

**ITEM C\_\_****PLANNING SCHEME AMENDMENT C99 – FLOOD MAPPING AND FLOOD POLICY UPDATE**

DIVISION: DEVELOPMENT  
 ACTION OFFICER: MANAGER LAND USE PLANNING  
 DATE: 18 JUNE 2019

| IMPACTS   |               |             |                |              |                   |           |               |            |                 |
|-----------|---------------|-------------|----------------|--------------|-------------------|-----------|---------------|------------|-----------------|
| Financial | Communication | Legislative | Council Policy | Council Plan | Resources & Staff | Community | Environmental | Engagement | Risk Management |
| ✓         | ✓             | ✓           | ✓              | ✓            | ✓                 | ✓         | ✓             | ✓          | ✓               |

**OBJECTIVE**

To seek a Council resolution requesting the Minister for Planning to Authorise Council as the Planning Authority to prepare Amendment C99 to the Wellington Planning Scheme.

**PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY****RECOMMENDATION**

*That Council;*

- 1. Resolve to request the Minister for Planning to Authorise Council as the Planning Authority to prepare Amendment C99 to the Wellington Planning Scheme (refer to Attachment 1); and***
- 2. Seek the advice of the relevant Catchment Management Authority for any planning permit applications received (from 18 June 2019) on newly mapped flood areas affected by Amendment C99.***

**BACKGROUND**

Wellington Shire Council has a statutory duty to ensure flood risk and community safety in flood prone areas is appropriately and effectively managed.

It is a requirement of both State Government Planning Policy and the Victorian Floodplain Management Strategy to ensure that flood-prone land is mapped in the Wellington Planning Scheme, including land predicted to be inundated by future sea level rise, using the most up-to-date data available.

Amendment C99 to the Wellington Planning Scheme proposes to replace the existing overlay controls – the Floodway Overlay (FO) and Land Subject to Inundation Overlay (LSIO) - throughout the municipality, with a revised FO and LSIO to reflect new flood information held by the East and West Gippsland Catchment Management Authorities, including introduction of the LSIO to land

identified as being subject to coastal inundation in the year 2100 (as required by the Victorian Floodplain Management Strategy).

Amendment C99 proposes to:

- Update flood mapping across the whole Shire to accurately identify land assessed as being flood prone. This includes land affected by riverine and coastal inundation (including land predicted to be inundated by future sea level rise).
- Introduce an exemption from the need for a planning permit for a single dwelling on residentially zoned land – subject to specified criteria including that the finished floor level is above the level specified by the relevant Catchment Management Authority (and in the case of rural land where the Catchment Management Authority consents in writing).
- Introduce additional exemptions from the need for a planning permit for a range of minor buildings and works (e.g. small sheds).
- Introduce new application information requirements to help ensure that the appropriate information is available to guide decision making for planning permit applications.
- Introduce a new Floodplain Management Policy to provide clarity and guidance regarding flood issues in Wellington Shire and to help guide future decision making.

A copy of Amendment C99 is included in **Attachment 1**.

## OPTIONS

1. To request the Minister for Planning to Authorise Council, as the Planning Authority, to prepare Amendment C99 – Flood Mapping Update, pursuant to Section 8A of the *Planning and Environment Act 1987*.
2. To not request the Minister for Planning to Authorise Council, as the Planning Authority, to prepare Amendment C99 – Flood Mapping Update.
3. To seek additional information prior to considering a further report at a future Council Meeting.

## PROPOSAL

That Council resolve to request the Minister for Planning to Authorise Council as the Planning Authority to prepare Amendment C99 to the Wellington Planning Scheme (**Attachment 1**).

## CONFLICT OF INTEREST

No staff and/or contractors involved in the compilation of this Report have declared a Conflict of Interest.

## FINANCIAL IMPACT

The financial cost of the Planning Scheme Amendment process has been accommodated in the Strategic Planning budget for 2019/2020, inclusive of grant funds received from the Floodplain Management Unit of the Department of Environment, Land, Water and Planning (DELWP). Council is required to pay the relevant statutory fees to the Minister for Planning for this Amendment.

## **COMMUNICATION IMPACT**

The Amendment will affect areas of land across the Shire that are currently subject to riverine and coastal inundation as well as some townships where flood controls currently don't exist and will be introduced - including Dargo and Port Albert.

On this basis, the Amendment is expected to generate significant community interest. To ensure that opportunities exist for all affected landowners to provide feedback about what is being proposed, an engagement strategy has been prepared, the details of which can be found in the 'Engagement Impact' section of this Report.

## **LEGISLATIVE IMPACT**

Amendment C99 has been prepared having regard to the *Planning and Environment Act 1987* and the provisions of the Wellington Planning Scheme - including the relevant state and local planning policies.

The Amendment process will be undertaken in accordance with the relevant requirements of the *Planning and Environment Act 1987*, including referring any unresolved submissions to an Independent Planning Panel appointed by the Minister for Planning.

Wellington Shire Council is committed to upholding the Human Rights principles as outlined in the *Charter of Human Rights and Responsibilities Act 2006 (Vic)* and referred to in Council's Human Rights Policy. The Human Rights Checklist has been completed and the proposed Amendment is in accordance with Council's policy commitment to uphold human rights principles.

## **COUNCIL POLICY IMPACT**

While Amendment C99 is being progressed, it is recommended that any planning permit applications received (from 18 June 2019) on newly mapped Flood Overlay (FO) or Land Subject to Inundation Overlay (LSIO) areas be sent to the relevant Catchment Management Authority for advice and in doing so, ensure that Council's existing Policy 3.1.2 '*Assessment of Development in Relation to Potential Sea Level Rise*', continues to be applied.

The provisions of Amendment C99 will, however, seek to update and ultimately replace Policy 3.1.2 by introducing new planning policy into the Wellington Planning Scheme. Most significantly, should Amendment C99 ultimately be adopted by Council and subsequently approved by the Minister for Planning, Council policy will require development to be assessed and constructed at 2100 flood levels (in areas affected by sea level rise), although Amendment C99 proposes to exempt (subject to specified requirements) new single dwellings on residentially zoned land from requiring a planning permit (and in the case of rural land where the Catchment Management Authority consents in writing).

## **COUNCIL PLAN IMPACT**

The Council Plan 2017–21 contains the following relevant strategic objectives and related strategies:

### Strategic Objective 1.1

Maintain friendly, safe communities providing opportunities for residents to lead healthy and active lifestyles

#### Strategy 1.1.2

Work in partnership to provide leadership and strategic direction on issues relating to community safety.

#### Strategic Objective 1.4

Enhance resilience in our towns and our communities

#### Strategy 1.4.2

Mitigate the potential effects of natural disasters on our communities by supporting appropriate development in accordance with responsible land use planning practices.

#### Strategic Objective 2.3

Wellington Shire is well planned, considering long term growth and sustainability.

#### Strategy 2.3.1

Continue to provide strategic planning to encourage long term growth and sustainability in Wellington Shire.

#### Strategic Objective 3.3

Build resilience in our communities and landscapes to mitigate risks from a changing climate.

#### Strategy 3.3.2

Consider climate risk impact in planning decisions. Ensure planning schemes use the most up to date, relevant data regarding climate change impacts.

Amendment C99 to the Wellington Planning Scheme supports the above Council Plan strategic objectives and strategies.

### **PLANNING POLICY IMPACT**

Planning Scheme Amendment C99 has been prepared having regard to relevant State Planning Policy. In particular, *Clause 13.01-2S – ‘Coastal Inundation and Erosion’* and *Clause 13.03-1S ‘Floodplain Management’*. As referred to above, Amendment C99 also proposes to introduce updated flood and sea level rise policy into the Wellington Planning Scheme.

### **COMMUNITY IMPACT**

Amendment C99 will enhance resilience within the Shire’s towns and communities and assist in the protection of life, property and community infrastructure from flood hazard by applying appropriate planning controls to areas identified as being at risk of flooding. This ensures that the most up-to-date flood information is available so that informed decisions can be made in assessing development proposals within flood-prone areas.

While many community members are likely to react negatively to Amendment C99, it is a statutory duty for Council to ensure its Planning Scheme reflects the best available information and to comply with State planning policy.

Amendment C99 seeks to strike an appropriate balance between regulation and managing future flood risk, for example, by exempting single dwellings in township areas from requiring a planning permit when specified requirements are met, but ensuring that any proposals which seek to intensify development in a flood prone locality (e.g. a multi dwelling development on a single lot) is more stringently assessed by the Catchment Management Authority through the planning permit process.

## ENVIRONMENTAL IMPACT

Amendment C99 will assist in the protection of the natural flood carrying capacity and storage function of floodplains and waterways, as well as floodplain areas of environmental significance and importance to river health.

## ENGAGEMENT IMPACT

Following Ministerial Authorisation being received, the Amendment process will include an extensive engagement and consultation program to ensure that all affected landowners, occupiers, statutory authorities and other key stakeholders are not only informed of the detail of the proposed Amendment, but also have ample opportunity to provide feedback. This will include:

- Notice of preparation of the Amendment in the Victorian Government Gazette, Yarram Standard, Gippsland Times and Latrobe Valley Express.
- Standard notification letters - as required by the *Planning and Environment Act 1987*, to all affected landowners and authorities. A detailed Frequently Asked Question sheet (FAQ) will be enclosed with the Notice.
- A formal public exhibition of the Amendment over a two (2) month period (expected to be between August and September 2019).
- Media releases at key stages of the Amendment process.
- A dedicated 'Amendment C99' page on Council's website, including an online mapping portal to view the proposed flood mapping extents. The website will be available for viewing from 19 June 2019 and will contain relevant background information and supporting information to assist the community in understanding the Amendment.
- Updates on Council's website and letters to submitters at each stage of the Amendment process.
- One-on-one Session: During the first month of the formal public exhibition period (expected to be August 2019), officers from both Council and the Catchment Management Authorities will be available to meet with landowners on a 'one-on-one' basis (as flood impacts will be different from one lot to another). The sessions will provide the opportunity for individuals to book a dedicated time slot for a meeting to ask questions, discuss concerns and provide feedback.

Sessions will be held in Sale, Port Albert, Dargo, Loch Sport, Golden Beach, Heyfield, Stratford, Maffra, Rosedale and Yarram. Full details of all sessions - including dates and times, will be included in the FAQ sheet sent to affected landowners and will also be posted on the Amendment C99 page on Councils website.

- All Amendment material will be available to view in hard copy at Council Service Centres and libraries for public viewing.

Landowners wanting to discuss Amendment C99 prior to the commencement of the formal public exhibition period will have an opportunity to book a timeslot with Council and Catchment Management Authority officers at one of the following two sessions:

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|---|--|
| Monday 1 July 2019<br>Sale Service Centre<br>18 Desailly Street, Sale<br>10.00am - 4.00pm | Tuesday 2 July 2019<br>Yarram Service Centre<br>156 Grant Street, Yarram<br>10.00am – 2.00pm |
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## **RISK MANAGEMENT**

From a risk and community safety perspective, it is critical that Council ensures its Planning Scheme reflects the best available information. It is also considered that the level of risk and any potential future liability is lessened by Council planning for 2100 flood levels in areas affected by future sea level rise.