

8.2 AMENDMENT C031CGOL - DUNOLLY AND CARISBROOK FLOOD STUDIES

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 present the submissions made in response to the exhibition of Planning Scheme Amendment C031cgol, and enable Council to consider the available options for addressing them under the Planning and Environment Act.

The purpose of the amendment is to implement appropriate planning controls to address flood risk for the townships of Carisbrook and Dunolly.

It is recommended that Council make some minor mapping changes in response to submissions, as recommended by North Central Catchment Management Authority (NCCMA), and request the Minister for Planning appoint an independent planning panel to consider unresolved submissions.

LEGISLATION AND POLICY CONTEXT

Central Goldfields Shire Council's Council Plan 2017-2021 (2018 Refresh) – Our Built and Natural Environment

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

Objective 1.4: 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

Amending the Planning Scheme to address 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 engage an appropriate resource to work on flood-related planning scheme amendments.

At the Ordinary Meeting of Council on 23 July 2019, Council 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 a policy directive from the DELWP Water Office.

At the Ordinary Meeting of Council on 26 November 2019, Central Goldfields Shire Council Administrators authorised Council to progress with a C amendment, with the Council as the planning authority. Section 8A (2) of the Act stipulates that a municipal Council may only prepare an amendment to a Planning Scheme if it is authorised to do so by the Minister for Planning. The amendment was authorised by DELWP on 25 February 2020 and exhibition progressed on 22 May and concluded on 23 July, 2020. Sections 17-19 of the Act stipulate the exhibition and notice requirements for a planning scheme amendment. Council has exhibited the amendment in accordance with these requirements.

Table 1 Amendment Timeline

Steps	Status
<i>Council decides whether to seek Ministerial authorisation to prepare the amendment</i>	Completed 26 November 2020
<i>Minister determines whether amendment may be placed on exhibition</i>	Completed 25 February, 2020
<i>Public exhibition of planning scheme amendment</i>	Completed 22 May to 23 July, 2020
<i>Submissions received and considered; Council requests an independent panel to consider submissions if required</i>	25 August 
<i>Panel hearing and report</i>	Weeks of 26 October and 30 November, 2020
<i>Council considers the recommendations of the Panel, and decides whether to adopt or abandon the planning scheme amendment</i>	January 2021
<i>If adopted, send to Minister for approval and gazettal</i>	February 2021

REPORT

Planning scheme amendment C031cgo1 proposes to implement the findings of the Dunolly Flood Investigation 2014 and Carisbrook Flood and Drainage Management Plan 2013.

The effects of flooding in Central Goldfields are magnified by the proximity of urban development to natural or modified creeks and channels resulting in damage to roads, residential, commercial and industrial properties.

Carisbrook and Dunolly have a long history of flooding. Whilst the flow from the local catchment contributed less than 5% of the total flow that impacted upon the township of Carisbrook, the overland flow is significant and causes frequent flooding to a number of properties in Carisbrook.

Until now Council has relied on outdated and patchy information to support planning decisions in these townships. This has caused a range of issues for property owners and for Council when providing customer advice. A key recommendation of both township flood studies was to update the flood information in the Central Goldfields Planning Scheme to ensure future development is designed to manage flooding in a safe way.

Purpose of Flood Study Amendment Implementation

This amendment proposes to update the planning scheme in accordance with the most recent and accurate flood studies and mapping. This will enable flood hazard to be identified when considering future land development.

In the short term it is expected that this amendment will result in changes to new building proposals that will respond to the constraints of the land and its capacity to flood. This may result in some increased building costs but will reduce other costs by exempting planning permit requirements when certain conditions are met.

In the longer term it is expected that this amendment will deliver positive environmental, social and financial impacts, by reducing the economic and social impact that flooding has on built infrastructure and the environment.

It is well recognised that floods can negatively impact on individuals and the community in a number of ways. These impacts can have significant psychological and health related consequences for individuals and wider social consequences for the community. Further, inappropriate development can reduce a floodplain's capacity to store and transport floodwater effectively which often diverts floodwater to other land not normally flooded.

Amendment C031gol proposes to amend the Central Goldfields Planning Scheme by applying two overlays:

The Land Subject to Inundation Overlay (LSIO)

The LSIO is applied to land affected by flooding associated with waterways and open drainage systems.

- Schedule 2 (LSIO2) is flooding from creeks up to 500mm depth.
- Schedule 1 (LSIO1) is being applied to the existing LSIO outside the flood study boundary.

The Schedule 1 is an administrative change only as it simply allocates a number to the existing schedule. The LSIO already exists on some land in the Shire. This amendment may change the area that the LSIO covers and will change it to either an LSIO1 or an LSIO2.

The Floodway Overlay (FO)

The FO is being applied to land that is subject to the highest flood risk and where floods occur most frequently.

- Schedule 1 (FO1) is mainstream flooding in both rural and urban areas.

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 amendment affects approximately 765 properties which are located in Carisbrook and Dunolly. Of these properties to be affected, approximately:

- 10 properties will have the new Flood Overlay (FO) applied.
- 481 properties will have the LSIO applied
- 274 properties will have both the LSIO and FO applied
- 146 properties will be removed from the existing LSIO
- 306 properties with no current flood controls will be included in the amendment
- 200 properties will have little to no change as they are already covered by the LSIO.

Summary of Submissions

A total of twelve (12) submissions were received which included:

- Five (5) submissions from referral authorities, including the Environment Protection Authority (EPA), Country Fire Authority (CFA), Central Highlands Water (CHW), Goulburn Murray Water (GMW) and Coliban Water. All authorities who responded were supportive of the Amendment and did not object.
 - The response from the CFA supported the amendment, however requests that a Bushfire Management Statement be incorporated within the strategy to address potential risk as a result of revegetation programs in areas covered by the Flood Studies. Council's position is that this submission does not warrant any change to the amendment. No revegetation programs are triggered by the amendment, so the request is outside the scope of the amendment. Any bushfire risk associated with revegetation programs should be considered through normal processes at the time. On 17 August 2020, the CFA formally withdrew their recommendations to the amendment.
- Five (5) submissions which included:
 - Landowner submissions who object to the application of overlay controls on their land and seek to have the overlay extent either completely removed or reduced;
 - A group submission which objected to the amendment as a whole;
- Two (2) submissions that have been withdrawn.

Of the outstanding landowner submissions, five (5) relate to Carisbrook.

All landowner submissions were referred to the NCCMA for comment and to establish the validity of submission statements. It was established that:

- Changes requested by four objecting submitters cannot be accommodated as the mapping is accurate and evidence based; the information provided by submitters is not considered by NCCMA to justify a change to the proposed extent of the overlays.
- Changes requested by one submitter (who represented two others) cannot be accommodated for several reasons:
 - The amendment cannot be exhibited via the traditional town hall meeting due to the restrictions required by the COVID-19 pandemic. Changes to Planning

and Environment Act 1987 via the Covid-19 Omnibus (Emergency Measures) Bill 2020 enabled amendments to be publicly exhibited online. Every provision was made to ensure these submitters were consulted, including a printed version of the amendment dropped off at the submitter's home, phone calls and emails by Council and the CMA.

- The submission's recommended removals and inclusions to the LSIO are not considered by the CMA to be justified;
- The Carisbrook western levee development still has acquisitions and funding to be approved before works can start. The amendment is funded to progress immediately and address existing risks. Any changes to flood risk as a result of future mitigation works can be reviewed by a subsequent assessment and a future amendment can make changes to the planning controls if these are warranted.
- Changes recommended by one submitter in Carisbrook expressed similar concerns to the above, such as the timing of the amendment with the western levee. This submission also questioned the inclusion of higher areas of Bucknall Street, Carisbrook, in the LSIO. The CMA contends that although these sites are not directly impacted by flooding across the site, they are impacted by flooding impeding access to the site.

Of the submissions that were withdrawn, one was in Carisbrook and one was in Dunolly. Upon receipt of the submissions, they were referred to the NCCMA for comment and to establish the validity of submission statements. It was established that:

- Changes recommended by Submission 5 from Dunolly can be resolved by updating the proposed amendment mapping (as provided at Attachment 2). It is anticipated that the flood mitigation works recently completed in the subject area will improve drainage. Therefore the CMA has advised that there is no longer a need to include a flood related overlay over this area. On 29 July 2020 the applicant withdrew their submission on the condition that this updated mapping is adopted.
- Changes requested by Submission 1 from Carisbrook related to land at 5, 7,9,11,13,15,19, 21, 23, 29 and 31 Bucknall Street Carisbrook. The CMA stated that although land on these sites is slightly elevated than the surrounding area, these sites would be completely inaccessible in the 1% AEP flood event. Therefore the sites should be retained within the LSIO. The applicant was satisfied with the explanation provided by the CMA and Council and withdrew the application on 14 July 2020.

None of the submissions commented on or sought changes to the proposed Overlays' scheduled provisions. However, the referral authorities noted in their general comments that the ordinance was an improvement upon the existing provisions and will aid future decision making.

1. Refer to the attachment: Summary of Submissions to Amendment C031cgol

Amendment C031cgol – NCCMA map review in response to Submission 5 – 40 Pierce Hill Rd Dunolly - Exhibited Map.

Council's options in response to submissions

As the planning authority, at this point in the amendment process Council could decide to

- a) abandon the Amendment;
- b) adopt the amendment with all of the changes requested by submitters and submit it to the Minister for approval; or
- c) make any changes to the Amendment that it regards as warranted in response to submissions and refer unresolved submissions to an independent planning panel.

There is no planning justification for abandoning the Amendment as this would be contrary to the recommendations of both township flood studies, as well as the adopted strategies in Council's Municipal Strategic Statement at Clause 21.09 (Protection of Land and Water Resources). No evidence in the submissions warrants abandoning the amendment.

While a minor change to the Amendment is warranted in response to Submission 5, officers and the NCCMA do not regard the other requested changes as justified by the evidence. Adopting all of them would diminish the effect of the Amendment and undermine its overall strategic justification.

Officers therefore recommend the third of option of making some minor changes in response to submissions and referring unresolved submissions to an independent planning panel.

CONSULTATION/COMMUNICATION

The exhibition process is prescribed under Sections 17-19 of the *Planning and Environment Act 1987*. Exhibition exceeded the minimum prescribed process, and there were several methods of communication utilised during the exhibition phase, as described below.

Alternatives to the open consultation approaches traditionally used during exhibition, such as advertised drop in sessions, face to face meetings and hard copy documents available for viewing, were made possible by the amendment to the Planning and Environment Act 1987 via the Covid-19 Omnibus (Emergency Measures) Bill 2020. The changes allowed:

- Planning documents previously required to be physically available to view at state and local government offices are now only required to be available for online inspection. This includes copies of planning scheme amendments and submissions and planning permit applications and objections.

At Central Goldfields, all of this information was made available online, and landowners were actively encouraged to engage with Council via email or telephone or written letter. On request, printed versions of the amendment documents were dropped directly to landowners' homes.

Opportunities for Personal Consultation

The exhibition included public videoconference drop-in sessions in Dunolly and Carisbrook, held via Zoom, in lieu of drop-in sessions with physical attendance. The conferences were not well attended, with only two landowners for Carisbrook present at the Carisbrook meeting on 17 June 2020. Phone or email follow up was conducted with landowners to discuss specific issues raised in submissions. These approaches provided options for affected property owners to raise any issues with the amendment, in the context of the restrictions on face-to-face contact due to COVID-19.

Printed Press

In collaboration with Council's communications department and the CMA, a multi-page question and answer brochure was developed for direct mail to landowners. The document contained content available on social media and Council's webpage, along with maps and timelines. The direct mail out contained a letter about the proposed amendment and a site specific map about the proposed changes to land.

The amendment was also advertised in the Maryborough Advertiser on 22 May 2020 and the Government Gazette G21 on 28 May 2020 (pg. 995). The amendment was regularly advertised in the Council news section in the Maryborough Advertiser during the exhibition timeframe. After the videoconference session, a news article about the amendment was featured in the Carisbrook Mercury (June 25 2020).

Electronic media

Information associated with amendment, such as policy, documents, mapping and timelines was available on Council's website and weekly reminders to Have Your Say on Facebook and Twitter. The exhibited documents are also available on DELWP's amendments webpage.

Council's IT department uploaded the proposed overlay maps to the online sharing GIS system POZI, so landowners could visualise the proposed changes. A direct link to this was provided on printed material and the C031cgol webpage.

The social media platforms have been utilised to update the community on how the engagement methods were progressing, such as videoconference attendance, number of submissions and reminders to contact council for communication.

Previous Consultation

It is noted that previous community consultation activities occurred during the development of the Carisbrook and Dunolly flood plans, which were both managed using community-based steering committees. At the time, 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*.

*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 – The CMA will cover the costs for Planning Panels via DELWP funding.

The staff time to prepare an amendment is generally the most significant cost of an amendment process and therefore Council has taken the opportunity presented by the CMA whilst available.

RISK MANAGEMENT

This report addresses Council's strategic risk Government policy changes - change in government policy and/or funding resulting in significant impact on the delivery of critical services by implementing recommendations in the Council Plan and Municipal Strategic Statement Clause 21.09.

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. The *Victorian Floodplain Management Strategy 2016* states that "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."

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.

CONCLUSION

During the development of township flood studies for Carisbrook and Dunolly, extensive community engagement was undertaken where it was resolved that the planning scheme should be amended with updated mapping and ordinance for identifying flood risk.

A statutory public exhibition was undertaken as part of the amendment process. The amendment was made publicly available from 22 May to 23 July 2020. As part of the statutory exhibition period, affected landowners and relevant referral authorities were notified on 22 May 2020 by mail, as well as a notice placed in the Maryborough Advertiser and the Government

Gazette. Recent changes to the Planning and Environment Act allowed Council to exhibit documents electronically, therefore the documents were available online, via email and frequently mentioned in social media.

Council and the CMA have attempted to resolve the submissions presented to the exhibition via phone, email and letter. Several submissions have been received, with two (2) resolved and five (5) outstanding. Council now must resolve to consider the options to address these submissions and request the Minister for Planning appoint an independent planning panel to consider the submissions.

ATTACHMENTS

1. Summary of Submissions to Amendment C031cgo1
2. Map of Proposed Amendment Mapping Change - 40 Pierce Hill Rd, Dunolly

RECOMMENDATION

That Council:

1. *In response to submissions to the exhibited Amendment C031cgo1, make a minor change to the amendment mapping by reducing the area covered by the LSIO2 as requested in Submission 5, as documented in Attachment 2;*
2. *Refer unresolved submissions to Amendment C031cgo1 to an independent planning panel for consideration.*

After reviewing the submission Amendment C031cgol Response to Submissions

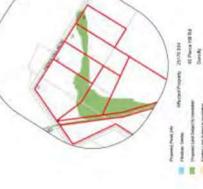
Map Legend

 Land currently in the LSIO

 Land proposed to have FO applied

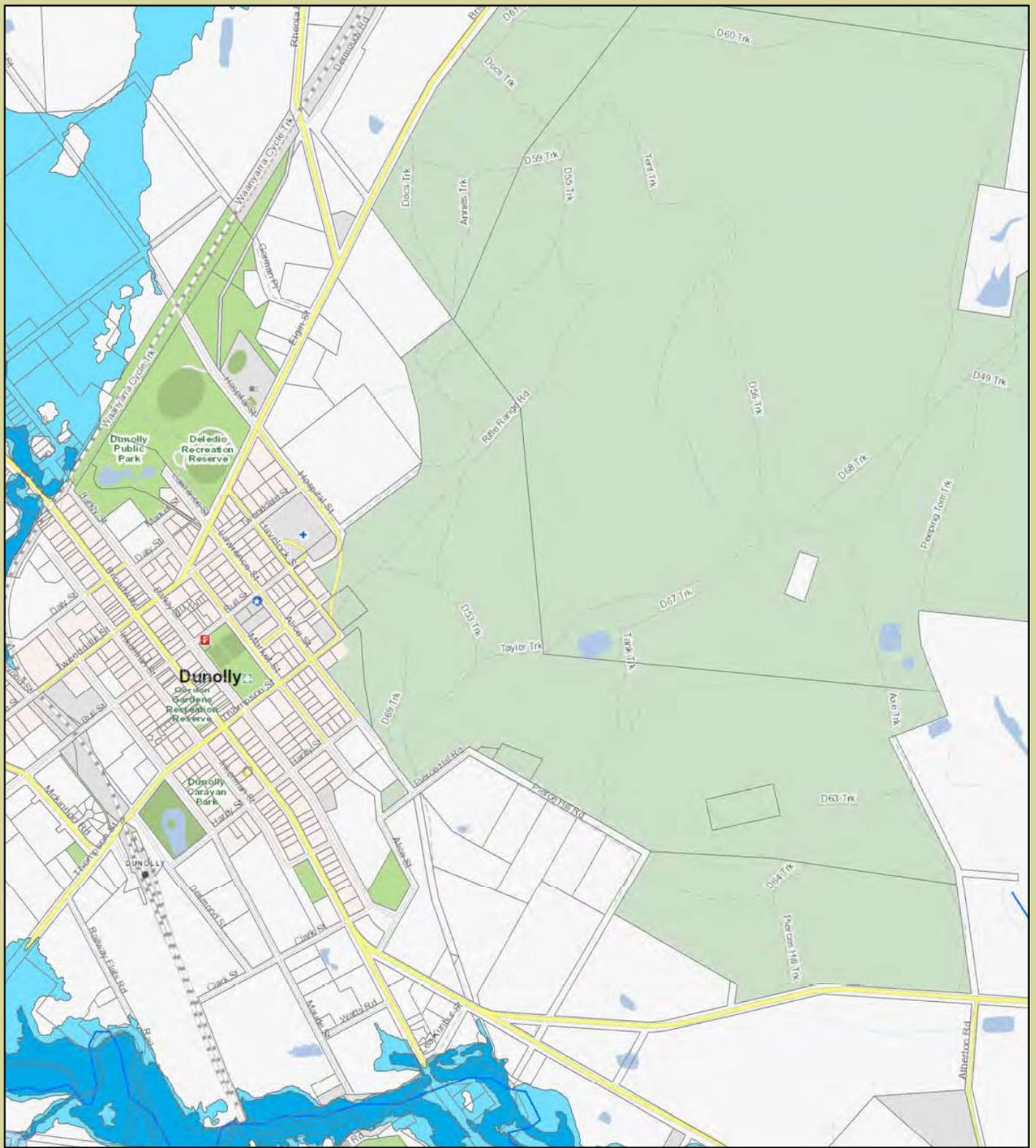
 Land proposed to have LSIO applied

Submission Number & Type	Position on Amendment	Requested C031cgol change	Summary of submitter's argument	Affected property	Map of affected property	Response to submission	Proposed changes
1 Landowner - Carisbrook	Not support LSIO over at 5,7,9,11,13,15,19 (Town Hall), 21, 23, 29 and 31 Bucknall Street Carisbrook	Retain overlay as flood risk includes the ability to access to properties	Islands of land that do not have flood activity as shown on the Flood Eye should be removed from LSIO	5,7,9,11,13,15,19 (Town Hall), 21, 23, 29 and 31 Bucknall Street Carisbrook		LSIO as proposed in the amendment are evidence based and should be retained	None Note: submission withdrawn 14/07
2 Landowner - Carisbrook	Not support LSIO over land on road reserve or on property	Would prefer LSIO redacted	Flooding caused by drainage and not overland flooding; how can we predict the future	70 Landrigan Rd Carisbrook		LSIO as proposed in the amendment are evidence based and should be retained	none

3 Landowner - Carisbrook	Wants the LSIO extended over the land at 52 Victoria Street Carisbrook	Wants the LSIO extended	After lived experience, the area should be included in the LSIO due to inundation	52 Victoria St Carisbrook		LSIO as proposed in the amendment are evidence based and should be retained	none
4 Landowner - Carisbrook	Questions the application of the FO and LSIO along the creek line	Wants LSIO and FO redacted in line with nomination on map	Believes that the FO and LSIO are too high and don't reflect the true flood height	33 MacCallum St Carisbrook		LSIO and FO as proposed in the amendment are evidence based and should be retained	none
5 Landowner - Dunolly	Questions the application of the LSIO width	Wants LSIO severely redacted in width	Believes the flood waters never extended the width proposed in the amendment	42 Pierce Hill Rd Dunolly		CMA propose to amend the mapping and remove the LSIO.	Proposed changes to mapping  Note: submission withdrawn 29/07/2020 on the

									basis of amended mapping
6 Landowner - Carisbrook	Questions LSIO over building area as historic mud brick retained despite flooding history (islands of areas not impacted by flood)	Believes amendment should be delayed until flood mitigation works complete	Believes LSIO incorrect in Bucknall Street elevated areas and amendment should be delayed post western levee construction	9 Bucknall St Carisbrook		LSIO and FO as proposed in the amendment are evidence based and should be retained.	None – a future amendment may revise the overlays, subject to detailed assessment following levee construction.		
7 Coliban Water	Support	No change	Response from Coliban Water				n/a		
8 Environmental Protection Authority	Support	No change	Response from Environmental Protection Authority				n/a		
9 Central Highlands Water	Support	No change	Response from Central Highlands Water				n/a		
10 GMW	Supports exemptions in proposed	No change	Response from GMW				n/a		

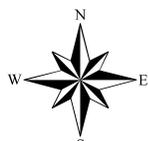
11	Landowners - Carisbrook	Clause 44.04-2 and 44.03-2	Queries why LSIO not over school, leisure centre and Mill, object to LSIO over Carisbrook township; objects to amendment occurring now rather than after the levee construction	LSIO be removed from Carisbrook township; LSIO applied over Carisbrook Primary School, Tullaroop Leisure Centre and the Mill	Believes LSIO incorrectly applied; amendment should be delayed	Not specified		LSIO and FO as proposed in the amendment are evidence based and should be retained.	No change. A future amendment may revise the overlays, subject to detailed assessment following levee construction.
12	CFA		Concerns that any proposed measure that could increase risk from bushfire/grassfire be considered (whether increased vegetation or management for improved flood mitigation increases bushfire)	No change to amendment in its current form. Recommend s a Bushfire Management Plan be incorporated	Response from CFA Community Safety Fire and Emergency Management	All land around Floodway Overlay in Carisbrook and Dunolly		CGSC will liaise with NCCMA to ensure that bushfire risk is considered in any future proposed revegetation works in the creek corridors but this issue is immaterial	No change. Note: Recommendations from the submission withdrawn via email 17/08/2020 after conversation with the CMA



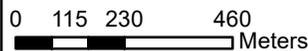
PROJECT:
Amendment c031cgol

TITLE:
**40 Pierce Hill Road
Dunolly**

MAP #:
Amended Overlays



1:15,000



Legend

- FO (AS EXHIBITED)
- LSIO2 (AMENDED)

The State of Victoria does not warrant the accuracy or completeness of information in this publication and any person using or relying upon such information does so on the basis that the State of Victoria shall bear no responsibility or liability whatsoever for any errors, faults, defects or omissions in the information.



Date: 22/07/2020