

## **SOUTH GIPPSLAND PLANNING SCHEME**

### **AMENDMENT C81**

#### **EXPLANATORY REPORT**

#### **Who is the planning authority?**

This amendment has been prepared by the South Gippsland Shire Council, which is the planning authority for this amendment. The amendment has been prepared in association with the West Gippsland Catchment Management Authority.

The amendment has been made at the request of the South Gippsland Shire Council.

#### **Land affected by the amendment**

The amendment applies to:

- All land currently in the Environmental Significance Overlay – Schedule 6 (Areas susceptible to flooding – ESO6).
- Inland waterways and floodplains within the administrative area of the West Gippsland Catchment Management Authority (WGCMA).
- Coastal land currently susceptible to storm surge inundation, as well as land anticipated to be impacted by coastal inundation (including storm surge inundation) in the year 2100.

See Attachment 1 for an overview map displaying the land affected by the amendment.

It is noted that the existing Land Subject to Inundation Overlay (LSIO) mapping in the Bass River catchment (west of Korumburra) is not affected by the amendment however the LSIO Schedule is changed by the amendment. Because the exhibited LSIO Schedule applies to the Bass River LSIO area, the amendment also affects all lands currently affected by the existing Bass River catchment LSIO.

#### **What the amendment does**

The amendment:

- Deletes the ESO6 (Clause 42.01s 6) entirely from the Planning Scheme – maps and Schedule.
- Amends the current Land Subject to Inundation Overlay to:
  - Apply the LSIO to riverine waterways and adjoining land (floodplains) subject to inundation in areas currently within the ESO6. (Note: The new LSIO will affect significantly less land than the ESO6 it replaces.)
  - Apply the LSIO to waterways and floodplains not currently affected by any inundation planning controls.
  - Improve the mapping accuracy of the existing application of the LSIO in coastal and inland areas.
  - Apply the LSIO to coastal areas not currently affected by inundation planning controls. The coastal LSIO includes mapping of anticipated sea level rise and storm surge impacts at the year 2100.
- Replaces the existing LSIO Schedule with a new Schedule. The Schedule increases the number of planning permit exemptions offered by the LSIO. Details of the new Schedule provisions are discussed in further detail below.

- Make minor changes to the Municipal Strategic Statement and Clause 21.15 Local Areas to acknowledge the updating of the inundation mapping and changes to the LSIO Schedule provisions.
- Includes as a Reference document in the Planning Scheme the 'Corner Inlet Dynamic Storm Tide Modelling Assessment – Water Technology June 2014'.

## **Strategic assessment of the amendment**

### **Why is the amendment required?**

The amendment is required to ensure the Planning Scheme includes the most up to date flood mapping currently available.

The mapping currently in the Planning Scheme is deficient. It identifies large areas of land as inundation prone which are not prone to inundation. It also excludes areas that are known to be prone to inundation from the mapping. The existing coastal mapping fails to consider the impacts of rising sea levels which will become an increasingly important issue in the orderly planning of low laying coastal areas.

#### Deletion of the Environmental Significance Overlay – Schedule 6 (Areas susceptible to flooding – ESO6)

Flooding / inundation in the Tarwin River catchment is currently identified by application of the ESO6 (Areas susceptible to flooding). The ESO6 maps flood prone land on a 'whole of lot' basis. This means that if a small section of a large lot is potentially flood affected, the whole of the lot is included in the ESO6. This has resulted in an extensive over application of the control, including its application to areas that are extremely unlikely to ever be affected by flooding. This legacy of inaccurate mapping is a burden on landowners and Council because of the number of unnecessary planning permits triggered by the control.

Use of an ESO6 to identify flooding / inundation risk is not supported by the Victorian Planning Provisions which provide a range of overlay options to identify land susceptible to flooding / inundation. Replacement of the ESO6 with the LSIO is consistent with best practice use of the Victorian Planning Provisions. The mapping of the LSIO in the Tarwin River catchment is based on flood information provided by the WGCMA and significantly reduces the extent of the overlay and correspondingly reduces its burden on landowners.

#### Amendment to the existing extent of the LSIO

In addition to the ESO6, the Planning Scheme also currently uses the LSIO to identify land subject to inundation. Similar to the ESO6 the current application of the LSIO is not accurately defined and includes land that does not inundate and excludes land that does inundate. The accuracy of the current LSIO is superior to the ESO however more recent land contour data and flood investigations allow the current boundaries of the LSIO to be greatly improved by this amendment. The new LSIO mapping removes some lots entirely from the control however most lots currently in the LSIO will remain affected, however with improved mapping of the actual extent (boundary) of the inundation area. In many cases this reduces the current burden of the LSIO on landowners.

#### Coastal inundation mapping

The LSIO is already extensively applied to low lying areas along South Gippsland's coastline. The amendment uses new coastal contour data (land height information) to improve the accuracy of the existing flood mapping and includes consideration of sea level rise, predicted to the year 2100, in the mapping of the LSIO. The sea level information includes estimated average sea level heights and storm surge impacts at the year 2100. These factors combine to increase the extent (application area) of the LSIO in coastal areas. The justification for the consideration of rising sea levels in the application of the LSIO is discussed in further detail below.

Coastal mapping of the LSIO in Corner Inlet is supported by information provided in the document titled 'Corner Inlet Dynamic Storm Tide Modelling Assessment – Water

Technology June 2014'. The amendment includes this document as a 'Reference document' in the planning scheme.

### Amendments to the LSIO Schedule

The existing LSIO Schedule is dated and triggers the requirement for a planning permit for many forms of development (buildings and works) that are not necessary to effectively control development in areas subject to inundation.

#### *Permit exemptions for dwellings*

The new LSIO Schedule proposed by the amendment greatly increases the range of developments that can be conducted without requiring a planning permit, including the development of new dwellings in existing coastal urban areas provided the finished floor levels of the building are at an appropriate height. The new Schedule provision states:

"A permit is not required for any of the following:

- A new dwelling in a residential zone (including the Township Zone) in the townships of Port Welshpool, Sandy Point, Venus Bay and Tarwin Lower, provided the finished floor level of the habitable building is 3.4 metres or more above Australian Height Datum (AHD)."

Because the LSIO is proposed to be applied to much of Port Welshpool, some of Sandy Point and smaller areas of other coastal township and Tarwin Lower, it is important that the LSIO makes a clear statement that each lot within these townships can have a dwelling. Zero AHD is at sea-level and the height above AHD rises with the land. This means that many township areas in the proposed LSIO will be able to build a new dwelling without triggering the need for an LSIO planning permit. Township contour information and AHD explanatory information can be viewed on Council's webpage.

It is important for landowners in areas proposed to be included in the LSIO to understand that the LSIO does not stop you from building a dwelling on your land. If you propose to build a dwelling below 3.4m AHD you will require a planning permit. The permit application will be referred to the WGCMA for their comments before Council makes its decision.

As noted above, the LSIO Schedule includes many planning permit exemptions for minor buildings and works so that the potential impact of the LSIO on landowners and occupiers is minimised.

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

The objectives of planning in Victoria are:

- (a) to provide for the fair, orderly, economic and sustainable use, and development of land;
- (b) to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;
- (c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;
- (d) to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;
- (e) to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;
- (f) to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e);
- (g) to balance the present and future interests of all Victorians.

The amendment will provide for the economic and sustainable use and development of land by ensuring that planning decisions for new developments are based on all available knowledge of riverine flood extents and coastal inundation extents.

The application of the Land Subject to Inundation Overlay will also provide for the protection of natural and man-made resources and the maintenance of ecological processes by ensuring that development does not affect the passage or temporary storage of flood waters.

It will also help to secure a safe working, living and recreational environment for all Victorians and visitors to Victoria by ensuring that development and housing is constructed in a manner that avoids the adverse impacts of flooding.

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

The proposed amendment will provide for a number of improved environmental, social and economic outcomes.

#### *Environmental impacts*

Application of the Land Subject to Inundation Overlay will trigger a planning permit for some new developments which intensify the use of the land. This includes new dwellings in coastal townships below the level of 3.4m measured against the Australian Height Datum (AHD - height above sea level), subdivision and earthworks (see LSIO exemptions) that alter natural ground levels. As a result, Council and floodplain management authorities will be provided with an opportunity to make planning decisions based on the flood mapping and ensure that new developments do not affect the passage or temporary storage of floodwaters. This is a positive step towards maintaining ecological processes associated with the natural flow of floodwaters.

In addition, the application of the Schedule to the Land Subject to Inundation Overlay will require, in some circumstances, a Coastal Hazard Vulnerability Assessment for coastal development on land below 5m AHD. This will allow Council to make informed decisions about developments which are at risk of coastal inundation impacts or have potential to exacerbate existing hazards. It will encourage design outcomes that are sensitive to rising sea level impacts.

#### *Economic and Social impacts*

The amendment is expected to have positive economic and social benefits for the municipality. Flooding / inundation can result in 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.

The amendment seeks to put in place provisions so that future flood problems can be minimised.

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

The amendment has no impact on or relationship to bushfire risk.

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

The amendment has been prepared having regard to Ministers Direction No. 11 – *Strategic Assessment of Amendments* and is consistent with the Ministerial Direction on *The Form and Content of Planning Schemes* under Section 7(5) of the Act.

The amendment has regard to Ministerial Direction No. 15 *The Planning Scheme Amendment Process* which sets timeframes for completing steps in the planning scheme amendment process.

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

The proposed amendment implements the objectives of Clause 13.01-1 *Coastal inundation and erosion* by planning for and managing the potential coastal impacts of climate change.

More specifically, the amendment plans for possible sea level rise of 0.8 metres by 2100 by identifying areas that will be affected by this predicted increase and applying the LSIO to these areas.

Application of the overlay will ensure that consideration of the risks associated with rising sea levels is undertaken in planning and management decision-making processes, where the need for a permit is triggered.

The proposed amendment seeks to implement the objectives of Clause 13.02-1 'Floodplain management' by assisting the protection of:

- Life, property and community infrastructure from flood hazards;
- The natural flood carrying capacity of rivers, streams and floodways;
- The flood storage function of floodplains and waterways; and
- Floodplain areas of environmental significance, or of importance to river health.

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

The amendment will enable Council and the West Gippsland Catchment Management Authority to better manage future development on land subject to the LSIO. There are no Local Policies at Clause 22 directly affected by the application of the LSIO.

Clause 21.15 *Local Areas* relates to flooding at the following clause numbers.

21.15-9 Venus Bay – 'Further strategic work'

- Investigate a flood study for Venus Bay to inform a local policy or overlay control within the planning scheme. The study should include a reference to climate change impacts
- Review the suitability of planning controls to land potentially affected by flooding, acid sulphate soils and sites of known cultural heritage significance. Amend or develop new controls as appropriate

The amendment is consistent with these 'Further strategic work' requirements.

21.15-12 Tarwin Lower – 'Further strategic work'

- Review the suitability of Environmental Significance Overlay, Schedule 6, and develop amended or new controls as appropriate, to address land potentially affected by flooding

The amendment fulfils this requirement, supporting its removal from the planning scheme.

Flood inundation areas are currently displayed in the Port Welshpool and Port Franklin Framework Plan maps. To achieve consistency with other Framework Plan maps, the 'Land potentially subject to flooding' will be removed from these maps.

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

The Land Subject to Inundation Overlay is considered to be the most appropriate planning tool to manage inundation.

The amendment is consistent with the purpose of the overlay:

- *To identify land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority.*

The LSIO is most commonly used to identify areas affected by riverine flooding and less frequently to identify other inundation risks, such as areas affected by coastal hazards. In recent times, the LSIO has been applied to coastal inundation areas in other municipalities.

Finally, the LSIO mapping and Schedule are consistent with the overlay purposes:

- *To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.*
- *To protect water quality in accordance with the provisions of relevant State Environment Protection Policies, particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).*
- *To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.*

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

The West Gippsland Catchment Management Authority has worked cooperatively in the preparation of the amendment. The views of other relevant referral agencies and other stakeholders will be considered through the exhibition of the amendment.

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

The amendment is not likely to have an adverse impact on the transport system as defined by 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 amendment seeks to introduce new planning provisions which will introduce planning permit triggers across extensive areas of South Gippsland Shire however the removal of the ESO6 also reduces the burden of planning controls on many landowners.

The LSIO Schedule has been drafted to minimise the need for a planning permit for many common forms of buildings and works (including new dwellings in coastal areas under 3.4m AHD) which will significantly reduce the burden of the LSIO on both landowners and Council.

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

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

- South Gippsland Shire Council Main Office – 9 Smith Street Leongatha
- South Gippsland Shire Council web page [www.southgippsland.vic.gov.au](http://www.southgippsland.vic.gov.au)
- Council's normal township display / notification locations.
- The amendment can also be inspected free of charge at the Department of Transport, Planning, and Local Infrastructure website at <http://www.dpced.vic.gov.au/planning/publicinspection>.

## **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 Close of Business **Friday 16 October 2015**.

A submission must be sent to: Planning Department, South Gippsland Shire Council, Private Bag 4, Leongatha 3953. Submission must make clear reference to 'Amendment C81' in the heading.

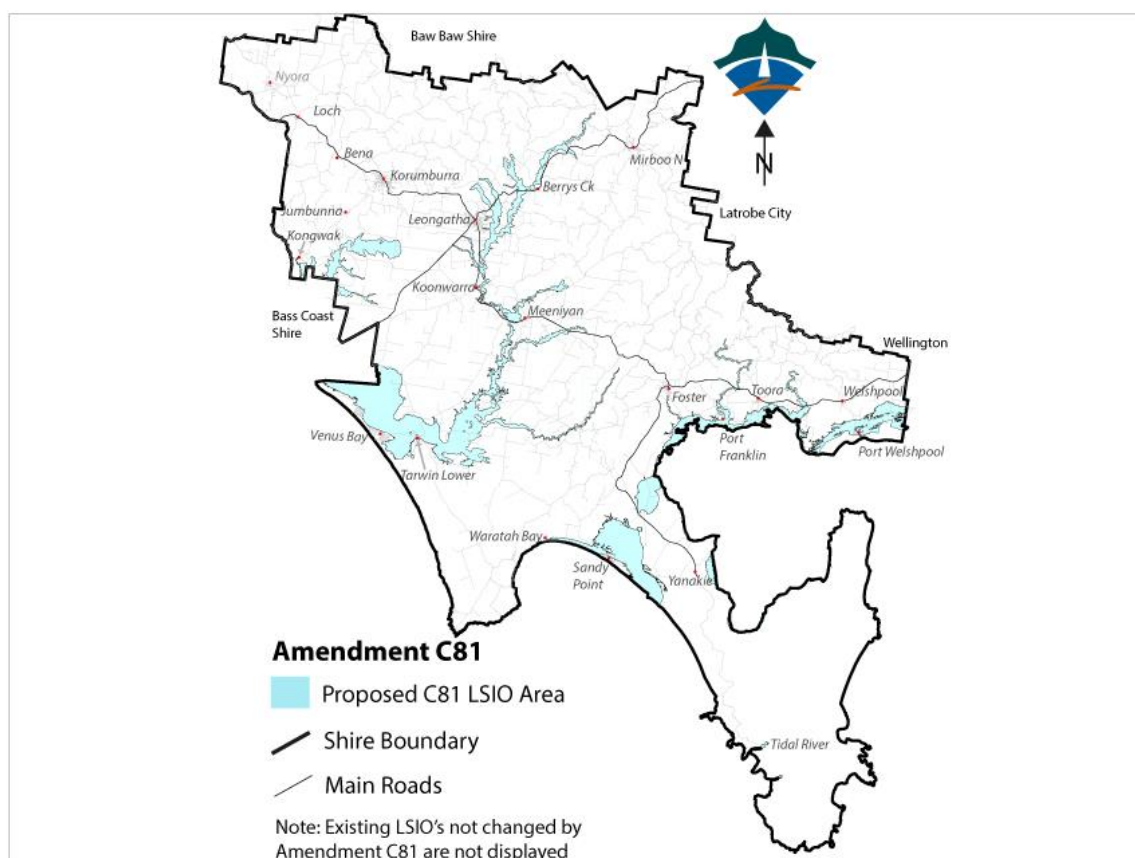
## **Panel hearing dates**

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

- Directions hearing: In the week commencing 7 December 2015
- Panel hearing: Late February 2016

## Attachment 1

### Proposed application of the Land Subject to Inundation Overlay



This is an 'overview' map only. Precise details of the map additions, deletions and other minor mapping changes can be viewed in the 53 separate map sheets that form part of the amendment.

- This map does not display land proposed to be removed from the ESO6 and not included in the LSIO.
- This map does not display the existing LSIO in Melbourne Water's drainage catchment west of Korumburra, the mapping of which is not affected by Amendment C81.

To assist you to identify if/how your land is affected by the amendment, Council has prepared aerial image maps with street names and house numbers, allowing you to zoom in to see affected areas. These maps can be viewed on Council's webpage.