

Summary of Submissions and Responses to C-116 Proposed Land Subject to Inundation Overlay

The following is a discussion of the key issues raised in the submissions to Amendment C116 (see Attachment 1) and a Council officer response.

Two submissions were received regarding the proposed LSIO in the Melbourne Water catchment area – Lang Lang River, Little Lang Lang River and their tributaries. Both of the submissions received questioned the modelling used to support the LSIO. Melbourne Water is currently working with both submitters to address their concerns.

Only one submission was received regarding the rezoning of private freehold land adjoining waterways from the Public Conservation and Resource Zone (PCRZ) and Public Park and Recreation Zone (PPRZ). This submission was in regard to an error made in the mapping produced by DELWP Mapping Services and will be corrected.

Twelve submissions including a petition were received in relation to the introduction of the LSIO in the Muddy Creek area. The petition contained 26 signatures, of which twelve of the signatories from nine properties are affected by the LSIO.

Following is a summary of the main concerns that were raised in the submissions.

1. Impact on land values, land sales and insurance

A concern expressed in most submissions is the fear that application of the LSIO will detrimentally affect land values, make it more difficult to sell land and increase insurance premiums.

It is a common fear that the application of a new planning scheme overlay will affect land values. This matter has been researched in relation to many overlays in Victoria and little evidence can be found to support the assumption. This is because in the majority of cases the risks identified by an overlay (e.g. fire, flood, landslip) are evident to most informed land buyers regardless of the presence of an overlay. Exhibition of the Amendment has revealed a high degree of knowledge and understanding of the risk posed by rising sea levels.

Regarding land values and the potential to sell land, it is important to reiterate that the LSIO does not prohibit development. If land values are unaffected, it is reasonable to assume that the LSIO will not result in Council reducing its property rating of land. Reduced Council rating was queried in many submissions.

Concerns about insurance premiums are common when flood / inundation controls are applied. The key point to note is that insurance companies already have and consider the flood data used to map the LSIO when they make their insurance assessments. While these matters are primarily private sector / market force issues, and Council is not required to consider market forces in its administration of the Planning Scheme, experience in other councils has found that application of the LSIO, or similar inundation / flooding controls, does not have any significant or lasting effect on land values, land sales or insurance premiums.

2. Maintenance of Muddy Creek - whose responsibility is it?

Muddy Creek is a designated waterway under the Water Act 1989. Most of Muddy Creek is in private ownership. Waterways that are located on private land are the responsibility of the landholder. Waterways on public land may be the responsibility of DELWP or Council. The role of Catchment Management Authorities is to regulate works and development on waterways and floodplain land. Where a waterway flows through private property, the land holder may apply to the Authority for a Works on Waterways permit for the removal of large debris from the waterway. All works within 30 metres of a designated waterway require a Works on Waterways permit from the West Gippsland Catchment Management Authority (WGCMA), issued under the Water Act 1989.

Many of the submissions believe that if the Council or WGCMA cleaned out the creek and maintained it then this would remove the need for the LSIO. This is not the case. The LSIO would still be applicable. The purpose of the LSIO is to recognise land that is potentially susceptible to inundation and to ensure that it is developed in a way that minimises risk to life and property not to mitigate flooding.

3. The culverts and infrastructure at Victoria Street and on the South Gippsland Highway need to be increased

Vic Roads is responsible for the culvert located on the South Gippsland Highway. The culvert at Victoria Street has been designed for a 1 in 10 year rainfall event. The LSIO is designed for a 1 in 100 year rainfall event. To increase the culvert is a significant capital expense for an event that has a 1% chance of occurring. The last flooding that occurred was caused by large tree being washed down the creek and blocking the culvert. Even if the culvert was larger it is possible the debris would have still blocked the culvert.

4. Council will be liable if the area floods

Application of the LSIO is to recognise land potentially susceptible to inundation. It does not create a liability risk for Council.

5. Compensation from Council to landowners

Compensation is not provided to landowners for any actual or perceived loss of land value or development potential resulting from the application of overlay controls.

6. The LSIO is not necessary, inappropriate and incorrectly assessed.

State Planning Policy requires planning schemes to be kept up to date with the latest available flood mapping. This amendment ensures we are complying with the policy.

The mapping used for the LSIO was undertaken by WGCMA. The flood modelling completed for Muddy Creek was based on topographic data sourced via photogrammetry collected in August 2016. The model represents a design 1% AEP flood event.

In response to this issue WGCMA are currently investigating if there is a need to modify the mapping.