

Planning Panels Victoria

Latrobe Planning Scheme Amendment C131latr Latrobe Flood Studies

Panel Report

Planning and Environment Act 1987

28 August 2024

How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether to adopt the Amendment.

[section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the PE Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the PE Act]

Planning Panels Victoria acknowledges the Wurundjeri Woi Wurrung People as the traditional custodians of the land on which our office is located. We pay our respects to their Elders past and present.

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the PE Act

Latrobe Planning Scheme Amendment C131latr

Latrobe Flood Studies

28 August 2024



Alison McFarlane, Chair



Peter Bettess, Member

Contents

	Page
Executive summary	6
1 Introduction	7
1.1 The Amendment.....	7
1.2 Background and Amendment History.....	7
1.3 Procedural issues	9
1.4 The Panel’s approach	9
1.5 Limitations	10
2 Strategic issues	12
2.1 Planning context	12
2.2 Strategic justification.....	13
3 Flood modelling	14
3.1 Accuracy of flood modelling and availability of supporting information	14
3.2 Lived experience	14
3.3 Stormwater versus riverine flooding.....	15
4 Local and specific site issues	17
4.1 Glengarry	17
4.2 Traralgon.....	18
4.3 Churchill	19
4.4 Moe	20
4.5 Yinnar	20
4.6 Lot 33, PS 547909, Bradman Boulevard, Traralgon	21
Appendix A Submitters to the Amendment	23
Appendix B Chronology of events	25
Appendix C Changes proposed after second exhibition	27
Appendix D Planning context	32
D:1 Planning policy framework.....	32
D:2 Other relevant planning strategies and policies	32
D:3 Planning scheme provisions	33
D:4 Ministerial Directions, Planning Practice Notes and guides	34

List of Tables

	Page
Table 1 Planning context	12
Table 2 Amendment C131latr chronology of events.....	25

List of Figures

	Page
Figure 1 Council and WGCMA proposed changes to flood extents after second exhibition	8
Figure 2 Glengarry flood depths informing second exhibition mapping	17
Figure 3 Glengarry flood depths informing proposed mapping changes	18

Glossary and abbreviations

AEP	Annual Exceedance Probability
Council	Latrobe City Council
FO	Floodway Overlay
LIDAR	Light Detection and Ranging
LSIO	Land Subject to Inundation Overlay
PE Act	<i>Planning and Environment Act 1987</i>
WGCMA	West Gippsland Catchment Management Authority

Overview

Amendment summary

The Amendment	Latrobe Planning Scheme Amendment C131latr
Common name	Latrobe Flood Studies
Brief description	Implement the recommendations of flood studies through the application of the Floodway Overlay and Land Subject to Inundation Overlay and consequential changes to Clauses 02.04 (Strategic Framework Plans) and 11.01-1L (Glengarry Town Structure Plan)
Subject land	Land and waterways in LaTrobe including Latrobe River, Tyers River, Rintouls Creek, Eaglehawk Creek and surrounds, Traralgon Creek and the Morwell North West Development Plan area
Planning Authority	Latrobe City Council
Authorisation	26 November 2021, with conditions
First exhibition	3 February to 7 March 2022
Second exhibition	29 February to 5 April 2024
Submissions	First exhibition 67 Second exhibition 12 Refer Appendix A

Panel process

The Panel	Alison McFarlane (Chair) and Peter Bettess
Supported by	Gabrielle Trowse, Project Officer
Directions Hearing	By video conference, 11 June 2024
Panel Hearing	By video conference, 9 July 2024
Site inspections	Unaccompanied, 22 July 2024 (Member Bettess only)
Parties to the Hearing	Latrobe City Council represented by Tegan McKenzie, Principal Strategic Planner and Ben Goriuk, Strategic Planner West Gippsland Catchment Management Authority represented by Ben Proctor, Senior Planning Officer Traralgon Property Development Pty Ltd represented by Jan Cussen of NAI Planning and Cliff Carson of Carson Developments Break Ground Developments and Assist Group Australia Pty Ltd represented by Rachel Zeng of Johnson Winter Slattery Tom Schlaeppi Donald Ferguson
Citation	Latrobe PSA C131latr [2024] PPV
Date of this report	28 August 2024

Executive summary

Latrobe Planning Scheme Amendment C131latr (the Amendment) updates and introduces new flood controls within the Latrobe Planning Scheme to implement the findings of nine flood studies.

The Latrobe City Council (Council) is the planning authority for the Amendment. West Gippsland Catchment Management Authority (WGCMA) prepared the flood studies.

The initial exhibition of the Amendment in 2022 attracted 67 submissions. Following a peer review, the Amendment was changed and re-exhibited in 2024 attracting a further 12 submissions. The changes confined the Amendment to areas where revised or new overlays were supported by technical documents.

The Panel is satisfied the Amendment is based on sound modelling of flood extents which have been appropriately translated into overlays consistent with the relevant Ministerial Directions and Planning Practice Notes.

Council and WGCMA have proposed further refinements to the Amendment mapping in Glengarry and Traralgon where further technical work and ground truthing has demonstrated changes to the flood extents is justified. The Panel supports these changes.

While a range of issues were raised by submitters opposing the Amendment, most could not be given weight by the Panel because they did not demonstrate the technical work underpinning the Amendment was flawed. As an example, lived experiences and recollections of past flood events cannot be relied upon to map flooding overlays and do not justify changes to the Amendment.

Overall, the Panel is satisfied the Amendment properly plans for the protection of life, property and community infrastructure by ensuring flood extents are included in the Latrobe Planning Scheme, as encouraged by the Planning Policy Framework.

Recommendations

Based on the reasons set out in this Report, the Panel recommends that Latrobe Planning Scheme Amendment C131latr be adopted as exhibited, subject to the following:

- 1. Amend Clause 44.04 Schedule, 'Application requirements', by replacing reference to 'Clause 44.03' with 'Clause 44.04'.**
- 2. Amend the mapping of Land Subject to Inundation Overlay and Floodway Overlay in Glengarry as shown in Appendix C.**
- 3. Amend the mapping of Land Subject to Inundation Overlay and Floodway Overlay in Traralgon as shown in Appendix C.**
- 4. Delete map 93LSIO-FO and references to Monash Way, Churchill Scoping Study 2011 as shown in Appendix C.**

1 Introduction

1.1 The Amendment

(i) Amendment description

The purpose of the Amendment is to update the Latrobe Planning Scheme to reflect the findings of the following flood studies:

- *Glengarry Eaglehawk Floodplain Mapping*, September 2021
- *Morwell North West Drainage Report*, April 2016
- *Morwell North West DCP Drainage WR04*, 2017
- *Rintouls Creek Study*, December 2015
- *Tyers River*, December 2015
- *Upper Traralgon Creek*, June 2021
- *Traralgon Flood Study*, June 2016
- *Latrobe River Flood Study*, March 2015
- *Monash Way, Churchill – Scoping Study*, 2011.

Specifically, the Amendment proposes to:

- amend the Strategic Framework Plan in Clause 02.04 and the Glengarry Town Structure Plan in Clause 11.01-1L
- apply the Floodway Overlay (FO) to 202 properties
- apply the Land Subject to Inundation Overlay (LSIO) to 1058 properties
- delete the LSIO from 599 properties
- amend the current boundaries of the FO and LSIO from various other properties.

(ii) Post-exhibition changes

Council advised that on 6 May 2024, it resolved to advocate at the Panel Hearing for further changes to the Amendment. These changes are listed in Appendix C. These changes generally propose refinement to mapping in Traralgon and Glengarry following a detailed review of submissions. The changes to overlay extents are shown in Figure 1.

In addition, Council advised it proposed to introduce a change to Clause 44.04 Schedule into the Amendment to remedy an error in 'Clause 4.0 Application requirements' because it incorrectly refers to Clause 44.03 instead of Clause 44.04.

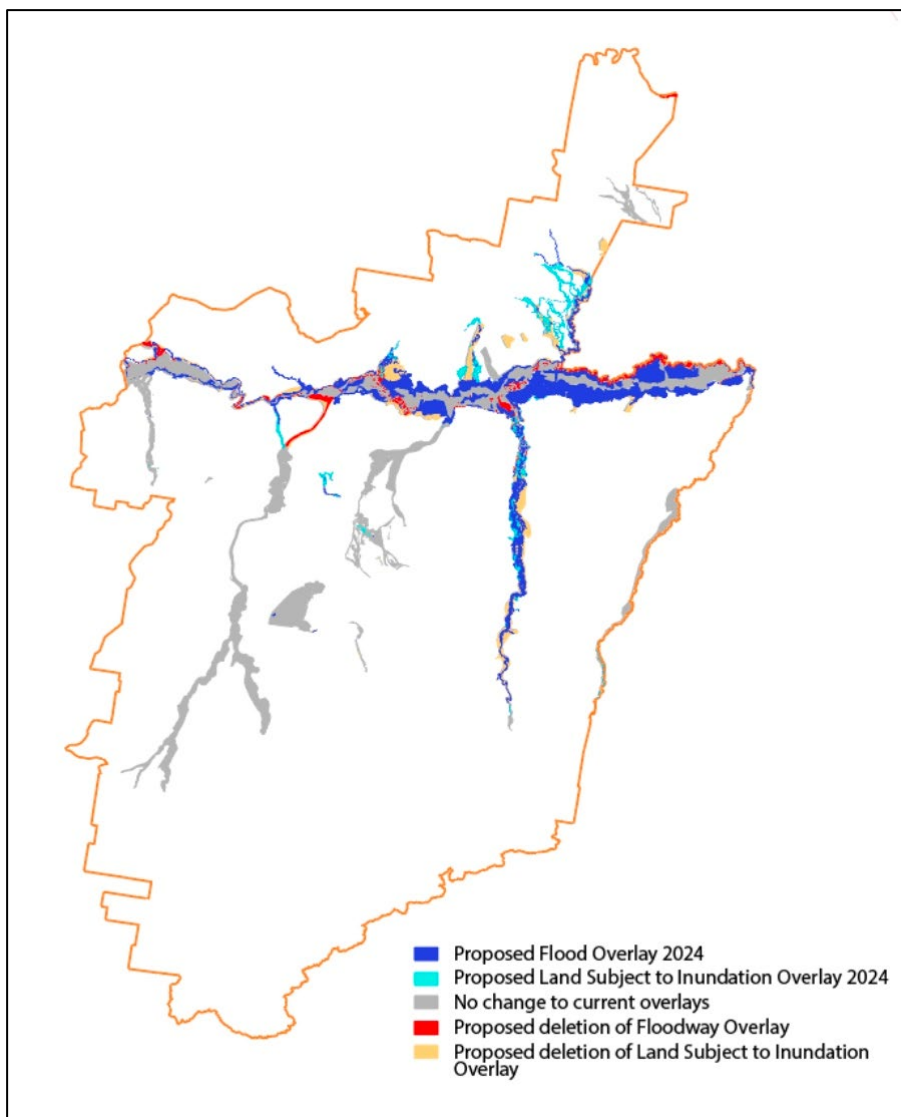
1.2 Background and Amendment History

Latrobe City Council (Council) and West Gippsland Catchment Management Authority (WGCMA) provided a detailed background to Latrobe Planning Scheme Amendment C131latr (the Amendment) in its Part A submission, including a chronology of events. The Panel has summarised this background and history in Appendix B. Of note:

- the Amendment was originally exhibited in February to March 2022, attracting 67 submissions (first exhibition Amendment)
- in response to submissions, Council commissioned Venant Solutions to prepare a peer review of the Amendment, which recommended the Amendment be revised to:

- exclude areas where the revised or new overlays were not supported by documentation
- document the reasoning and method for revisions to existing flooding overlays
- update the draft versions of flood study documents to final versions
- adopt a 20 per cent increase rainfall intensity scenario mapping for the *Latrobe River Flood Study*, March 2015 to include allowance for climate change along the Latrobe River floodplain
- update overlays to represent developed conditions in the Morwell North-West Development Contributions Area
- change the FO to LSIO in the area north of Baldwin Road zoned General Residential Zone
- remove areas of stormwater flooding in Traralgon.
- Council accepted the recommendations of the peer review and decided to re-exhibit the Amendment
- the Amendment was re-exhibited from 29 February 2024 to 5 April 2024 attracting 12 submissions.

Figure 1 Council and WGCMA proposed changes to flood extents after second exhibition



Source: Document 11a

1.3 Procedural issues

(i) Referral of withdrawn submissions

Re-exhibition resulted in changes to how the Amendment affected submitters' properties. Council advised some submitters withdrew their submissions either in writing or verbally throughout the Amendment process. The Panel asked Council to confirm whether its resolution of 6 May 2024 to refer submissions to a panel included the submissions withdrawn after both exhibition periods. Council confirmed this was the intent of its resolution.

The Panel invited all submitters, including those categorised by Council as 'withdrawn' or 'verbally withdrawn' to participate in the Panel process.

(ii) Expert evidence

Traralgon Property Development Pty Ltd proposed to call Cliff Carson of Carson Developments as an expert witness in the field of surveying. The Panel found that Mr Carson's expert witness statement did not comply Direction 13 (Document 2), which requires a witness report to be prepared with *Planning Panels Victoria Practice Note 1 - Expert Evidence*. With the agreement of the parties, Mr Carson appeared as an advocate on behalf of Traralgon Property Development Pty Ltd.

1.4 The Panel's approach

Key issues raised in submissions were:

- support for the Amendment
- flood modelling accuracy
- stormwater versus riverine flooding
- lived experience of flooding history
- transparency and lack of documentation
- Glengarry flood modelling
- impact on property values, rates and insurance premiums
- flood mitigation
- local topography
- specific site impacts.

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Latrobe Planning Scheme.

The Panel considered all written submissions made in response to the first exhibition and second exhibition of the Amendment, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. It has reviewed a large volume of material and has had to be selective in referring to the more relevant or determinative material in the Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Strategic issues
- Flood modelling

- Local and specific site issues.

1.5 Limitations

(i) Support for the Amendment

Ten submissions expressed general support for the Amendment to implement the findings of the flood studies. The Panel has noted these supported submissions but has not specifically referred to these submissions elsewhere in this report.

(ii) Property values, rating and insurance

The impact on property values, rating and insurance resulting from the application of the overlays are not relevant matters to be considered by the Panel.

(iii) Future development proposals

The Panel has not considered matters outside the scope of the Amendment, such as future development proposals.

(iv) Flood mitigation

Submitters raised issues relating to flood mitigation, including:

- what has been done to mitigate flooding?
- has Council considered a catchment basin for storm surges?
- why isn't there a comprehensive flood plan instead of flooding overlays?
- why aren't drains cleared out to allow better water flow?
- why aren't broken drains repaired?

Flood mitigation works are outside the scope of the Amendment and are a matter for ongoing consideration and work by the WGCMA as the floodplain manager and the Council.

(v) Council processes, lack of background information and availability of information

Some submitters raised issues about Council processes through the consultation and exhibition of the Amendment. The Panel's role is to review unresolved submissions. The Panel acknowledges all relevant information was not available to the community during the first exhibition process. Council and the WGCMA took steps to rectify this process error through the second exhibition. It is ultimately a matter for the Minister for Planning to determine if exhibition of the Amendment has met the obligations in the *Planning and Environment Act 1987* (the Act).

(vi) Riparian planting and bushfire risk

Some submitters were concerned that enhancing riparian vegetation along banks of waterways may increase bushfire risk.

Riparian planting and bushfire risk are outside the scope of the Amendment and have not been considered further by the Panel.

(vii) Glengarry Town Structure Plan

Some submitters opposed the designation of their property as 'future residential' on the Glengarry Town Structure Plan in Clause 11.01-1L. The designation was applied through Amendment C24 in

2011 and is not proposed to be amended by the Amendment. This issue is not considered further in this Report.

2 Strategic issues

2.1 Planning context

This chapter identifies planning context relevant to the Amendment. Appendix D highlights key imperatives of relevant provisions and policies.

Table 1 Planning context

	Relevant references
Victorian planning objectives	- section 4 of the PE Act
Municipal Planning Strategy	- Clause 02.03-2 (Environmental and landscape values) - Clause 02.03-3 (Environmental risks and amenity) - Clause 02.04 (Strategic Framework Plans)
Planning Policy Framework	- Clauses 11.01-1R (Settlement - Gippsland), 11.02-1S (Supply of urban land) - Clauses 13 (Environmental risk and amenity), 13.01-1S (Natural hazards and climate change), 13.03-1S (Floodplain management), 13.03-1L (Floodplain management) - Clauses 14.02-S2 (Water quality)
Other planning strategies and policies	- <i>Victorian Floodplain Management Strategy</i> , Department of Environment, Land, Water and Planning, 2016 - <i>West Gippsland Floodplain Management Strategy 2018-2027</i> - <i>Flood Mapping Methodology</i> , West Gippsland Catchment Management Authority, 2023 - <i>Flood Guidelines: Guidelines for Development in Flood Prone Areas</i> , West Gippsland Catchment Management Authority, 2020
Planning scheme provisions	- Floodway Overlay - Land Subject to Inundation Overlay
Ministerial directions	- <i>Ministerial Direction on the Form and Content of Planning Schemes</i> - <i>Ministerial Direction 11 (Strategic Assessment of Amendments)</i>
Planning practice notes	- <i>Planning Practice Note 12: Applying the Flood Provisions in Planning Schemes</i> , June 2015 - <i>Planning Practice Note 46: Strategic Assessment Guidelines</i> , September 2022 - <i>Guidelines for Development in Flood-Affected Areas</i> , DELWP, 2019 - <i>A Practitioner's Guide to Victorian Planning Schemes</i> , June 2024 (Practitioner's Guide)

2.2 Strategic justification

(i) Evidence and submissions

Council submitted the Amendment:

- is important and has significant strategic justification
- is consistent within the Planning Policy Framework and Municipal Planning Strategy
- will ensure flood hazard is accurately mapped.

No submissions opposed the Amendment on specific strategic planning grounds, although submissions questioned the need for the proposed overlays, particularly given uncertainty about the accuracy of flood mapping.

As noted in Chapter 1, Council submitted it proposed to introduce a change to Clause 44.04 Schedule into the Amendment to remedy an error in 'Clause 4.0 Application requirements' because it the existing schedule incorrectly refers to Clause 44.03 instead of Clause 44.04.

(ii) Discussion

There is explicit policy in the Planning Policy Framework to ensure land affected by flooding is identified in the Latrobe Planning Scheme. It is uncontroversial that amendments of this type are strategically justified.

The Amendment seeks to refine the existing FO and LSIO mapping in the Latrobe Planning Scheme based on more recent flood studies. The Panel is satisfied these flood studies are appropriately robust and form a sound basis for applying flooding overlays as further discussed in Chapter 3.

The change to Clause 44.04 Schedule is a necessary correction to ensure the Latrobe Planning Scheme is up to date and can be properly administered.

(iii) Conclusions

For the reasons set out in this report, the Panel concludes the Amendment:

- is supported by, and implements, the relevant sections of the Planning Policy Framework
- is consistent with the relevant Ministerial Directions and Practice Notes, subject to correcting Clause 44.04 Schedule
- is well founded and strategically justified
- should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

(iv) Recommendation

The Panel recommends:

1. **Amend Clause 44.04 Schedule, 'Application requirements', by replacing reference to 'Clause 44.03' with 'Clause 44.04'.**

3 Flood modelling

3.1 Accuracy of flood modelling and availability of supporting information

(i) The issue

The issues are whether the:

- flood studies have been carried out appropriately and properly inform the flooding controls as they apply to individual properties
- information supporting the flood studies has been made available.

(ii) Evidence and submissions

In response to submissions objecting to the Amendment, Council and WGCMA advised a peer review was commissioned. The outcomes of the peer review are summarised in section 1.2.

The peer review identified flaws in the availability and completeness of technical documents supporting the Amendment. This was rectified through the re-exhibition which confined the Amendment to areas where documents supporting flooding overlays were complete and provided a technical justification for the Amendment.

(iii) Discussion and conclusion

The Panel is satisfied the second exhibition Amendment is based on accurate modelling that provides a proper basis for the including of flooding overlays in the Latrobe Planning Scheme. Importantly, the Panel was not presented with any evidence that substantiated the modelling was inaccurate and the Amendment should not proceed.

Council and WGCMA is commended for seeking a peer review in response to the concerns raised by submitters and responding to the recommendations of the peer reviewer through the re-exhibition.

Council and WGCMA have proposed further refinement of the second exhibition mapping in response to submissions received as summarised in Appendix C. These refinements are again based the technical advice of WGCMA and are further discussed in Chapter 4.

The Panel concludes the Amendment has been informed by flood studies based on a sound methodology and these studies have been made available to the community through the re-exhibition process.

3.2 Lived experience

(i) The issues

The issues are whether the:

- flood mapping equates with real life flood events
- flood controls should apply to properties that have not historically experienced flooding.

(ii) Evidence and submissions

Several submitters from Glengarry, Traralgon and Moe noted there was no history of flooding on their properties.

In response, Council and WGCMA submitted:

While residents are correct that a flood of the 1% Annual Exceedance Probability has not occurred in the Glengarry, Moe and the Traralgon area, the *Planning and Environment Act 1987 section 6(2)(e)* enables planning schemes to ‘*regulate or prohibit any use or development in hazardous areas, or in areas which are likely to become hazardous*’.

In addition, *Building Regulations 2018* Regulation 148 requires Councils to “*prepare maps for all designated special areas within its municipal district*” which includes areas liable to flooding. ...the *Water Act 1989* requires the Floodplain Authority when making a declaration of a flood prone area it be to the “*probability of occurrence of 1 per cent in any one year.*”

Planning Scheme Overlays are the best available tool to share those maps with the public.

Council and WGCMA further submitted the proposed flood overlays are based on flood studies, rather than anecdotal evidence. They proposed no changes to the Amendment in response to these submissions.

(iii) Discussion and conclusion

The Panel agrees with Council and WGCMA that lived experience alone cannot be relied upon to inform flooding overlays included in a planning scheme.

While *Planning Practice Note 12: Applying the Flood Provisions in Planning Schemes, 2015* acknowledges local knowledge as a legitimate source of flood information, this is only one input alongside detailed flood studies, flood mapping projects, aerial photographs, historic flood levels, ground levels, soil and geology maps and river surveys.

The Panel concludes lived experience is not a sufficient basis to inform the Amendment.

3.3 Stormwater versus riverine flooding**(i) The issue**

The issue is whether the flooding overlays should be applied to areas subject to stormwater flooding and not riverine flooding.

(ii) Submissions

Several submitted opposed the application of flooding overlays to land impacted by stormwater, rather than riverine flooding.

Council and WGCMA advised the second exhibition did not propose to apply the flooding overlays to land impacted by stormwater flooding.

Council and WGCMA noted Council received new funding to undertake an Urban Flood Study for Moe-Newborough, Morwell and Traralgon. This will be used to develop a drainage strategy which will, in turn, inform future investments into infrastructure to improve flood protection.

(iii) Discussion and conclusion

The Panel notes Council and WGCMA’s decision to not apply flooding overlays to land subject to stormwater flooding as part of the second exhibition Amendment.

While future flood protection works may reduce or resolve flooding risk in these areas, Council should continue to ensure the Latrobe Planning Scheme represents the flooding extents based on existing conditions. This is particularly the case where future capital works require significant funding commitment and may take some time to be completed.

The Panel concludes the flooding overlays should not be applied to areas subject to stormwater flooding at this time.

4 Local and specific site issues

4.1 Glengarry

(i) The issues

The issues are whether:

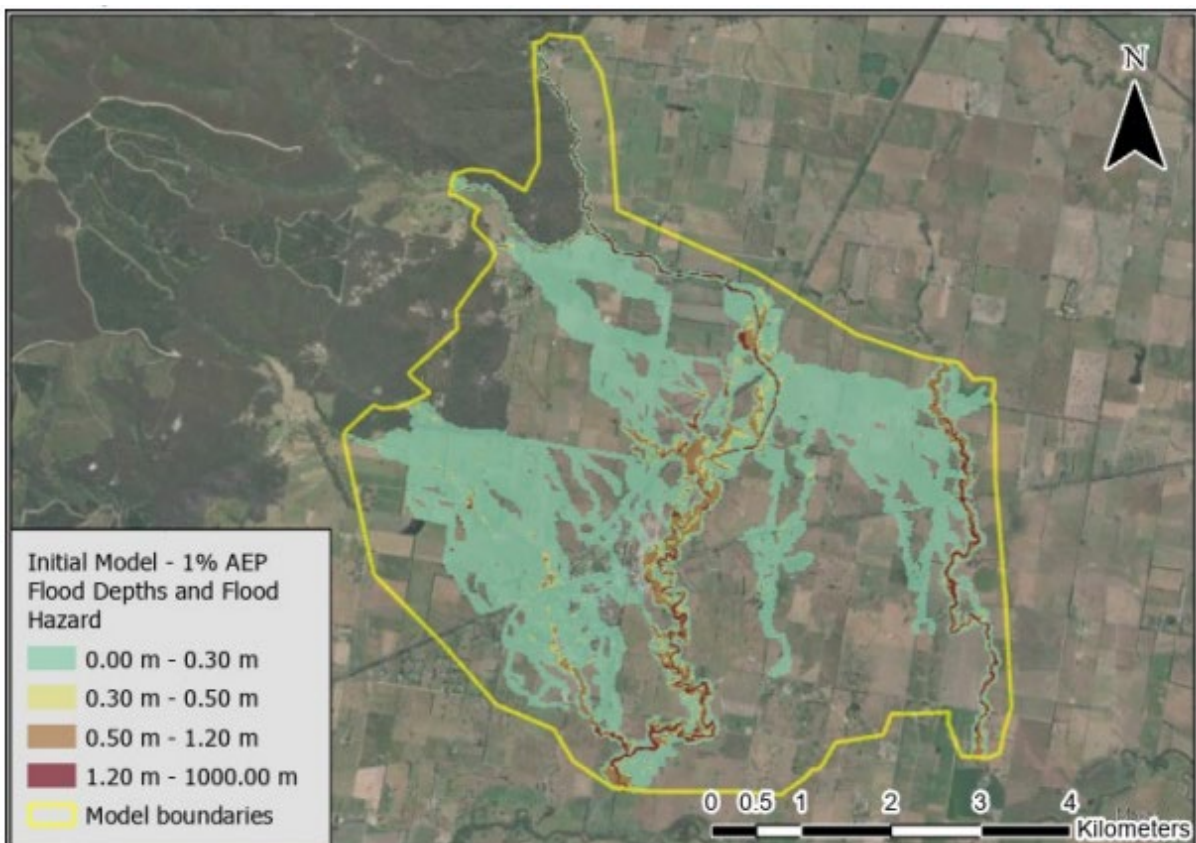
- the flood modelling accurately predicts the likely extent of flooding
- the predicted flood extent reflects real life flood events.

(ii) Submissions

Many submitters objected to the overlays proposed over land in Glengarry.

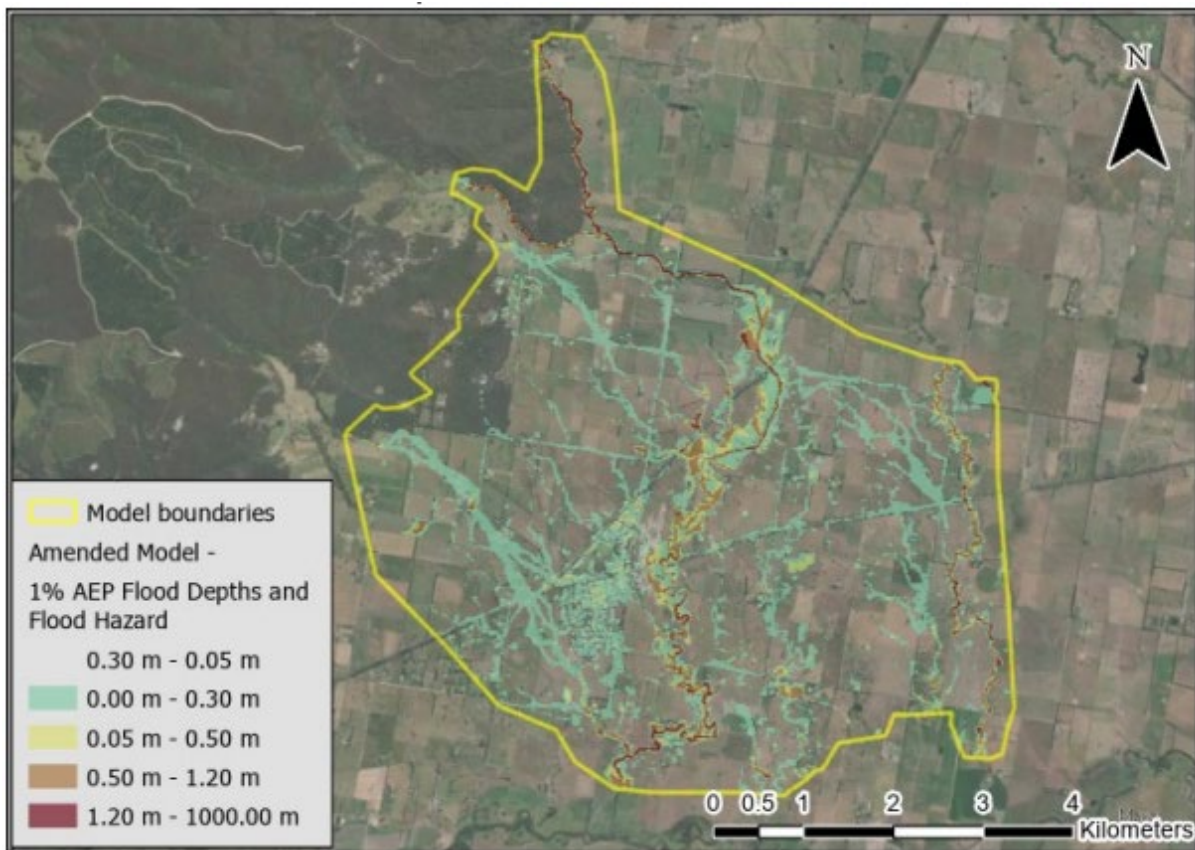
Council and WGCMA advised that in response to these submissions, WGCMA undertook a detailed review of the Eaglehawk Creek/Glengarry Flood Model. This found there was an issue with how the internal rainfall flows had been modelled in the hydraulic model (Document 4i). Proposed revisions to the Amendment mapping as summarised in Appendix C are proposed to be a more accurate representation of flood behaviour (refer Figure 2 and Figure 3).

Figure 2 Glengarry flood depths informing second exhibition mapping



Source: Document 4i

Figure 3 Glengarry flood depths informing proposed mapping changes



Source: Document 4i

Submissions relating to land in Kyne Street noted development of properties had occurred after the original flood mapping was prepared. Council and WGCMA submitted a review confirmed the levels of these properties had been raised. The re-exhibition maps modified the flood extents on these properties.

(iii) Discussion and conclusion

The Panel accepts the recommendations of the further work that has refined the flood extents in Glengarry as described in Appendix C. There was no evidence presented to the Panel to substantiate a different position.

The Panel concludes the flood extents for Glengarry as described in Appendix C are appropriate.

(iv) Recommendation

The Panel recommends:

- 2. **Amend the mapping of Land Subject to Inundation Overlay and Floodway Overlay in Glengarry as shown in Appendix C.**

4.2 Traralgon

(i) The issue

The issue is whether it is appropriate to apply the flood overlays to properties in Traralgon.

(ii) Submissions

Submissions relating to land along Riverslea Boulevard, Independent Way, Graduate Place and Earl Court stated their land was not flood prone as it had been filled above the 1 percent Annual Exceedance Probability (AEP) and a retaining wall had been constructed.

In response, Council and WGCMA proposed reduce the flood extents along the rear boundary of these properties. An administrative revision to the digital layer of Victorian property boundaries misaligned the property and flooding boundaries shown on the second exhibition Amendment maps. Council and WGCMA advised the mapping should be corrected as a post-exhibition change (as summarised in Appendix C).

Submissions relating to land around Oxford Place objected to proposed flood overlays, noting development had occurred since the *Traralgon Flood Study 2016* was completed.

Council and WGCMA advised they reviewed the proposed overlays in Oxford Place area and recommended the flooding extents should be revised based on new Light Detection and Ranging (LIDAR) information, as reflected in Appendix C.

Submissions relating to land in Paul Street and LeGrange Street questioned the accuracy of flood extents given local topography. In response these submissions, Council and WGCMA advised the flooding extents should be revised based on new LIDAR information, as reflected in Appendix C.

Submissions relating to 13 George Street stated the property should remain in the LSIO as surrounding development cause flood water to flow around the yard.

In response, Council and WGCMA reviewed the Traralgon Flood Study, LIDAR information and undertook a site inspection. Council and WGCMA confirmed the flood extents as shown in the re-exhibited Amendment did not warrant any change.

(iii) Discussion and conclusion

The Panel accepts the recommendations of Council and WGCMA that flood extents in Traralgon should be refined described in Appendix C. There was no evidence presented to the Panel to substantiate a different position on the flood extents.

The Panel concludes the flood extents for Traralgon as described in Appendix C are appropriate.

(iv) Recommendation

The Panel recommends:

3. **Amend the mapping of Land Subject to Inundation Overlay and Floodway Overlay in Traralgon as shown in Appendix C.**

4.3 Churchill**(i) The issue**

The issue is whether it is appropriate to apply the flood overlays to properties in Churchill.

(ii) Submissions

Submissions relating to Silcocks Road, Churchill objected to the flooding overlays being applied to their property because the relevant flood map (93LSIO-FO) was not referred to in the second exhibition Instruction Sheet.

Council and WGCMA accepted this was a procedural error and proposed to delete the map and associated flood study (*Monash Way, Churchill Scoping Study 2011*) as a post-exhibition change, consistent with Appendix C.

(iii) Discussion and conclusion

The Panel supports Council and WGCMA's proposal to delete map 93LSIO-FO and the *Monash Way, Churchill Scoping Study 2011* from the Amendment, consistent with changes described in Appendix C.

Council and WGCMA should seek to rectify the procedural error as a matter of priority through a separate Amendment process.

The Panel concludes map 93LSIO-FO and the *Monash Way, Churchill Scoping Study 2011* should be deleted from the Amendment.

(iv) Recommendation

The Panel recommends:

4. Delete map 93LSIO-FO and references to *Monash Way, Churchill Scoping Study 2011* as shown in Appendix C.

4.4 Moe**(i) The issue**

The issue is whether the flood overlays should be amended in Moe.

(ii) Submissions

Two submitters requested flood overlays be removed from land in Moe.

Council and WGCMA submitted that any changes to the flood overlays in Moe are not proposed as part of the Amendment. Existing overlays were introduced in 2012.

The Panel accepts the advice of Council and WGCMA that there is no technical document to support changes to flooding overlays in Moe.

The Panel concludes there is no justification for amending flooding overlays in Moe.

4.5 Yinnar**(i) The issue**

The issue is whether the flood overlay should apply to additional land in Yinnar.

(ii) Submissions

One submission from Yinnar requested the flooding overlays be extended to include more of their property to match the real flood event.

The WGCMA and the Council submitted that any changes to the flood overlays at Yinnar are not proposed as part of the Amendment as there is no flood study to support changes.

(iii) Discussion and conclusion

The Panel accepts the advice of Council and WGCMA that there is no technical document to support changes to flooding overlays in Yinnar.

The Panel concludes there is no justification for amending flooding overlays in Yinnar.

4.6 Lot 33, PS 547909, Bradman Boulevard, Traralgon**(i) The issue**

The issue is whether the flood overlay should apply to Lot 33, PS 547909, Bradman Boulevard, Traralgon.

(ii) Submissions

Submitters opposed applying the flooding overlays to all of Lot 33 Bradman Boulevard, Traralgon because this would prevent future subdivision and development of the land. Submissions stated:

The higher western part of the site which fronts Bradman Boulevard could be subdivided if the Flood Plain Storage volume on the whole site is not affected. (ie: Net zero volume)

This could be achieved by filling the subdividable area and constructing a wetland (on the site and over the future Reserve land) of equal volume to the fill placed.

Council and WGCMA advised the land is currently zoned part Neighbourhood Residential Zone Schedule 4 and part Public Conservation and Resource Zone. The LSIO applies over the whole site, informed by *Traralgon Creek Floodplain Management Strategy, 2000*. The re-exhibited Amendment proposes to replace the LSIO with FO, consistent with the WGCMA's *Flood Guidelines: Guidelines for development in flood prone areas, 2020*. These guidelines do not support development of land where flood depths in a 1 per cent AEP event are likely to exceed 0.3 metres over the development site or 0.3 metres over a vehicle route. The *Traralgon Flood Study 2016* estimates the site will have a flood depth of 0.8 metres in a 1 per cent AEP flood event.

Council and WGCMA noted Latrobe Planning Permit 2004/4395/B (Document 11d) included the following condition:

West Gippsland Catchment Management Authority

- a) That future development an use of lot 33 be restricted to low density agriculture or animal husbandry only. No building, filling or significant structures shall be permitted on this land. Before the development starts, the owner shall enter into an agreement with the responsible authority made pursuant to section 173 of the *Planning and Environment Act 1987*, and make application to the Registrar of Titles to have this agreement registered on the title to the land under section 181 of the Act acknowledging that no development or land use is permitted other than low density agriculture animal husbandry and that buildings and land filling are not permitted. The owner shall pay the reasonable costs of preparation, execution and registration of the section 173 agreement.

They advised there was no record the condition was met as part of the subdivision process.

Council and WGCMA confirmed that advice has been provided since at least 2018 that subdivision and development of the land would not be supported consistent with the objectives of Clause 13.03-1S and *Planning Practice Note 12*. Further, the inability to develop the land would have a negligible impact on Traralgon's residential land supply.

(iii) Discussion and conclusion

The purpose of the Amendment is to ensure land subject to flooding is properly recognised in the Latrobe Planning Scheme.

It is not the Panel's role to determine if the flood risk at Bradman Boulevard can be adequately mitigated to enable future development. Submissions opposing the Amendment as it relates to Bradman Boulevard were focussed on the consequences of applying the FO to the land. It would be inappropriate to delay the Amendment to enable this opportunity to be explored.

Consistent with the Planning Policy Framework and associated practice material, it is important the Latrobe Planning Scheme identifies land affected by flooding to ensure future planning decision protect life, property and community infrastructure.

The Panel concludes there is no justification for changing the Amendment as it relates to Lot 33, PS 547909, Bradman Boulevard, Traralgon.

Appendix A Submitters to the Amendment

No	Submitter	No	Submitter
1	Department of Transport	32	Ace Body Corporate
2	South Gippsland Shire Council	33	Brian Gilbert
3	Julie O'Neil	34	Rob Klemen
4	David Somerville	35	David and Emily Couling
5	Colin Vardy	36	Stephen Wentworth
6	Jane and Rick Collin	37	Geoff Thornbill
7	Lenny Marshall	38	Sharlene Hill
8	Rebecca McMahon	39	Paul Bechaz
9	Michelle Roberts	40	Alan and Sue Scarlet
10	Wayne Fleming	41	Gippsland Water
11	Kristy O'Doherty	42	Phillip and Christine Backman (withdrawn)
12	Max Brown (withdrawn)	43	Bill Byrne
13	Megan Cassar (withdrawn)	44	Darren Watson and Ms and Ms Caragh Button (withdrawn)
14	West Gippsland Catchment Management Authority	45	Jason Quail (withdrawn)
15	Gary Lamont (withdrawn)	46	Michelle Quail (withdrawn)
16	Katie Bridges	47	AJ Pendergast and Ms NA Stow (withdrawn)
17	APA Networks	48	Neil Donoghue (withdrawn)
18	Russell Wirken (withdrawn)	49, 75	Department of Environment, Energy and Climate Action
19	Glynnise Matthews (withdrawn)	50	Greg Pattison
20	Bradley Austin-Jelleff	51	Toby Just (withdrawn)
21	Carmen Pace	52	Tom Schlaeppli (withdrawn)
22	Darlene Musgrove	53	Peter Bruerton (withdrawn)
23	Pam McGrath (withdrawn)	54	Harry Alexander
24	Nathalie Thomas (withdrawn)	55	Donald Ferguson
25	Andrew and Megan Graham (withdrawn)	56	Greg Hade (withdrawn)
26	Peter and Narelle King (withdrawn)	57	Helen Barnes
27	Stephen and Natasha Fox	58	Adrian and Sue Bonacci
28	Adrian Marshall	59	David Little
29	Matthew Piening	60	Johnathon Pirrie (withdrawn)
30	Karen and Norman Goedhart (withdrawn)	61	Tom and Nancy Beveridge (withdrawn)
31	Chris Love (withdrawn)		

No	Submitter	No	Submitter
62	Mark and Peta Hoppe	71	Devlin Saunders
63	Country Fire Authority	72	Erin Lenders (withdrawn)
64	Andrew Crozier (withdrawn)	73	Lachlan Burslem
65	Jenni Anderson (withdrawn)	74	Justin Smith (withdrawn)
66	Civil Aviation Safety Authority	76	Simon Leech (withdrawn)
67	Ross Williams	77	Break Ground Developments
68	Glen Morrison	78	Friends of Latrobe Water
69	Geoffrey Francis	79	Traralgon Property Development Pty Ltd
70	VicTrack		

Appendix B Chronology of events

Table 2 Amendment C131latr chronology of events

Date	Event / Description
May 2021	Monash Way, Churchill Scoping Study completed
March 2015	Latrobe River Flood Study completed
December 2015	Rintouls Creek Flood Study completed Tyers Rier Floor Study completed
April 2016	Morwell North West Drainage Report completed
June 2016	Traralgon Flood Study completed
June 2017	Morwell North West DCP Drainage WR-04 Report completed
2017	West Gippsland Floodplain Management Strategy 2018-2027 finalised
February 2019	Draft for Floodplain Mapping for Upper Traralgon Creek completed
June 2019	Draft for Floodplain Mapping for Glengarry/Eaglehawk Creek completed
May 2021	Council received funding from Regional Planning Hub to undertake a flood-related amendment
November 2021	Council resolved to request authorisation to prepare the Amendment and endorse draft Latrobe River Flood Study, 2015 and draft Traralgon Flood Study, 2016 for exhibition Authorisation to prepare Amendment granted by Minister for Planning
February-March 2022	Amendment exhibited
August 2022	Council deferred consideration of submissions and resolved to seek further advice from WGCMA
March 2023	Council received additional funding from Regional Planning Hub to undertake a peer review of the Amendment Venant Solutions Pty Ltd appointed to prepare peer review
July 2023	Workshop held with Department of Transport and Planning, Venant Solutions, WGCMA and Council

Date	Event / Description
September 2023	<p>Glengarry Eaglehawk Creek and Upper Traralgon Creek Flood Studies completed</p> <p>Monash Way, Churchill 2011 report provided to Council, but not to the peer reviewer</p> <p>Peer review finds only eight flood strategies completed and recommends:</p> <ul style="list-style-type: none"> - Exclude the areas where the revised or new overlays are not supported by documentation - Document the reasoning and method for revisions made to the current overlays by WGCMA - Update the draft versions of the flood study documents to final version - Adopt the 20 per cent increase rainfall intensity scenario mapping from the Latrobe Flood Study to include allowance for climate change along the Latrobe River floodplain - For Morwell North-West DCP area update the overlays to represent developed conditions - Up the FO area to the north of Baldwin Rd within the General Residential Zone (Amendment C138latr) to be LSIO - Remove the areas of stormwater flooding in Traralgon from the LSIO
November 2023	Council resolved to undertake to further consult with submitters
December 2023	Council resolved to see an extension under s30(1)(a)(ii) of the Act
February to April 2024	Amendment re-exhibited
March 2024	Council sent revised mapping for Glengarry to WGCMA
April 2024	WGCMA requested post-exhibited changes including substantial updates to the flood extent in Glengarry

Appendix C Changes proposed after second exhibition

Item	Change	Reason
Amend Map 56LSIO-FO	Amended flood overlays at 2 Mapleson Street, Traralgon	The overlay maps provided are based on the 2016 Traralgon Creek flood study. Since that time additional fill has been placed on the land to above the 1% AEP line as such, the extent of the overlay has been adjusted based on LIDAR data. Administrative correction.
Amend Map 56LSIO-FO	Delete flood overlays at 9-11, 9-11A, 13, 17, and 19 Princes Drive, Traralgon	The overlays were reviewed after consultation and the building at 9-11 Princes Drive was found to have a tilt panel design that is unlikely to allow infiltration into the building. The other properties have had FO clipped to boundary as it applies to a small amount of overlay(s) within property boundary. There is only a small area that doesn't provide a useful permit trigger. Property has been developed and filled already.
Amend Map 18LSIO-FO	Amend flood overlays at 2, 36, 38-40, 42, 44, 46, 48, 49-51, 53-55, and 70 Kyne Street, Glengarry	WGCMA has undertaken a detailed review of the modelling and determined that the extents are possibly overestimated in some areas due to concentrated flows in a certain area in the model. Further work has been undertaken that distributes the flows across the catchment and results show a reduction across the western side of Glengarry. Reduction in LSIO due to model update and removal of LSIO over a pool and shed at 36 Kyne Street.
Amend Map 15LSIO-FO 16LSIO-FO, and 18LSIO-FO	Amend flood overlays on 85, 90, 125, 127, 135, and 160 Rifle Range Road, Glengarry	WGCMA has undertaken a detailed review of the modelling and determined that the extents are possibly overestimated in some areas due to concentrated flows in a certain area in the model. Further work has been undertaken that distributes the flows across the catchment and results show a reduction across the western side of Glengarry. For these properties the LSIO will be reduced. For 90 Rifle Range Road there will be a large reduction in overlay extents.
Amend Map 63LSIO-FO and	Reduce flood overlays on 20 and 70 Williams Road, Glengarry	WGCMA has undertaken a detailed review of the modelling and determined

Item	Change	Reason
64LSIO-FO		that the extents are possibly overestimated in some areas due to concentrated flows in a certain area in the model. Further work has been undertaken that distributes the flows across the catchment and results show a reduction across the western side of Glengarry.
Amend Map 48LSIO-FO; Map 49LSIO-FO	Remove flood overlays from properties bordering the Latrobe River Floodplain in the north of Traralgon including 40, 42, 44, 46, 48, 50, 52, 54, and 56 Graduate Place, Traralgon; 46, 48, 50, 52, 54, 56, and 58 Independent Way, Traralgon and 71, 73, 75, 77, 2/79, 81, 83, 85, 87, 89, 91, 95, and 97 Riverslea Boulevard, Traralgon.	The property cadastre data has been updated since the overlays were mapped which has meant that the overlays are showing on the properties to the north of Traralgon when they should align with the back fences.
Amend Map 18LSIO-FO	Remove flood overlays from 7-9, 10-11, 12-15, 16-18, 19-21, 22-24, and 25-27 Bermingham Close, Glengarry and 13 Rhodes Court, Glengarry	Development has occurred since the flood study was undertaken which was reviewed and the overlays adjusted. In addition, as a result of the submissions received from Glengarry residents, WGCMA has undertaken a detailed review of the modelling and determined that the extents are possibly being overestimated in some areas due to concentrated flows in a certain area in the model. Further work has been undertaken that distributes the flows across the catchment and results show a reduction across the western side of Glengarry. Overlay to be removed from these properties.
Amend Map 18LSIO-FO and 63LSIO-FO	Amend flood overlays at 10, 110, 45, 50, and 70 Black Tank Road, Glengarry	WGCMA has undertaken a detailed review of the modelling and determined that the extents are possibly being overestimated in some areas due to concentrated flows in a certain area in the model. Further work has been undertaken that distributes the flows across the catchment and results show a reduction across the western side of Glengarry. Reduce FO and LSIO extent.
Amend Map 19LSIO-FO	3, 20, 22, 24, and 26 Chatswood Close, Glengarry	Development has occurred since the flood study was undertaken and a large retaining wall built along the rear fenceline. Mapping adjusted to reflect

Item	Change	Reason
		this. In addition, WGCMA has undertaken a detailed review of the modelling and determined that the extents are possibly being overestimated in some areas due to concentrated flows in a certain area in the model. Further work has been undertaken that distributes the flows across the catchment and results show a reduction across the western side of Glengarry.
Amend Map 50LSIO-FO	Amend flood overlays at 1, 11, 13, 15A and 15B Paul Street, Traralgon and 1, 2, 18, 24, and 25 Le Grange, Traralgon	Reduce overlay based on LIDAR. LSIO has been removed altogether. The FO remains the same.
Amend Map 49LSIO-FO	Remove flood overlays from 9, 10, 11, 12, 13, 14, 15, 17, 19, and 22 Oxford Place, Traralgon	Remove the overlay for the properties and reduce the FO in the retarding basin on Bradman Boulevard as the properties have been filled since flood study. FO adjusted based on LIDAR.
Amend Map 49LSIO-FO	Amend flood overlays on 9 Salisbury Crescent, Traralgon Remove flood overlays from 2, 6, 7 and 8A Waterford Court, Traralgon	FO adjustment due to Oxford Place review.
Amend Map 49LSIO-FO	Remove flood overlays from 15, 16, 17 and 26-46 Bradman Boulevard, Traralgon	Only a small area that doesn't provide a useful permit trigger. LSIO clipped to boundary
Amend Map 49LSIO-FO	Amend flood overlays at 49 Bradman Boulevard.	Removed as it is only a small area that doesn't provide a useful permit trigger. LSIO and FO clipped to boundary. Some FO reduction on large basin lot due to Oxford Place review.
Amend Map 18LSIO-FO	Remove flood overlays from: 1-5, 7-11, 8-12, 14-18, 19-23, 20-24, 26-30, 32-36, 64-70, Carey Drive, Glengarry 1-2, 3-4, 5, 6, and 7-9 Pratt Court, Glengarry 1-3, 4-7, 8-9, 12-13, 14-15, 16-18, and 19-21 Cobham Court, Glengarry 8-14 King Road, Glengarry 1-3, 5-6, 7-8, and 11-14 Moorhouse Close, Glengarry	As a result of the submissions received from Glengarry residents WGCMA has undertaken a detailed review of the modelling and determined that the extents are possibly being overestimated in some areas due to concentrated flows in a certain area in the model. Further work has been undertaken that distributes the flows across the catchment and results show a reduction across the western side of Glengarry.
Amend Map 18LSIO-FO	Remove flood overlays at 10-14, 11, 13, 5, 7, and 9 Cairnbrook Road, Glengarry	WGCMA has undertaken a detailed review of the modelling and determined that the extents are possibly being overestimated in some areas due to concentrated flows in a certain area in the

Item	Change	Reason
		<p>model. Further work has been undertaken that distributes the flows across the catchment and results show a reduction across the western side of Glengarry.</p> <p>Complete removal of LSIO proposed.</p>
Amend Map 19LSIO-FO	Amend flood overlays at 100 Cairnbrook Road, Glengarry	<p>WGCMA has undertaken a detailed review of the modelling and determined that the extents are possibly being overestimated in some areas due to concentrated flows in a certain area in the model. Further work has been undertaken that distributes the flows across the catchment and results show a reduction across the western side of Glengarry.</p> <p>Removal of FO and reduction in LSIO proposed.</p>
Amend Map 18LSIO-FO	Remove flood overlays at 11, 12, and 13 Macdonald Court, Glengarry	<p>As a result of the submissions received from Glengarry resident WGCMA has undertaken a detailed review of the modelling and determined that the extents are possibly being overestimated in some areas due to concentrated flows in a certain area in the model. Further work has been undertaken that distributes the flows across the catchment and results show a reduction across the western side of Glengarry. The Overlays will be removed from these properties.</p>
Amend Map 49LSIO-FO	Remove flood overlays from 2 Anderson Street, Traralgon	<p>Removed as it is only a small area that doesn't provide a useful permit trigger. WGCMA has recommended that the LSIO clipped to boundary.</p>
Amend Map 50LSIO-FO	Remove flood overlays from 18 Central Park Avenue, Traralgon	<p>Removed as it is only a small area that does not provide a useful permit trigger. WGCMA has recommended that the LSIO clipped to boundary.</p>
Amend Map 50LSIO-FO	Remove flood overlays from 2/272 and 3/272 Franklin Street, Traralgon	<p>Removed as it is only a small area that does not provide a useful permit trigger. WGCMA has recommended that the LSIO clipped to boundary.</p>
Amend Map 50LSIO-FO	Remove flood overlays at 7, 8 and 9 Rothbury Place, Traralgon	<p>LSIO and FO clipped to boundary for northern two properties. LSIO removed and FO retained for southern property.</p>

Item	Change	Reason
		LSIO is only a small area that does not provide a useful permit trigger.
Amend Map 50LSIO-FO	Remove flood overlays at 1, 2, 3, 4, 5, and 6 Senade Court, Traralgon.	Only a small area that doesn't provide a useful permit trigger. WGCMA has recommended that the Overlay clipped to property boundary.
Amend Map 63LSIO-FO	Remove Overlay at 225 Marshalls Road, Traralgon	Only a small area that doesn't provide a useful permit trigger. WGCMA has recommended that the Overlay clipped to property boundary.
Amend Map 50LSIO-FO	Remove Overlay at 10 Mackillop Court, Traralgon	Only a small area that doesn't provide a useful permit trigger. Overlay clipped to property boundary
Amend Map 50LSIO-FO	Remove Overlay at 7 Macquarie Place, Traralgon	Only a small area that doesn't provide a useful permit trigger. Overlay clipped to property boundary.
Remove Map 93LSIO-FO	Remove Map 93LSIO-FO so that no changes occur to that map	The Explanatory Report and Instruction Sheet did not include reference to Map 93LSIO-FO in error, and as such it has been removed from the Amendment as it was not technically exhibited.
Amend Explanatory Report	Remove reference to Monash Way flood study and Map 93. Add the Amendment to the LSIO Schedule	The Explanatory Report and Instruction Sheet did not include reference to Map 93LSIO-FO in error, and as such it has been removed from the Amendment as it was not technically exhibited. Correct Clause reference in Application Requirements of the Schedule, so it has been added to the Explanatory Report.
Amend Instruction Sheet	Add the Amendment to the LSIO Schedule	Technical correction to Clause reference in 'Application Requirements' of the Schedule, so it has been added to the Instruction Sheet.
Amend Clause 11.01-1L Glengarry	Town Structure Plan updated	Reflects the new mapping extent with post-exhibition changes.
Amend Clause 02.04	Amend the Strategic Framework Plan	Reflects the new mapping extent with post-exhibition changes
Amend Clause 44.04	Change reference from 44.03 to 44.04	Technical correction to Clause reference in 'Application Requirements'.

Appendix D Planning context

D:1 Planning policy framework

Council submitted that the Amendment is supported by various clauses in the Planning Policy Framework, which the Panel has summarised below.

Victorian planning objectives

The Amendment will assist in implementing State policy objectives set out in section 4 of the PE Act particularly:

- 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.

The Amendment is consistent with section 6 of the PE Act which identifies that planning schemes can provide for, among other things, the ability to regulate or prohibit any use or development in areas which are in or likely to become hazardous areas.

Clause 2 (Municipal Planning Strategy)

The Amendment supports the Municipal Planning Strategy by ensuring flood prone land is identified and risks can be considered as part of future planning scheme amendment and planning permit processes.

Clause 11 (Settlement)

Clause 11.01-1R (Settlement – Gippsland) and Clause 11.02-1S (Settlement) supports urban growth where natural hazards and environmental risks can be avoided or managed. The Amendment supports these clauses by identifying land subject to flooding.

Clause 13 (Environmental risk and amenity)

The Amendment supports Clause 13.01-1S (Natural hazards and climate change) and Clause 13.03-1S (Floodplain management) by updating flood extent mapping based on recent flood studies (including climate change scenarios where data is available).

Clause 14 (Natural resource management)

The Amendment supports Clause 14.02-2S (Water quality) by updating flood extent mapping based on recent flood studies to support forward planning and management of new development.

D:2 Other relevant planning strategies and policies

i) Gippsland Regional Growth Plan

The Gippsland Regional Growth Plan provides broad direction for land use and development across the Gippsland region, as well as more detailed planning frameworks for the key regional centres of Bairnsdale, Moe, Morwell, Traralgon, Wonthaggi and Warragul.

The Amendment is consistent with principle 2 of the Regional Growth Plan to *“promote a healthy environment by valuing Gippsland’s environmental and heritage assets and by minimising the regions’ exposure to natural hazards and risks.*

ii) Victorian Floodplain Management Strategy

The *Victorian Floodplain Management Strategy, 2016* sets the direction for floodplain management in Victoria. The relevant parts relating to flood mapping and the application of planning controls are:

- ‘Assessing flood risks and sharing information’, which provides the technical basis for assessing flood risk and commits to sharing flood risk information. It sets the framework to prioritise flood mitigation activities based on the level of flood risk.
- ‘Avoiding or minimising future risks, through the use of planning controls to manage the potential growth in flood risk’. It sets accountabilities in land use planning to avoid increased stormwater runoff from new developments.

Clause 13.03-1S requires consideration of the Strategy.

D:3 Planning scheme provisions

A common overlay purpose is to implement the Municipal Planning Strategy and the Planning Policy Framework.

i) Floodway Overlay

The purposes of the FO are:

To identify waterways, major floodpaths, drainage depressions and high hazard areas which have the greatest risk and frequency of being affected by flooding.

To ensure that any development maintains the free passage and temporary storage of floodwater, minimises flood damage and is compatible with flood hazard, local drainage conditions and the minimisation of soil erosion, sedimentation and silting.

To reflect any declarations under Division 4 of Part 10 of the *Water Act, 1989* if a declaration has been made.

To protect water quality and waterways as natural resources by managing urban stormwater, protecting water supply catchment areas, and managing saline discharges to minimise the risks to the environmental quality of water and groundwater.

To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.

The FO allows a schedule to contain:

- floodway management objectives to be achieved
- a statement of risk.

The FO requires a permit to construct a building or to construct or carry out works (unless a schedule states that a permit is not required).

Where a local floodplain development plan has not been prepared a permit application must be accompanied by a flood risk report.

Permit applications must be referred to the relevant floodplain management authority.

ii) Land Subject to Inundation Overlay

The purposes of the LSIO are:

To identify flood prone land in a riverine or coastal area affected by the 1 in 100 (1 per cent Annual Exceedance Probability) year flood or any other area determined by the floodplain management authority.

To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, responds to the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.

To minimise the potential flood risk to life, health and safety associated with development.

To reflect a declaration under Division 4 of Part 10 of the *Water Act, 1989*.

To protect water quality and waterways as natural resources by managing urban stormwater, protecting water supply catchment areas, and managing saline discharges to minimise the risks to the environmental quality of water and groundwater.

To ensure that development maintains or improves river, marine, coastal and wetland health, waterway protection and floodplain health.

The LSIO allows a schedule to contain:

- floodway management objectives to be achieved
- a statement of risk.

The LSIO requires a permit to construct a building or to construct or carry out works (unless a schedule states that a permit is not required).

Permit applications must be referred to the relevant floodplain management authority.

D:4 Ministerial Directions, Planning Practice Notes and guides

i) Ministerial Directions

The Explanatory Report accompanying the second exhibition states the Amendment complies with the following Ministerial Directions:

- Ministerial Direction No. 11 (Strategic Assessment of Amendments) under section 12 of the PE Act
- Ministerial Direction (The Form and Content of Planning Schemes) as required under section 7(5) of the PE Act
- Ministerial Direction No. 15 (The Planning Scheme Amendment Process).

ii) Planning Practice Notes

The Explanatory Report states the Amendment has considered the relevant requirements of *Planning Practice Note 46: Strategic Assessment Guidelines, August 2018 (PPN46)*. That discussion is not repeated here.

Planning Practice Note 12: Applying the flood provisions in planning schemes

This practice note provides guidance about applying the flood provisions in planning schemes including the preparation of policy, identifying land affected by flooding, preparing a local floodplain development plan and the application and operation of the flood provisions, including the preparation of schedules.

Planning Practice Note 11: Applying for a planning permit under the flood provisions

This practice note provides a guide for councils, referral authorities and applicants, including explanation of the requirements of the flood provisions and about making an application for a planning permit where flooding is a consideration and about how an application will be assessed.

iii) Practitioner's Guide

The Practitioner's Guide sets out key guidance to assist practitioners when preparing planning scheme provisions. The guidance seeks to ensure:

- the intended outcome is within scope of the objectives and power of the PE Act and has a sound basis in strategic planning policy
- a provision is necessary and proportional to the intended outcome and applies the Victoria Planning Provisions in a proper manner
- a provision is clear, unambiguous and effective in achieving the intended outcome.