning decisions based on the most accurate flood extent mapping available.

Inclusion of flood extent mapping in the planning scheme will also enable landowners, developers and purchasers to have access to critical information in the early stages of the development approval process, thereby ensuring that new development is designed with flood risk in mind.

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

The amendment implements the objectives of planning in Victoria, in particular:

- Providing for the fair, orderly, economic and sustainable use and development of land.
- Providing for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity.
- Securing a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria.

- Balancing the present and future interests of all Victorians.

The Amendment implements these objectives by:

- Identifying land which is at risk of flooding; and
- Applying appropriate planning controls to such land in order to protect life and property.

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

The amendment will have a positive effect on the environment. Flooding has environmental benefits as flood prone areas may provide valuable habitats for plants and animals and serve as natural storage areas. Areas of environmental significance, such as swamps, billabongs and wetlands have an important role to play in supporting biodiversity, recycling nutrients and maintaining water quality. By accurately identifying flood prone areas, these areas can be protected from inappropriate development that may pose a threat to water quality and flora and fauna communities.

The amendment is expected to have economic and social benefits for the Shire. Flooding carries significant costs for the community and the State. It can severely disrupt communities and, in extreme cases, cause extensive damage to public and private property, agricultural losses, personal hardship and loss of life. With thorough consideration of new development and earthworks, future flood problems can be minimised.

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

The amendment will not result in any increase in bushfire risk, as the amendment only seeks to manage flood risks.

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

The amendment complies with the requirements of the *Ministerial Direction – 'The Form and Content of Planning Schemes'* (section 7(5) of the *Planning and Environment Act 1987*).

The amendment is consistent with *Ministerial Direction No.9 'Metropolitan Planning Strategy'*, as it supports Plan Melbourne - Direction 6.2 ('Reduce the likelihood and consequences of natural hazard events and adapt to climate change'). The amendment will minimise the impact of flooding by ensuring that new development is protected from flooding and does not cause any significant rise in flood levels or flow velocities.

The amendment has been considered against *Ministerial Direction No.11 'Strategic Assessment of Amendments'* as required by Section 12(2)(a) of the *Planning and Environment Act 1987*. The explanatory report evaluates how the amendment addresses the relevant strategic considerations outlined in the Minister's Direction.

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

The amendment supports and implements the Planning Policy Framework and aligns with the directions of the *Central Highlands Regional Growth Plan* (May 2014) by directing growth away from areas subject to natural hazards.

The amendment supports or gives effect to the following State planning policies:

- Clause 11.01-1S (Settlement) which aims to promote the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements. This is achieved by ensuring regions and their settlements are planned in accordance with their regional growth plan and respond appropriately to risks such as flooding.
- Clause 12.03-1S (River corridors, waterways, lakes and wetlands), which aims to ensure development does not compromise bank stability, increase erosion or impact on a water body or wetland's natural capacity to manage flood flow. The application of flood controls enables the consideration of the floodplains' natural capacity when assessing development proposals.

- Clause 13.03-1S (Floodplain management) which aims to minimise the impacts of natural hazards through risk-based planning strategies including identifying land affected by flooding in planning schemes and avoiding the intensification of flood impacts through inappropriately located use and development. By applying the LSIO and SBO to land affected by flooding in a 1% AEP flood event and regulating development of land affected by flooding, inappropriately located uses and developments can be avoided. The planning controls will protect life and property from flood hazard and will ensure the natural flood carrying capacity of waterways and floodways will be protected.

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

The amendment supports and implements the following clauses of the Local Planning Policy Framework :

- Clause 21.01-2 (Municipal Context - Key Issues : Settlement) which recognises flooding as a significant constraint for urban development.
- Clause 21.02-1 (Natural Environment - Key issues and influences - Flood management), which acknowledges that large areas of Moorabool Shire are prone to flooding from the Moorabool, Werribee, and Lerderberg Rivers. The amendment inserts reference to the Little River and tributaries, and recognises that some urban areas are prone to inundation by overland flows from the urban drainage system.
- The amendment inserts an objective and strategy at Clause 21.02 to strengthen policy to recognise and minimise flood risk.
- The amendment implements one of the strategies listed under Clause 21.02-7 by applying the LSIO to reflect relevant flood studies.

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

The amendment makes proper use of the Victoria Planning Provisions (VPP) by applying the most appropriate VPP tools and flood specific controls to identify and manage flooding based on the type of flooding and the potential level of risk to life and property.

The amendment applies the LSIO to areas affected by flooding from waterways and the SBO to land subject to inundation by overland flows from the urban drainage system.

The amendment applies schedules to the LSIO and SBO, to introduce additional permit exemptions, and thereby reduce the regulatory burden where appropriate.

These planning tools will enable the planning authority to make informed decisions in relation to development proposals on land that is subject to inundation, thereby protecting life and property, ensuring the free flow of floodwaters and promoting environmental protection.

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

This amendment has been prepared in partnership with Melbourne Water, as the relevant floodplain management authority.

Other relevant government agencies will be consulted during the public exhibition process.

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

The amendment will not have any impact on the transport system, as defined by Section 3 of the *Transport Integration Act 2010*.

## **Resource and administrative costs**

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

The new planning controls will generate some additional planning permit applications, particularly for proposed development within the urban areas of Bacchus Marsh and Ballan. The additional planning applications will place an additional burden on Council's resources and administrative costs, however, the impact is expected to be manageable.

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

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

- Moorabool Shire Council, 15 Stead Street, BALLAN VIC 3342
- Darley Civic and Community Hub, 182 Halletts Way, DARLEY VIC 3340
- Lerderderg Library – Customer Service, 215 Main Street, BACCHUS MARSH VIC 3340

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

## **Submissions**

Any person who may be affected by the Amendment may make a submission to the planning authority. Submissions about the amendment must be received by 8 May 2020.

A submission must be sent in one of the following ways:

1. Via Council's website at <http://www.moorabool.vic.gov.au>. Click on 'Have your say' and follow the links to Planning Scheme Amendment C91moor.
2. Via email to [info@moorabool.vic.gov.au](mailto:info@moorabool.vic.gov.au)
3. Via post to: Moorabool Shire Council  
PO Box 18  
BALLAN VIC 3342  
Re: Submission to Amendment C91moor  
Attention: Strategic Planning

## **Panel hearing dates**

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

- directions hearing: week commencing 7 September 2020
- panel hearing: week commencing 26 October 2020