

8.3 AMENDMENT C31 TO THE CENTRAL GOLDFIELDS PLANNING SCHEME

Author: Strategic Planner

Responsible Officer: General Manager Infrastructure Assets and Planning

The Officer presenting this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

SUMMARY/PURPOSE

The purpose of this report is to recommend that Council resolve to commence the process for a planning scheme amendment to implement recommendations of the *Carisbrook Flood and Drainage Management Plan 2013* and the *Dunolly Flood Investigation 2014*.

LEGISLATION AND POLICY CONTEXT

Central Goldfields Shire Council's Council Plan 2017-2021 (2018 Refresh) – Our Community

Outcome: A supported, cohesive community, living full and healthy life.

1.4 Objective: Provide leadership in municipal emergency and fire prevention planning and strengthen public safety.

Initiative: Implement recommendations from flood management plans including flood mitigation works.

Other relevant legislation

Local Government Act 1989

Planning and Environment Act 1987

Catchment and Land Protection Act 1994

North Central Regional Floodplain Management Strategy 2018-2028

Victorian Floodplain Management Strategy 2016

BACKGROUND INFORMATION

Implementing planning scheme amendments associated with flood risk for the townships of Carisbrook and Dunolly is recognised as a high priority in the North Central Regional Floodplain Management Strategy 2018-2028. The North Central Catchment Management Authority (CMA) has received funding to assist Central Goldfields Shire Council to work on flood-related planning scheme amendments.

At the Ordinary Meeting of Council on 23 July 2019, Central Goldfields Shire Council Administrators authorised the CMA to become the planning authority for the Flood Overlay (FO) and Land Subject to Inundation (LSIO) Overlay amendment. This amendment process consigned the CMA to lead a group of Councils in a 'GC' amendment to make changes to the Central Goldfields Planning Scheme. However, this option is no longer being pursued due to

lack of support from the Department of Environment, Land, Water and Planning (DELWP) Water Office.

Consent is now requested to proceed via a local amendment approach (a 'C' amendment) to the Central Goldfields Planning Scheme. This will be led by Central Goldfields Shire Council with project support continuing to be provided by the CMA. The amendment is not expected to unreasonably impact upon the existing priorities of the strategic planning program.

REPORT

The Planning Scheme Amendment Process

The Planning Scheme is a legal document prepared under the *Planning and Environment Act 1987*. Changes to the planning scheme, including updated flood mapping and controls, need to go through a prescribed amendment process that involves consent from the Minister to prepare the amendment and place it on public exhibition.

Council is required to seek authorisation from the Minister for Planning prior to preparation of the amendment to ensure that the amendment is consistent with State planning policy and makes accurate use of the Victoria Planning Provisions. It is common planning practice to prepare a draft amendment first to support a Council decision to seek such authorisation. Amendment C031gol has been drafted by the CMA on behalf of Council and forms the basis of this report. Once authorisation (including any conditions or requested changes) is provided from the Minister, the amendment will be placed on exhibition.

Exhibition will include notice to affected land owners and occupiers via direct mail. Other agencies will be advised and public notices will be placed in the local paper, social media and Victorian Government Gazette. The exhibition process will include public drop in sessions in Dunolly and Carisbrook. The CMA will arrange individual site meetings with land holders if requested, as part of the exhibition process.

Following exhibition, Council will be provided the opportunity to consider all submissions and decide whether to proceed with the amendment, modify the amendment in response to a submission or abandon the amendment.

Council may choose to refer unresolved submissions to an independent panel hearing. The panel will consider the amendment and any submissions and make a recommendation to Council on how to proceed with the amendment. The date for the directions hearing and planning panel will be provided to Council once the Planning Minister provides authorisation.

If Council resolves to adopt the amendment, it must be forwarded to the Minister for Planning for approval.

The following table summarises the process of an amendment:

Table 1

Steps	Status
Council decides whether to seek Ministerial authorisation to prepare the amendment	Current stage
Minister determines whether amendment may be placed on exhibition	10 days after request submitted
Public exhibition of planning scheme amendment	Proposed for Feb-Mar 2020
Submissions received and considered; Council requests an independent panel to consider submissions if required	Proposed for April 2020
Panel hearing and report	TBD
Council considers the recommendations of the Panel, and decides whether to adopt or abandon the planning scheme amendment	TBD
If adopted, send to Minister for approval and gazettal	TBD

Preparation of Amendment C31

Council officers have worked with the CMA to further refine the proposed overlay maps from the flood studies based on best practice evidence flood mapping. The overlay schedules will exempt minor developments from requiring a permit (e.g. minor dwelling extensions, small outbuildings, carports, hay sheds and similar). The amendment documents also include a minor alteration to the Municipal Strategic Statement (MSS) to include the flood risks for these local areas.

The CMA has recently assisted the preparation of recent amendments for Bendigo, Charlton, Donald, Castlemaine, Creswick and Clunes, and therefore has previous experience of the amendment process, using a consistent approach to mapping and appropriate schedules to exempt minor developments from requiring a permit. The CMA has also presented to planning panels.

It is expected that the amendment will provide greater clarity and guidance to development proposals in the affected areas. This is an ongoing concern arising from outdated and inaccurate flood overlays, coupled with limited guidance on what developments will or won't be approved prior to applying for a permit. The nominated exemptions in the proposed overlays will result in a reduction in planning permit applications and development enquires in these flood affected areas.

Flood control selection in Carisbrook, Dunolly and along Tullaroop Creek

View Attachment 1 – Planning Scheme Ordinance – Municipal Strategic Statement (MSS), FO and LSIO and Schedules

Within the Central Goldfields Planning Scheme, Clause 21.09 Protection of Land and Water Resources (part of the Municipal Strategic Statement) will have two additional strategies added relating to environmental risk. These strategies clearly stipulate flooding risk for Carisbrook and Dunolly.

The Central Goldfields Planning Scheme currently utilises only the LSIO flood control for managing flood risk. The existing LSIO will continue to be used in the areas not subject to this amendment (Maryborough and Talbot). These will be retained under the control of the LSIO Schedule 1.

The three other planning controls to manage flood risk within the planning scheme include:

Floodway Overlay (FO) – The FO will be introduced into the Central Goldfields Planning Scheme for the first time and is typically applied to higher hazard areas of the floodplain. These areas convey active flood flows or store floodwaters of greater depths. Generally, these areas can perform their underlying uses as residential, industrial or commercial areas but the flood risk warrants greater control over future development. Subdivision is generally restricted in the FO. The CMA has mapped the FO as areas greater than 500mm in depth which represents areas where new development would have difficulty in meeting floodplain development guidelines. Therefore, a low level of development can be expected in the FO. The FO has been mapped consistently with other areas in the CMA and will only apply within the flood plan boundaries – where the highest quality flood mapping exists and is highly defensible. It will not be applied to the rural areas modelled by the CMA.

Urban Floodway Zone: this zone is not widely used due to its very restrictive nature and is not proposed to be used for Carisbrook or Dunolly.

Special Building Overlay: this is not proposed to be used in Carisbrook or Dunolly.

The preparation of the planning scheme ordinance was drafted by the CMA in consultation with Council. The wording and language utilised in this document has been provisionally approved by DELWP and is similar to the ordinance utilised by other councils (such as Bendigo, Loddon and Macedon Ranges). The schedules to the overlays determine the development which is exempt from requiring a planning permit in these flood affected areas. The existing LSIO flood control only had one exemption (for outbuildings under 120m²). Through the use of clear language and direction, the proposed schedules will provide transparency for landowners considering development and statutory planning staff making decisions.

Dunolly

View Attachment 2

The Central Goldfields Planning Scheme currently includes the LSIO in Dunolly (see orange outline in attachment 2). The existing LSIO is extensive and found to be significantly inaccurate by the *Dunolly Flood Investigation 2014*. The amendment proposes to update the overlays to a combination of LSIO and FO.

The FO is being applied to areas where flooding impacts are more substantial and where development needs to be carefully managed – generally along the immediate environs

of Burnt Creek. The LSIO applies to areas subject to flooding between 0-500mm in depth, where moderate levels of development can still occur subject to planning conditions.

The LSIO is being applied to Burnt Creek and its local tributaries as determined in the flood plan. Draft overlays in the original flood plan included some isolated and non-contiguous areas of FO which have not been included in the proposed amendment mapping of the FO. The LSIO can adequately manage these areas.

The proposed overlays represent a significant reduction in flood controls in Dunolly and also account for the recent flood mitigation works undertaken by Council.

Carisbrook

View attachment 3

The Central Goldfields Planning Scheme currently includes the LSIO in Carisbrook (see orange outline in attachment 3). The existing LSIO is extensive in some parts and lacking in others and generally found to be inaccurate by the *Carisbrook Flood and Drainage Management Plan 2013* ('the Plan'). The amendment proposes to update the overlays to a combination of LSIO and FO.

The FO will be applied from the upstream boundary of the Plan area to the downstream boundary and is shown dark blue in Attachment 3. The FO applies to areas where flooding impacts are more substantial and where development needs to be carefully managed – generally along corridors of McCallums Creek (from south west), Tullaroop Creek (from south east) and a back-water area near the Carisbrook-Eddington Road. The FO affects areas that are largely undeveloped rural land or where development is already being carefully managed through the LSIO (between Bucknall Street and Tullaroop Creek). A low level of development would be permitted in the FO and any development applications would be encouraged to be moved to areas of lower flood risk where possible (e.g. outside the FO or outside the flood extent entirely).

On the Tullaroop Creek arm upstream of Carisbrook (to the south-east) the existing LSIO is extensive and will be significantly reduced based on new flood modelling undertaken by the CMA. This flood modelling was based on parameters from the Plan and whilst it would not be considered as robust as the area modelled by the Plan, it is considered fit-for-purpose for this rural area. It removes clearly inaccurate LSIO to create a reasonable representation of the 1% probability flood event based on ground surveys, modelled flows from the Plan, and aerial flood imagery captured during the January 2011 flood event. This area will only have the LSIO applied and removes a number of houses from the LSIO that were shown not to have flooded in the January 2011 flood event.

The LSIO is to be applied to areas between 0-500mm deep in a 1% probability event, where moderate levels of development can still occur subject to planning conditions. A significant change introduced by this amendment is covering the central Carisbrook township with the LSIO. The LSIO will be applied to the balance of the Carisbrook township and immediate surrounding areas affected by flooding from both the creeks and from overland flows from the west. This area was inundated with flood waters during the 2010-2011 flood and there is firm evidence to show this area will be subject to floodwaters in a significant flood event. The Schedule does make a number of exemptions for minor building and works within this area.

Further, areas where the flood risk is slightly higher than the 1% probability flood event (the "islands") within the main portion of town are included within the proposed LSIO. The rationale for this is two-fold. Firstly, as access to these properties may be affected during a flood event,

development of these sites should be assessed to ensure compatibility with the potential flood risk. Secondly, these island areas were impacted during the January 2011 event.

In assessing development to account for climate change, the CMA has been applying a 600mm freeboard above the 1% probability flood event to all new development in Carisbrook. This ensures that all new development is built above the January 2011 flood event and therefore caters for potentially more frequent extreme flood events.

The proposed overlays also account for the completed portion of flood mitigation works undertaken by Council to the north of the Pyrenees Highway. If further mitigation works are completed, the overlays will be subsequently amended. This process is likely to be undertaken as a more straightforward Ministerial Amendment to the planning scheme, whereby flood controls are removed from land where the risk is no longer apparent.

Tullaroop Creek (downstream of Carisbrook)

View attachment 4

On the Tullaroop Creek arm downstream of Carisbrook (to the north) the existing LSIO is extensive and will be significantly reduced based on new flood modelling undertaken by the CMA (see Attachment 4). This flood modelling was based on parameters from the Plan and whilst it would not be considered as robust as the area modelled by the Plan, it is considered fit-for-purpose for this rural area. It removes clearly inaccurate LSIO to create a reasonable representation of the 1% AEP flood event based on ground survey, modelled flows from the Plan, and aerial flood imagery captured during the January 2011 flood event. This area will have the LSIO applied only. It removes a number of houses from the LSIO that were shown not to have flooded in the January 2011 flood event and reduces the LSIO width by up to 1km in some areas.

CONSULTATION/COMMUNICATION

Pre-exhibition Consultation

View attachment 5

The attachments include the proposed maps and ordinance for the amendment, as well as a Frequently Asked Questions sheet which will be available online and in .PDF format to email to flood group stakeholders. This document has been prepared by the CMA and Council and contains information that will assist the community in understanding the purpose and key elements of the proposed amendment. This document is contained as Attachment 5.

Amendment Exhibition

The exhibition process is prescribed under the *Planning and Environment Act 1987*. Exhibition will meet and exceed the minimum prescribed process, including direct notice to all affected landowners and occupiers, as well as other agencies, and public notices in local papers, social media and Victorian Government Gazette.

There will be several methods of communication utilised during the exhibition phase including direct consultation, electronic media, and press. The exhibition will include public drop-in sessions within Dunolly and Carisbrook. There will be provision for the CMA and Council to follow up landowners onsite to discuss specific issues as required. In consultation with Council's communications department a multi-page question and answer brochure will be developed for use at public drop-ins and council outlets. This will mirror similar content available on social media and Council's webpage. Council's IT department will upload the

proposed overlay maps to the online sharing GIS system POZI, so residents can assess the impact of the changes during the exhibition phase. The overlays will also be added to Council's internal GIS system as an additional layer to aid questions from the community at the front counter and statutory planning department.

Previous community consultation activities have occurred during the development of the Carisbrook and Dunolly flood plans, which were both managed using community-based steering committees. Broader community feedback was sought and used to verify the accuracy of the flood models and when determining the final recommendations of the plans – which included amending the Central Goldfields Planning Scheme with updated flood mapping*.

Members of the public can make submissions to Council during the exhibition process. These submissions must be considered by Council and a possible planning panel, prior to Council making a decision on whether to adopt the amendment.

*Note: an amendment was not listed in Section 13 Conclusions and Recommendations of the *Carisbrook Flood and Drainage Management Plan 2013*, however it was referenced as an action in the Executive Summary (page vi) and recommended in Section 6.2.1 (page 137). It is considered that not listing a planning scheme amendment in Section 13 as a recommendation is an accidental omission from this section of the report.

FINANCIAL & RESOURCE IMPLICATIONS

Amendment costs to Council can generally be categorised into staff time and fees.

Staff time – in this instance, Council is being assisted by the CMA who have received funding for a planning resource for two years to assist local Councils to implement a backlog of amendments, including Carisbrook and Dunolly. Council and the CMA have entered an MOU for the provision of planning services to carry out the majority of tasks required for this amendment. The planning resource will remain an employee of the CMA. There will be a low level of requirement on existing Council staff to assist with exhibition activities and a planning panel if required. The General Manager Infrastructure, Assets and Planning will oversee and manage the CMA employee in accordance with the MOU agreement.

Fees – A small allocation of budget would be required for fees associated with public engagement activities when exhibiting the amendment (e.g. mailouts, venue hire, public notices). Additional fees would be incurred if the application was to go before a Planning Panel to hear unresolved community submissions. The costs associated with a Panel can be significant and are highly dependent on the number of unresolved submissions to be heard. Such fees are normal to an amendment process and are expected to be managed within the existing Strategic Planning budget. Panel costs cannot be estimated accurately at this time but are expected to be in the order of \$10,000. Additional support may be available from DELWP to help cover the costs of any Panel.

The staff time to prepare an amendment is generally the most significant cost of an amendment process and therefore Council should take the opportunity presented by the CMA whilst available. If deferred to a future date, the amendment would need to be managed within Council's own budget and strategic priorities. If consideration is given to Council's current work demands and priorities, it is uncertain when this amendment could be implemented if not completed now.

RISK MANAGEMENT

Managing flood risk through Planning Schemes is a local government responsibility. The Central Goldfields Planning Scheme should be a robust document that correctly identifies known flood risk and provides clear guidance and transparency on potential uses and development of land. Where mapping doesn't exist or is outdated the Planning Scheme should be amended. "LGAs (Councils) are accountable for ensuring that their Planning Schemes correctly identify the areas at risk of a 1% Annual Exceedance Probability (1 in 100 year) flood, and that they contain the appropriate objectives and strategies to guide decisions in exercising land use controls in regard to flooding." *Victorian Floodplain Management Strategy 2016*

Attachments 2-4 clearly show inaccuracies in the flood overlays as compared to updated flood mapping produced through the flood plans. The amendment is required to update the overlay maps and amend the associated ordinance that controls buildings and works to ensure development within the floodplain is appropriately managed.

Managing development through accurate and effective planning schemes is considered the most cost-effective method of managing flood risk and avoiding future flood damages and can promote faster recovery from major floods (e.g. because house floor levels were set above the flood levels). The amendment updates mapping in the Carisbrook and Dunolly townships using information developed in the flood plans. It also removes significant expanses of flood controls in rural areas along Tullaroop Creek where additional new mapping produced by the North Central CMA shows these maps to be clearly wrong (therefore not requiring individuals to obtain permits where flooding is not a risk).

The amendment will also include the introduction of permit exemptions for minor buildings and works, meaning the need for obtaining permits and applying flood-management conditions is only required for developments with a higher likelihood of detrimental flood impacts.

From a consultation perspective, the amendment process is heavily prescribed in legislation and provides transparency and meaningful opportunities for community input. This explicitly defines the scope of community engagement activities and therefore manages any risks associated with community concerns of bias or unfairness. Council will prepare a community engagement plan that aligns with the prescribed process (as a minimum).

CONCLUSION

Amendment C031gol to the Central Goldfields Planning Scheme has been drafted in close consultation with the CMA and proposes to update flood controls in Carisbrook, Dunolly and along the rural areas of Tullaroop Creek as recommended in the *Carisbrook Flood and Drainage Management Plan 2013* and the *Dunolly Flood Investigation 2014*.

Updating the Central Goldfields Planning Scheme with the best practice flood risk information is acting in accordance with the community led Flood Studies of Carisbrook and Dunolly, the North Central Regional Floodplain Management Strategy 2018-2028 and the *Victorian Floodplain Management Strategy 2016*.

ATTACHMENTS

1. Planning Scheme Ordinance – FO and LSIO and schedule and MSS
2. Dunolly FO and LSIO Map
3. Carisbrook FO and LSIO Map
4. Tullaroop Creek FO and LSIO Map
5. FAQ Sheet

RECOMMENDATION

That Council:

1. *Request authorisation from the Minister for Planning to prepare an amendment to the Central Goldfields Planning Scheme to update flood controls for Carisbrook, Tullaroop Creek and Dunolly, in accordance with the Planning and Environment Act 1987 Part 3 and the attached documents;*
2. *Should authorisation be provided, prepare the amendment and place the amendment on public exhibition;*
3. *Delegate the Manager Strategy and Economic Development to make minor changes to the amendment as and if required.*