

NORTHERN GRAMPIANS PLANNING SCHEME

AMENDMENT C60ngra

EXPLANATORY REPORT

Who is the planning authority?

This Amendment has been prepared by the Northern Grampians Shire Council, which is the planning authority for this Amendment. The Amendment has been made at the request of the Wimmera Catchment Management Authority (CMA).

Land affected by the Amendment

The amendment applies to the land identified as subject to inundation within the village of Halls Gap.

What the amendment does

The amendment implements the findings of the following flood investigation:

- Halls Gap Planning Scheme Amendment (Water Technology, 2020)

The amendment applies the Floodway Overlay and Land Subject to Inundation Overlay on land which is subject to flooding in a 1 in 100 year flood event.

The amendment also updates Clause 21.03 and includes the flood study as a Reference Document within the Northern Grampians Shire Planning Scheme.

Specifically, the amendment seeks to:

- Amend Planning Scheme Maps 35LSIO-FO and 36LSIO-FO and insert the new planning scheme map 37LSIO-FO to apply the Land Subject to Inundation Overlay and Floodway Overlay to land in Halls Gap.
- Amend Clause 21.03 by adding the flood investigation report as Reference Documents
- Amend Schedule 1 to Clause 44.03 (Floodway Overlay) and Schedule 1 to Clause 44.04 (Land Subject to Inundation Overlay) to add reference to 'Halls Gap' in the title of each Schedule
- Amend Schedule to Clause 72.03 to update list of maps comprising part of the scheme
- Amend Schedule to Clause 72.08 to list the flood investigation report as a Background Document.

Strategic assessment of the amendment

Why is the amendment required

In response to significant flood events, the Wimmera Catchment Management Authority, with the support of the Victorian State Government and the Northern Grampians Shire Council have commissioned a series of flood investigations in order to understand, and respond to, flood risk throughout the Shire.

The following studies have been completed:

- Halls Gap Planning Scheme Amendment (Water Technology, 2020)
- Halls Gap Flood Study (Water Technology, 2016)
- The Mount William Creek Investigation (BMT WBM Pty Ltd, 2014)
- The Upper Wimmera Flood Investigation (BMT WBM Pty Ltd, 2014)
- Dunmunkle Creek Flood Investigation (Water Technology, 2016)

- Glenorchy Flood Study (Water Technology 2006)

Each flood study provides recommendations for mitigation works, emergency warning and response systems and, critically, the establishment and enforcement of appropriate planning scheme controls in areas identified as at risk of flooding.

While engineering mitigation works and emergency response plans play a very important role in alleviating the impacts of flooding, in the long term one of the most effective means of flood mitigation is the establishment of appropriate planning scheme controls in areas identified at risk of flooding. A suite of planning controls are used within Victoria to ensure appropriate development in areas affected by flooding. Planning controls are effective over time as buildings are renewed they can be located in areas outside the floodplain, or if in an area of low flood risk, can be built above the declared flood Level.

A key implementation task from the flood studies is to introduce flood controls in the Northern Grampians Planning Scheme.

It is proposed to apply a combination of Floodway Overlay and Land Subject to Inundation Overlay. The application of these planning controls allows some development to occur within floodwaters which are deemed low risk but restricts development in high risk areas.

The application of these overlays will ensure that areas at risk of flooding are shown on planning scheme maps, and will enable Council to 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.

This amendment was originally part of Amendment C31. The amendment C31 was split following the advice from a Planning Panel, with Part 1 of the amendment gazetted in early 2019 and which applied the Floodway Overlay and Land Subject to Inundation Overlay to areas affected by inundation with the exception of Halls Gap. Part 2 of Amendment C31 intended to apply the Floodway Overlay and Land Subject to Inundation Overlay to affected land areas within the Halls Gap township including Fyans Creek floodplain and Mt Difficult gullies west of Grampians Road. However the amendment was deemed to have lapsed, requiring a fresh amendment to be prepared for the Halls Gap areas affected by inundation.

Council is currently undergoing the process of Planning Policy Framework (PPF) translation with the Smart Planning Team of the Department of Environment, Land, Water and Planning (DELWP) to implement the changes introduced by VC148. The translation process is complete and the translated PPF has been endorsed by the Council. The PPF is now in process for an amendment to be officially gazetted by the Minister. The changes made by this amendment will be incorporated to the translated planning scheme once it is gazetted.

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

Section 4 of the Planning and Environment Act 1987 sets out for planning in Victoria, including the following:

To provide for the fair, orderly, economic and sustainable use, and development of land;

To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;

To balance the present and future interests of all Victorians.

Section 6 of the Planning and Environment Act 1987 identifies what planning schemes can provide for, including (among other things) the ability to:

Regulate or prohibit any use or development in areas or in areas which are likely to become hazardous areas.

The amendment responds to these objectives and responsibilities by identifying flood related hazards within the municipality, and putting in place a decision making framework to manage use and development to ensure all people are provided with a safe environment, assets are appropriately designed and located, and future development does not compromise natural systems.

The Amendment will assist landowners in understanding potential hazards and guiding development on their land and will assist Council and the Wimmera Catchment Management Authority in making more informed and effective decisions on development of land affected by flooding.

How does the amendment address any environmental, social and economic effects?

The amendment is expected to have positive economic and social benefits for the municipality. Flooding carries significant costs for the community, individual landowners and the state. Flood damage can disrupt communities and in extreme cases, cause extensive and costly damage to public and private assets, cause agricultural losses, personal hardship and loss of life. By careful planning of new development and earthworks having regard to environmental risks, future financial and community impacts of flooding can be reduced.

The amendment should 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 neutral water 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 identification of flood-prone areas will ensure that development is compatible with local environmental conditions including flood hazards and drainage conditions.

The amendment seeks to protect new development from the effects of flooding and minimise the effect of development on flood processes.

Does the amendment address relevant bushfire risk?

The amendment affects land within the Bushfire Management Overlay and areas of extreme fire risk. However, the amendment does not compromise, increase or affect bushfire risk.

Does amendment comply with the requirements of any Minister's Directions applicable to the amendment?

The amendment complies with the requirements of the *Ministerial Direction on the Form and Context of Planning Schemes* (section 7(5) of the Act) by drafting the Schedule provisions of the overlays, the use of the Local Planning Policy Framework and the mapping.

The amendment has also been prepared and complies with *Ministerial Direction 11 (Strategic Assessment of Amendments)*.

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

Clause 71.02-1 of the Planning Scheme sets the purpose of the Planning Policy Framework as it - '*seeks to ensure that the objectives of planning in Victoria (as set out in section 4 of the Act) are fostered through appropriate land use and development policies and practices that integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development*'. The amendment provides clear policy direction to ensure that development within areas identified as flood prone from catchment and riverine sources are regulated in order to avoid hazard to human life and property and impacts on floodplain behaviour.

Clause 11 'Settlement' identifies that planning for settlements must have regard to health and safety. The amendment supports this principle by documenting the extent of flooding and the degree of risk from its

impacts by using the Floodway Overlay for areas that are at risk of faster flood flows and depths and the Land Subject to Inundation Overlay for overflow areas.

The amendment is consistent with the objectives of the Planning and Environment Act, 1987, Clause 13 of the Planning Policy Framework pertaining to 'Environmental Risk and Amenity'. Clause 13.03-1S Floodplain Management- provides the framework of the inclusion of flood provisions in planning schemes. The objective is to assist the protection of:

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

The policy states that flood risk must be considered in the preparation of planning schemes and planning decisions to avoid intensifying the impacts of flooding through inappropriately located uses and developments such as hospitals and police stations or activities that require the storage of dangerous materials and to avoid the presentation of floodwater movement or affecting the flood carrying and flood storage functions of the floodplain. Councils are encouraged to continuously improve their schemes and the amendment updates the planning scheme with the best available information of this environmental risk.

The amendment complies with State Planning policy objectives and will provide an improved basis for minimising flood damage and protecting the natural flood-carrying functions of waterways and floodplains.

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

The amendment is consistent with Clause 21.03 of the Municipal Strategic Statement pertaining to 'Environmental Risks and Landscape Values'.

The amendment provides the most up to date information for flooding.

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

The amendment proposes to apply to the affected area in Halls Gap the most appropriate VPP tools and flood specific controls to identify and manage flood risk to life and property.

The Floodway Overlay is applied to areas which flood frequently, at high depth and/or speed and for which the consequences (or hazard) of flooding are moderate to high, in urban areas where development is anticipated.

The Land Subject to Inundation Overlay is applied to areas subject to overland flows, of lesser depth and velocity in both rural and urban areas, or where development is anticipated. It has also applied to rural zoned land which are subject to higher flood frequency, depth and velocity but where less development is planned.

The planning permit exemptions set out in the Schedules to each of the Overlays are also commensurate with the level of risk of flooding.

Some of the flood investigations overlap geographically. Where two or more investigation areas overlap, the following approach to selecting the Overlay has been applied:

- a) Floodway Overlay:
 - i) If an area is classified as Floodway Overlay in all overlapping investigations, it is classified as Floodway Overlay.
 - ii) If an area is classified as Floodway Overlay in at least one investigations but not in all overlapping investigations, it is classified as Land Subject to Inundation Overlay
- b) Land Subject to Inundation Overlay
 - i) If an area is classified as Land Subject to Inundation Overlay in all overlapping investigations, it is classified as Land Subject to Inundation Overlay.

The introduction of Clause 22.02 'Floodplain Management' in part 1 of this amendment provided clear guidance on discretion for planning permit applications triggered by the Floodway Overlay and the Land Subject to Inundation Overlay. In addition, the amendment provided additional policy statements and contexts within Clause 21.03 on the matter of flood risk within the shire.

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

The amendment has been prepared in consultation with the Wimmera Catchment Management Authority (WCMA), which is the floodplain manager within the shire and recommending referral authority under Clause 66.03 of the Planning Scheme. The extent of the overlays, the configuration of the mapping and content of the Overlay Schedules proposed under this amendment have been prepared in consultation with WCMA.

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

The amendment will not impact upon the transport system objectives and decision making principles as set out in the Transport Integration Act 2010.

Resource and administrative costs

The amendment will impose some additional impact on the resources of the responsible authority as it will create some additional planning permit triggers. Although there is a large geographic area, much of the land affected by the amendment is within areas where there is limited development. The Overlay Schedules have been prepared to reduce as many unnecessary permit triggers as possible, without compromising the purpose or impact of the proposed overlays.

Where you may inspect this Amendment

The amendment is available for public inspection, free of charge:

- At the Northern Grampians Shire website: <https://www.ngshire.vic.gov.au/Council-Services/Planning-services/Planning-Scheme-Amendments>
- At the at the Department of Environment, Land, Water and Planning website at www.delwp.vic.gov.au/public-inspection
- At the Northern Grampians Shire Council Office 59-69 Main Street, Stawell
- Halls Gap Tourism Info Centre, 117-119 Grampians Rd, Halls Gap.

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 **Friday 5 March 2021**.

A submission must be sent to:

Ms Sumaya Tonny
Strategic Planner
Northern Grampians Shire Council
PO Box 580
Stawell Victoria 3380

Or

Email ngshire@ngshire.vic.gov.au

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 21 June 2021
- Panel hearing: week commencing 19 July 2021