

HORSHAM PLANNING SCHEME

AMENDMENT C81HORS

EXPLANATORY REPORT

Who is the planning authority?

This amendment has been prepared by the Horsham Rural City Council, which is the planning authority for this Amendment.

The amendment has been made at the request of Horsham Rural City Council.

Land affected by the Amendment

The land affected by the amendment is within the settlements of Brimpaen, Bungalally, Clear Lake, Dadswells Bridge, Dahlen, Dooen, Douglas, Drung Drung, Duchembegarra, Grass Flat, Heathvale, Jallumba, Jilpanger, Jung, Kalkee, Kanagulk, Kewell, Laharum, Longerenong, Lower Norton, McKenzie Creek, Mockinya, Mitre, Natimuk, Noradjuha, Nurrabel, Pimpinio, Quantong, Riverside, St Helens Plains, Telangatuk East, Tooan, Toolondo, Vectis, Wail, Wartook and Wonwondah.

The amendment updates flood controls based on detailed hydrologic and hydraulic modelling from six flood studies prepared on the behalf of the Wimmera Catchment Management Authority (WCMA). The amendment affects large areas of flood prone land throughout the municipality, as generally identified below.

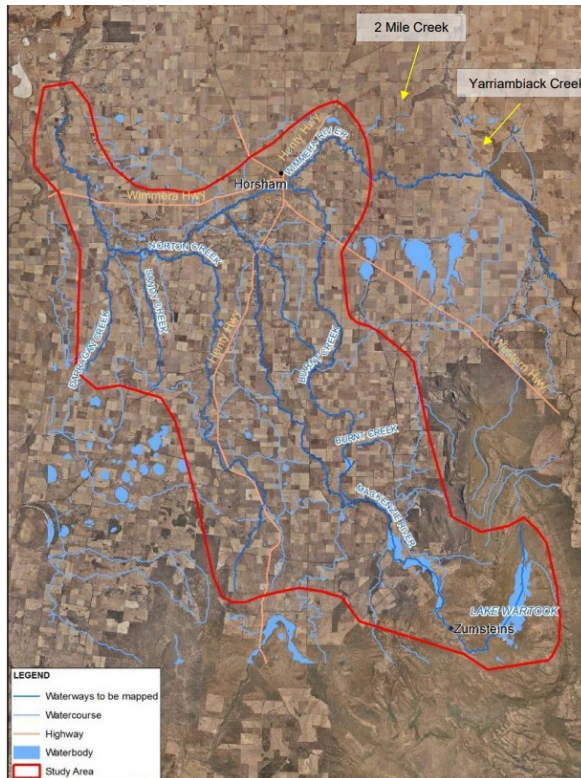
Flood Study	Land affected
Horsham and Wartook Valley Flood Investigation (2019)	The study area covered rural land and the township of Horsham including the Wimmera River, Mackenzie River, Burnt Creek, Bungalally Creek, Darragan Creek and Sandy Creek. See Figure 1.
Natimuk Flood Investigation (2013)	The study area included the Natimuk township and entire upstream catchment including Natimuk Creek and Little Natimuk Creek.
Warracknabeal Brim Flood Study Investigation (2016)	The study area covered Yarriambiack Creek from Jung to Galaquil East Road north of Brim.
Mount William Creek Flood Investigation (2014)	The study area covered a large catchment including several waterways, namely, Mount William Creek, Salt Creek, Fyans Creek, Pleasant Creek, Sheepwash Creek and Golton Creek along with their tributaries. See Figure 1.
Wimmera River and Yarriambiack Creek Flow Investigation (2009/10)	The study area covered the Wimmera River and Yarriambiack Creek between Glenorchy, Horsham and Warracknabeal.
Lower Wimmera Flood Investigation (2016-17).	The study area covered the Lower Wimmera River between Quantong and Lake Hindmarsh.

Other land affected outside of the six flood studies, includes all land within the current extent of the Land Subject to Inundation Overlay (LSIO).

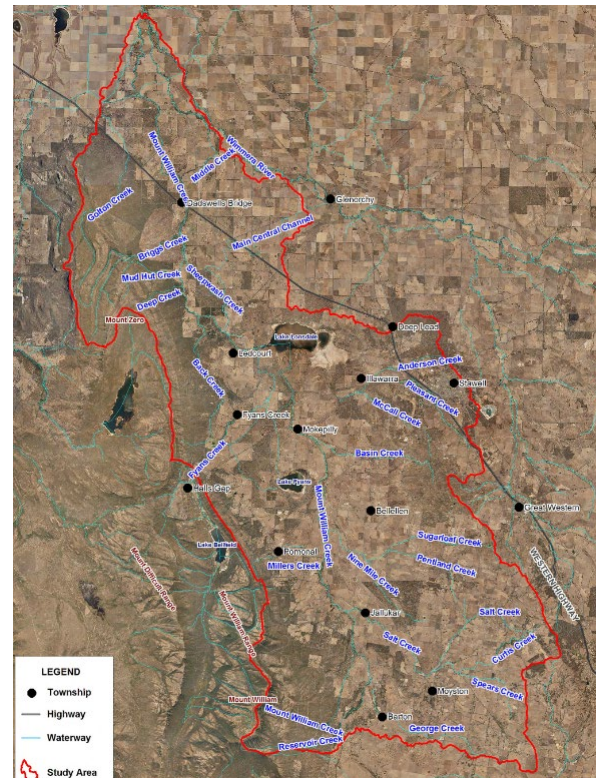
The amendment also technically affects nine privately owned properties located on the south side of Barnes Boulevard, Horsham together with an adjoining reserve. These properties have a dual zoning, the amendment will rezone privately owned land to Low Density Residential Zone (LDRZ), whilst the Public Park and Recreation Zone (PPRZ) will be applied to public land.

Figure 1 Horsham and Wartook Valley and Mt William Creek Flood Study Areas

Horsham and Wartook Valley Flood Investigation Area



Mt William Creek Flood Study Area



What the amendment does

The amendment applies the Floodway Overlay (FO), Land Subject to Inundation Overlay (LSIO) and Special Building Overlay (SBO) on land which is subject to a 1% annual exceedance probability (AEP) flood event.

Schedule 1 to the SBO replaces Schedule 9 to the Design and Development Overlay (Stormwater Management Area) (DDO9). The use of a DDO for a flood control is not a proper use of the Victoria Planning Provisions (VPP).

Schedule 4 to the Design and Development Overlay (Flood Fringe Development) (DDO4) is deleted on the basis that it is redundant.

Schedule 1 to the LSIO will apply to land outside of the flood investigation study areas that are already within the current extent of the Land Subject to Inundation Overlay.

The amendment updates Clause 02.03-3 (Environmental risks and amenity) and deletes Clause 13.03-1L (Floodplain management) and includes the flood studies as Reference Documents within the Horsham Planning Scheme.

Specifically, the Amendment seeks to:

- Amend Planning Scheme Map Nos. 1LSIO-FO, 2LSIO-FO, 4LSIO-FO, 5LSIO-FO, 6LSIO-FO, 7LSIO-FO, 8LSIO-FO, 10LSIO-FO, 11LSIO-FO, 12LSIO-FO, 13LSIO-FO, 14LSIO-FO, 15LSIO-FO, 16LSIO-FO, 17LSIO-FO, 18LSIO-FO, 19LSIO-FO, 21LSIO-FO, 22LSIO-FO, 23LSIO-FO, 24LSIO-FO, 25LSIO-FO, 26LSIO-FO, 27LSIO-FO, 28LSIO-FO, 29LSIO-FO,

30LSIO-FO and 31LSIO-FO to apply the LSIO1 and FO1 to include identified flood prone land and delete reference to either the FO or LSIO.

- Insert Planning Scheme Map No. 20LSIO-FO to apply the LSIO1 and FO1 to identified flood prone land.
- Insert Planning Scheme Map Nos. 9SBO, 10SBO, and 13SBO to apply the SBO1 to identified flood prone land.
- Amend Planning Scheme Map Nos 9DDO, 10DDO, 12DDO and 13DDO to delete the DDO9 as a result of its replacement by the SBO.
- Amend the Planning Scheme Map Nos. 11DDO and 14DDO to delete the DDO4.
- Amend the Planning Scheme Map Nos. 11DDO and 14DDO to delete the DDO4.
- Amend Planning Scheme Map No. 12 to apply the Public Park and Recreation Zone (PPRZ) and Low Density Residential Zone (LDRZ) to replace the Urban Flood Zone (UFZ).
- Remove Clause 37.03 (Urban Flood Zone) and the Schedule from the scheme.
- Delete Schedule 4 to Clause 43.03 (Design and Development Overlay) (Flood Fringe Development).
- Delete Schedule 9 to Clause 43.03 (Design and Development Overlay) (Stormwater Management Area).
- Amend Schedule 1 to Clause 44.03 (Flood Overlay) to meet the requirements of the *Ministerial Direction - the Form and Content of Planning Schemes*, clarify exemptions and remove duplication in the scheme.
- Replace the Schedule to Clause 44.04 (Land Subject to Inundation Overlay) with a new Schedule 1 to meet the requirements of the *Ministerial Direction - the Form and Content of Planning Schemes*, clarify exemptions and remove duplication in the scheme.
- Insert Clause 44.05 (Special Building Overlay) into the scheme.
- Insert Schedule 1 to Clause 44.05 (Special Building Overlay) to replace DDO9.
- Amend Clause 02.03-3 (Environmental risks and amenity) by making specific reference to the six flood studies undertaken by the WCMA and the application of the flood-related overlays.
- Delete Clause 13.03-1L (Floodplain management) on the basis that the provisions are effectively replaced by the schedules to the overlays.
- Amend the Schedule to Clause 72.03 (What does this planning scheme consist of?).
- Amend the Schedule to Clause 72.08 (Background Document) to include the flood studies as Background Documents.
- Amend the Schedule to Clause 74.01 (Application of zones, overlays and provisions).
- Amend the Schedule to Clause 74.02 (Further strategic work).

Strategic assessment of the Amendment

Why is the Amendment required?

In response to significant flood events, the WCMA, with the support of the Victorian State Government and the Horsham Rural City Council, commissioned a series of flood investigations in order to understand, and respond to, flood risk throughout the Shire. Each of the studies is identified above and was undertaken by Water Technology on behalf of the WCMA other than the Mount William Creek Flood Investigation, which was undertaken by BMT WBM.

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 Horsham Planning Scheme.

It is proposed to apply a combination of FO and LSIO. 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.

It is also proposed to delete DDO-9 and replace it with the SBO. As a result of stormwater modelling by Water Technology as part of the Horsham and Wartook Flood Investigation (2019), there is a reduction of to the area affected by stormwater flooding.

The SBO is a more appropriate mechanism to address flooding by stormwater or overland flows from rainfall run-off rather than the Design and Development Overlay and makes proper use of the VPP.

Further, it is proposed to delete DDO4 on the basis of advice received from the WCMA that this is redundant. In other words, this area is no longer subject to flooding that requires the application of flood protection controls. This was confirmed in writing by the WCMA on 2 December 2021. Deleting DDO4 will ensure the burden of unnecessary controls are removed from the planning scheme and ensure unnecessary referrals to the WCMA.

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.

Finally, it is proposed to delete the UFZ) and replace it with the PPRZ and LDRZ on Planning Scheme Map No. 12. Both the FO and LSIO already apply to this land and the UFZ duplicates the existing overlays. The land to be rezoned PPRZ is public land and the land to be rezoned LDRZ is private land.

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

Section 4 of the *Planning and Environment Act 1987* (the Act) 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 Act 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 complies with the VPP provisions for bushfire, particularly Clause 13.02 Bushfire Planning. The amendment will not increase the risk to life, property, community infrastructure and the natural environment from bushfire.

Land to be rezoned to Low Density Residential on the south side of Barnes Boulevard, Horsham is located outside of a Bushfire Management Overlay (BMO). Lots are unlikely to be intensified as they have already been developed with dwellings and are partly encumbered by a Floodway Overlay.

Much of the land affected by this amendment is rural and therefore unlikely to be intensified for urban purposes without subsequent planning approval, and further consideration and assessment against the purpose and decision guidelines of the BMO.

Does the Amendment comply with the requirements of any Minister's Direction 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 FO for areas that are at risk of faster flood flows and depths and the LSIO for overflow areas. The SBO applies to land in urban areas liable to inundation by overland flows from the urban drainage system.

The amendment is consistent with the objectives of the Act and Clause 13 (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 Municipal Planning Strategy?

The Amendment will support the Municipal Planning Strategic Statement of the Horsham Planning Scheme as follows:

Clause 02.02 (Vision) seeks to make the Horsham Rural City is a great place to live – vibrant, inclusive and welcoming. Council seeks to manage land use and development in a manner that:

- Protects and promotes the municipality as a safe place to live
- Respects and protects our natural environment
- Consider the impact of climate change

Clause 02.03-3 (Environmental risks and amenity) states that Council's strategic directions for environmental risks and amenity include:

- Minimise flood risk and maintain the capacity of the floodplain.

Clause 13.03-1L (Floodplain management – Horsham) applies to all land within FO, LSIO and DDO9 and contains strategies and policy guidelines. The Amendment proposes to this policy on the basis the policy guidelines can be included as policy objectives or decision guidelines in the schedules.

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

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

The FO 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 LSIO 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 SBO is applied to land in urban areas liable to inundation by overland flows from the urban drainage system as determined by, or in consultation with, the floodplain management authority. One of its purposes is "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.”

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 FO in all overlapping investigations, it is classified as FO.

ii) If an area is classified as FO in at least one investigations but not in all overlapping investigations, it is classified as LSIO.

b) Land Subject to Inundation Overlay

i) If an area is classified as LSIO in all overlapping investigations, it is classified as LSIO.

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

The amendment has been prepared in consultation with the 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

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

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 can be inspected free of charge at the Horsham Rural City Council website at <http://www.hrcc.vic.gov.au/>; or

The amendment is available for public inspection, free of charge, during office hours at the following Horsham Rural City Council Customer Service Centres:

- Civic Centre, 18 Roberts Avenue HORSHAM VIC 3402
- Natimuk Office, 62 Main Street NATIMUK VIC 3409.

The amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at www.planning.vic.gov.au/public-inspection or by contacting 1800 789 386 to arrange a time to view the amendment documentation.

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 **20 December 2022**.

A submission must be sent to:

Strategic Planning Team
Submission to Amendment C81hors
Horsham Rural City Council
PO Box 511
Horsham VIC 3400

Or submitted by email to: strategic.planning@hrcc.vic.gov.au

Or submitted using the online submission form available on Council's website:
www.hrcc.vic.gov.au/c81-Flood-Amendment