

Melbourne Water Summary of Amendment C151

1. The below summary is provided to the Committee to clarify the:
 - 1.1 roles of Melbourne Water, Moonee Valley City Council, TIGCorp (the developer of the Rivervue site) and Mr Nick Wimbush in the Amendment C151 process; and
 - 1.2 basis on which the LSIO was ultimately removed from the Rivervue site.
2. The summary references the following documents that are available here at the [Moonee Valley City Council website](#):
 - 2.1 Factsheet: Updating local flood controls: Amendment C151 – Special Building Overlay and Land Subject to Inundation Overlay.
 - 2.2 Explanatory Report, Moonee Valley Planning Scheme, Amendment C151.
 - 2.3 Panel Report, Moonee Valley Planning Scheme Amendment C151: Updating local flood mapping.

Proposed Amendment C151

3. As a result of updates to Melbourne Water's overland flow and drainage modelling for the Moonee Valley region, Melbourne Water approached the Moonee Valley City Council to prepare an amendment to the Planning Scheme. The amendment related to proposed changes to the boundaries of the LSIO and the SBO to reflect the updated modelling.
4. Moonee Valley City Council resolved to seek authorisation from the Minister for Planning to prepare Moonee Valley Planning Scheme Amendment C151 to amend the planning scheme maps in accordance with Melbourne Water's proposal, pursuant to section 19 of the *Planning and Environment Act 1987* (**Amendment C151**).
5. Moonee Valley City Council also resolved to refer any submissions to an independent panel in accordance with section 23(1)(b) of the *Planning and Environment Act 1987*, if submissions were received which requested a change to Amendment C151 and they were not resolved between Moonee Valley City Council and Melbourne Water.¹
6. On 9 July 2015, Moonee Valley City Council gave formal notice (known as an 'exhibition') of a proposed form of Amendment C151.² As part of the exhibition process, Moonee Valley City Council sent written notices to relevant public authorities, owners and occupiers of land affected by Amendment C151 informing them of the amendment.³ A notice with respect to Amendment C151 was also placed in the Government Gazette.

¹ Panel Report, Moonee Valley Planning Scheme Amendment C151 dated 30 November 2015, p 3.

² City of Moonee Valley, Amendment Summary for Planning Scheme Amendment C151 dated 4 August 2016.

³ Moonee Valley City Council, Updating local flood controls: Amendment C151 – Special Building Overlay and Land Subject to Inundation Overlay.

7. A total of 425 properties were to be affected by the changes to the LSIO, including 54 properties to be added to the LSIO and 152 properties to be fully removed from the LSIO.⁴
8. The original iteration of Amendment C151 did not remove the LSIO from the Rivervue site.

Objections to proposed Amendment C151

9. Moonee Valley City Council received various submissions in response to the exhibition of Amendment C151, including eight objections from various parties and three submissions from government agencies (Parks Victoria, the Department of Environment, Land, Water and Planning and VicTrack).⁵
10. Moonee Valley City Council was required to consider those submissions and then had the option to change the amendment, abandon the amendment (or part of it), or refer the submissions to a Planning Panels Victoria panel.⁶
11. In August 2015, BMDA Development Advisory (**BMDA**) lodged a submission with Moonee Valley City Council in response to Amendment C151 on behalf of TIGCorp, the developers of the Rivervue site.⁷ The submission raised concerns that the proposed LSIO did not reflect the significant flood mitigation earth works and reshaping of the floodplain area at the Rivervue site and that the LSIO should align with the wetlands section of the Rivervue site.⁸
12. At the request of Moonee Valley City Council, Melbourne Water considered the submission and conferred with BMDA with respect to the issues raised in the submission.
13. In October 2015, Melbourne Water informed BMDA and Moonee Valley City Council that it had reviewed the information provided and decided to amend the exhibited LSIO in accordance with the development plans for the Rivervue site.
14. Unlike the properties in the initial iteration of Amendment C151, Melbourne Water's updated overland flow and drainage modelling was not the grounds on which it was recommended that the LSIO be removed from the Rivervue site. The recommendation that the Rivervue site be removed from the LSIO was made as a result of the earth works carried out by TIGCorp and reshaping of the floodplain area at the Rivervue site.
15. On the basis of Melbourne Water confirming it had decided to amend the LSIO, BMDA requested that Moonee Valley City Council accept the amended LSIO.
16. Moonee Valley City Council in turn confirmed that any revisions to the exhibited plans made by Melbourne Water would be supported by Moonee Valley City Council.

⁴ Explanatory Report, Moonee Valley Planning Scheme, Amendment C151, p 1.

⁵ Panel Report, Moonee Valley Planning Scheme Amendment C151 dated 30 November 2015, p 3.

⁶ *Environment and Planning Act 1987* (Vic) s 23.

⁷ TIGCorp Submission to Parliamentary Inquiry into the 2022 Flood Event in Victoria dated 1 June 2023, p 22.

⁸ As above.

Planning Panels Victoria panel – Mr Nick Wimbush

17. A Planning Panels Victoria panel (the **Panel**) was established to consider the issues raised in the submissions on Amendment C151 that were not resolved between Moonee Valley City Council and the submitters. On 28 September 2015, Mr Nick Wimbush was appointed as the Chair and sole member of the Panel.⁹
18. Melbourne Water made a submission to the Panel in its capacity as the relevant Waterway, Floodplain and Regional Drainage Management Authority under the *Water Act 1989* and the Referral Authority for planning permit applications under the *Planning and Environment Act 1987*.
19. The submission noted that an issue was raised that the exhibited flood shape needed to be updated with respect to the Rivervue site to reflect earth works that had been carried out by TIGCorp. Melbourne Water noted that it had reviewed the flood shape in the vicinity of the property and had amended the exhibited flood overlay.
20. Moonee Valley City Council also made a submission to the Panel and recommended that the Panel alter the LSIO in line with Melbourne Water's recommendation, with the effect of removing the proposed LSIO entirely from any proposed units at the Rivervue site.
21. On 30 November 2015, the Panel delivered its report. The report confirmed the Panel had considered all submissions 'on the papers' as no submitters requested to be heard.
22. The report noted that of the eight objections received in response to Amendment C151, two (relating to Gillespie Avenue in Ascot Vale and the Rivervue site) had been resolved by Moonee Valley City Council. The report states the following in relation to those two objections:

Submission	Property	Comment
4	Gillespie Avenue, Ascot Vale	Objection, resolved by amendment to Map 14LSIO to remove LSIO from property completely. Not addressed further in this report.
5	Canning Street, Avondale Heights	Objection, resolved by agreement [between Moonee Valley City Council and Melbourne Water] to move LSIO to flood mitigation works boundary. Not addressed further in this report.

23. As those two objections had been resolved, the Panel report focused on the six unresolved objections which did not relate to the Rivervue site.
24. The Panel recommended that Amendment C151 be adopted, subject to the following two changes:

⁹ Panel Report, Moonee Valley Planning Scheme Amendment C151 dated 30 November 2015, p 3.

- 24.1 modifying the application of the LSIO over the Rivervue site; and
- 24.2 modifying the application of the LSIO and SBO over Gillespie Avenue, Ascot Vale.¹⁰

Adoption of Amendment C151

25. On 23 February 2016, Amendment C151 was adopted by Moonee Valley City Council.
26. On 16 March 2016, Moonee Valley City Council submitted Amendment C151 to the Minister for Planning for approval.¹¹
27. Pursuant to section 35 of the *Planning and Environment Act 1987* (Vic), the Minister for Planning had the power to refuse or approve the amendment or part of the amendment, with or without changes, and subject to any conditions the Minister wished to impose. The Minister elected to approve Amendment C151 with minor changes.¹²
28. On 4 August 2016, Amendment C151 took effect.¹³ From this time, Moonee Valley City Council were no longer required to refer permit applications in relation to the Rivervue site to Melbourne Water as the site had been removed from the LSIO and Melbourne Water were no longer the relevant floodplain management authority.¹⁴
29. All permit applications in relation to the Rivervue site made after 4 August 2016 have been handled directly by Moonee Valley City Council with no involvement from Melbourne Water.

October 2022 Flood Event

30. The C151 Amendment fully removed 152 properties and partially removed 42 properties from the Land Subject to Inundation Overlay.
31. Of the 194 properties that were fully or partially removed from the LSIO due to Amendment C151, 47 residences and a community building at the Rivervue site in the Mid-Maribyrnong were inundated during the October 2022 Flood Event.
 - 31.1 In our response to Recommendation 9 of the Independent Panel's Report which recommended that Melbourne Water update the Mid-Maribyrnong model, we highlight that work has commenced on updating the Maribyrnong River model and is expected to be ready in April 2024. In the meantime, an interim recalibrated model has been produced for the Mid-Maribyrnong to provide guidance for planning and development and emergency management purposes, until the new model is available.
 - 31.2 In addition, in response to Recommendation 12 of the Independent Panel's Report recommending that Melbourne Water apply interim planning controls, we commit to determining suitable interim flood controls for the

¹⁰ As above.

¹¹ City of Moonee Valley, Amendment Summary for Planning Scheme Amendment C151 dated 4 August 2016.

¹² As above.

¹³ As above.

¹⁴ *Planning and Environment Act 1987* (Vic) s 55.

Mid-Maribyrnong and engaging with the appropriate decision makers to seek their support.

- 31.3 These interim measures would seek to control development in areas in the Mid-Maribyrnong which, as a consequence of the October 2022 flood, are now known to flood and would be updated with subsequent controls once the new model is complete in April 2024.
32. Other than the 47 properties and a community building at the Rivervue site, Melbourne Water is not aware of any properties that were fully or partially removed from the LSIO due to Amendment C151 that experienced flooding in the October 2022 Flood Event.