

COLAC OTWAY PLANNING SCHEME

AMENDMENT C90

EXPLANATORY REPORT

Who is the planning authority?

This amendment has been prepared by the Colac Otway Shire, who is the planning authority for this amendment.

The Amendment has been made at the request of the Colac Otway Shire and the Corangamite Catchment Management Authority.

Land affected by the Amendment

The Amendment applies to land in the Deans Creek and Barongarook Creek catchments in Colac that is affected by floodwater during a 1 in 100 year average recurrence interval flood event, as identified in the *Deans Creek and Barongarook Creek Flood Study (2017)* (see Figure 1). Specifically it applies in the vicinity of the current Land Subject to Inundation Overlay (LSIO) in Colac and surrounds.

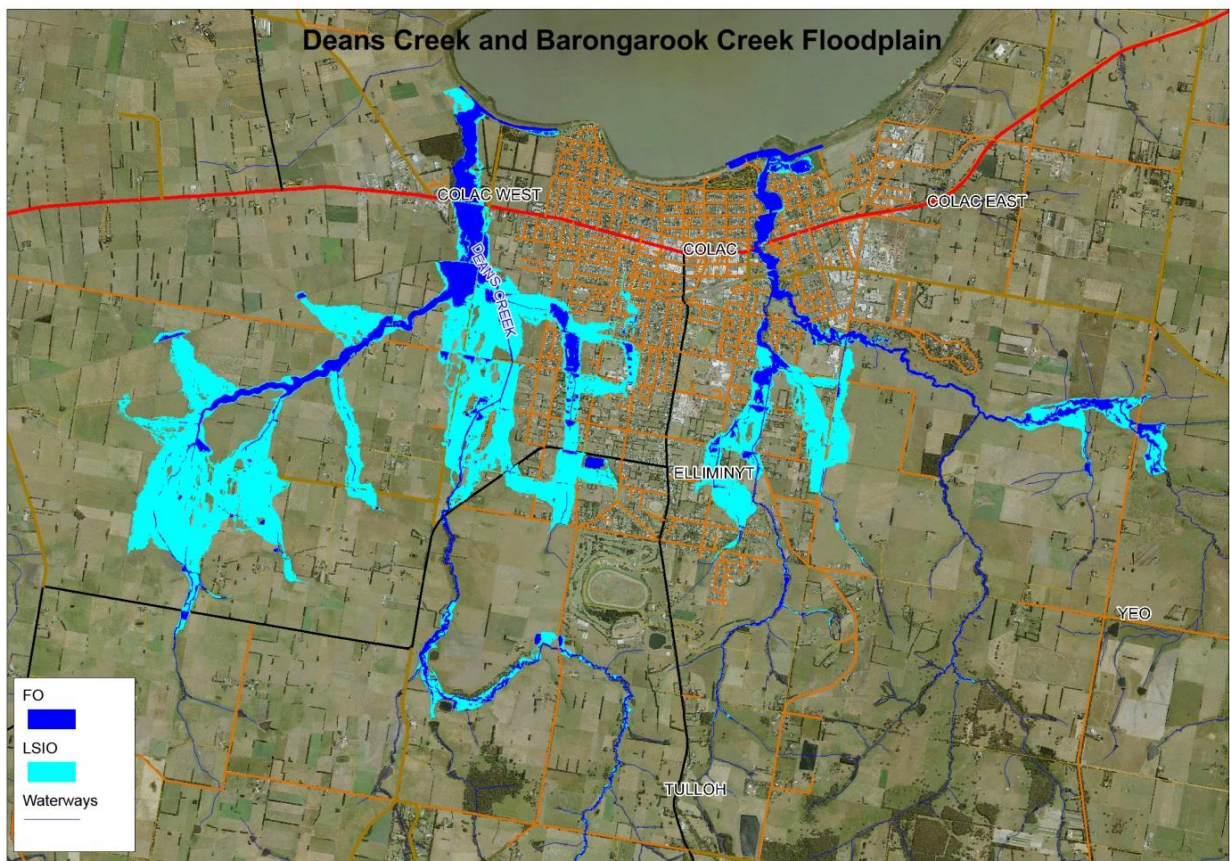


Fig. 1 Deans Creek and Barongarook Creek catchments proposed Overlay

What the amendment does

The amendment proposes to implement the findings of the *Deans Creek and Barongarook Creek Flood Study (2017)* by introducing planning controls that seek to improve the performance of the Colac Otway Planning Scheme in responding to flood events in Colac.

The amendment proposes to change the Colac Otway Planning Scheme in the following ways;

Mapping changes

- Delete Planning Scheme Maps 5LSIO-FO and 11LSIO-FO
- Amend Planning Scheme Maps 5LSIO-FO, 9LSIO-FO, 11LSIO-FO, 15LSIO-FO and 16LSIO-FO

Ordinance changes

- Amend Clause 21.03 (Settlement) to ensure that development of land affected by flooding from the Deans Creek and Barongarook Creek catchments responds to the risks associated with flooding and inundation.
- Amend Clause 21.04 (Environment) to ensure that the environmental risks associated with flooding and inundation are addressed.
- Amend Clause 21.07 (Reference Documents) to insert the *Deans Creek and Barongarook Creek Flood Study (2017)* as a Reference Document in the Colac Otway Planning Scheme.
- Amend the Schedule to Clause 44.03 Floodway Overlay (FO) to improve its performance in responding to flooding and flood related land development and subdivision matters.
- Amend the Schedule to Clause 44.04 Land Subject to Inundation Overlay (LSIO) to improve its performance in responding to flooding and flood related land development and subdivision matters.

Strategic assessment of the amendment

Why is the amendment required?

The Amendment is required to implement the findings of *Deans Creek and Barongarook Creek Flood Study*, which was finalised in August 2017. The Study identified areas in the Deans Creek and Barongarook Creek catchments that are affected by flooding. These areas have been mapped as either Floodway Overlay (FO) or Land Subject to Inundation Overlay (LSIO).

The Study is one of a number of flood studies commissioned by the State Government in response to flood events which occurred across Victoria in 2010. The purpose of the Study is to update the existing flood mapping in Colac so that it more accurately reflects the geographical extent and depth of flood waters in Colac associated with riverine flooding and that it quantifies the risks associated with flood events.

The proposed amendment seeks to update the LSIO mapping reflecting the latest data. It also identifies land within the LSIO that has a greater risk of flooding and/or the implications of flooding are more severe. This land will be included in the Floodway Overlay (FO).

The Amendment also revises and updates wording of the LSIO and FO Schedules so that they ensure best practice in terms of adhering to Ministerial Practice Notes and planning principles. Through the implementation of modified Schedules, Amendment C90 seeks to remove a greater range of buildings and works from the need to obtain a planning permit in the LSIO and FO.

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

The Amendment will implement the objectives of planning in Victoria by providing for a pleasant, efficient and safe working, living, and recreational environment by:

- Recognising those areas which are at risk of flooding
- Applying appropriate planning controls to those areas in order to protect life and property
- Ensuring high risk areas (i.e. active flood plains) have appropriate planning controls applied

The Amendment will also assist in protecting natural and man-made resources by ensuring that the natural flood carrying capacity of the Deans Creek and Barongarook Creek catchments remains largely unencumbered.

The Amendment has been prepared in accordance with the objectives of planning as set out in the *Planning & Environment Act 1987*.

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

The proposed Amendment addresses the potential effects in the following ways:

Environmental Effects

The Amendment will create a regulatory environment that will help to facilitate the free passage of floodwaters in active floodways. The new controls will also help to prevent inappropriate development from occurring in the floodways that could reduce the capacity of the floodplain to store and convey floodwater, or divert floodwater to other land not normally inundated by floodwater. The Amendment will also facilitate the continued use of the floodways as stream habitats and wildlife corridors.

Social and Economic Effects

The Amendment seeks to protect life and property in areas at risk of flooding. The amendment proposes to apply development controls in areas that are affected by flooding and to effectively mitigate against risk to life and property. The new controls will create a safer living and working environment for the occupants of the properties concerned.

Does the amendment address relevant bushfire risk?

There is no additional bushfire risk that will be caused as a result of the proposed amendment.

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

The Amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes under section 7(5) of the Act and Ministerial Direction 11 - Strategic Assessment of Amendments. The Amendment is written in plain English. No other Ministerial Directions apply to the Amendment.

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

The proposed Amendment supports the State Planning Policy Framework, particularly Clause 13.02 (Floodplains) and Clause 14.02 (Water) by updating appropriate flood protection measures in areas of known flood risk. The controls are being applied in order to protect life and property from flood hazard, and to ensure the natural flood capacity of waterways remain relatively unencumbered.

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

The proposed Amendment gives effect to the Local Planning Policy Framework of the Colac Otway Planning Scheme, particularly Clause 21.03-1 Settlement, which notes the susceptibility of Colac to flooding, and seeks to protect the floodway and new development from the impact of flood.

The proposed amendment also gives effect to Clause 21.04-1 Catchment Management, which identifies the importance of floodplains, Clause 21.04-2 Water, which seeks to protect water catchments and Clause 21.04-6 Flooding, which seeks to minimise environmental hazards.

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

The Amendment uses the flood-specific controls within the Victoria Planning Provisions (VPPs) to provide guidance for future development of flood affected land in the Deans Creek and Barongarook Creek Catchments.

The VPPs includes a number of planning controls to ensure that risks associated with the development and subdivision of floodplain land are recognised and responded to appropriately via the planning permit application process.

The Floodway Overlay (FO) and Land Subject to Inundation Overlay (LSIO) are based on the degree of hazard identified in different parts of the floodplains. They consider factors such as flood depth, velocity, natural storage, flood duration and warning time during the 1% AEP design flood event.

The Floodway Overlay denotes floodway land. Floodway is the component of the floodplain required to provide adequate flood conveyance and storage and should remain free from obstruction during major flood events. Floodway land is generally the high hazard portion of the floodplain where deep and fast flowing floodwater can be expected. Placement of buildings and other structures on floodway land substantially increases risk to life and community wellbeing and should therefore be avoided.

The Land Subject to Inundation Overlay generally denotes the fringe of the floodplain where flooding is shallower than the FO and slower moving during a flood event. The level of hazard in this part of the floodplain is lower relative to the FO. Development (buildings and works) and subdivision on land within the overlay can be considered provided a permit application meets the requirements of the Responsible Authority and the flood plain manager.

The use of Schedules to the flooding overlays allow a Planning Authority to modify permit triggers.

It is considered that the combination of these controls are the most appropriate use of the available VPP tools as they are specifically aimed at protecting life and property, helping to ensure the free flow of floodwaters and promoting environmental protection. These controls have been applied according to level of risk, consistent with the Practice Note '*Applying the Flood Provisions in Planning Schemes – A Guide for Councils*'.

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

The Amendment has been prepared in partnership with the Corangamite Catchment Management Authority (CCMA). Other agencies will be consulted via the exhibition process of this amendment.

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

The Amendment will not have a significant impact on the transport system. Therefore the requirements of this Act are not applicable.

Resource and administrative costs

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

The proposed planning provisions will improve the application and administration of the Colac Otway Planning Scheme by providing certainty for Council, Corangamite CMA, land owners and developers. The removal of existing overlay controls from land no longer deemed to be impacted from flooding will remove the need for assessing planning permit applications. The removal of a greater range of planning permit triggers within the LSIO and FO will also lessen the impact upon Council resources and decrease administrative costs.

Where you may inspect this Amendment

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

Colac Otway Shire Council
2-6 Rae Street,
COLAC VIC 3250

Website: www.colacotway.vic.gov.au

The Amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at www.delwp.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 9 March 2018.

A submission should be titled "Amendment C90 Submission" and emailed to;

inq@colacotway.vic.gov.au

or mailed to:

Strategic Planning
Colac Otway Shire Council
PO Box 283
COLAC VIC 3250

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: 14 November 2019
- panel hearing: Week beginning 28 January 2020