

Submission from Latrobe City Council for the Revised Draft Victorian Floodplain Management Strategy

### **Proposed Policy**

#### **Proposed Policy 13a**

- The 1% Annual Exceedance Probability flood will remain the design flood event to regulate new development and construction standards in Victoria.

Agree with this proposed Policy as development and subdivision referral advice currently provided to Council from the West Gippsland Catchment Management Authority aligns with this proposed policy. The exception is where there is a known risk which is higher than the 1% AEP, in which case the CMA provides appropriate conditions.

#### **Proposed Policy 13b**

LGAs with areas at risk of a 1% Annual Exceedance Probability flood must ensure that their Planning Scheme contains:

- the objectives and strategies for mitigating the risk in the Municipal Strategic Statement
- the appropriate zones and overlays.

Agree with this proposed Policy, Council currently implement a range of planning tools to identify flood risk. This is currently done through the use of the Land Subject to Inundation Overlay, Flood Overlay and Urban Floodway Zone. As a part of a current flood study being undertaken, the West Gippsland Catchment Management Authority have engaged a planning consultant to look at how the outcomes of the study can be implemented through our planning schemes. Through this, it has been identified that the MSS needs to be strengthened to greater identify flooding risk in the municipality.

#### **Proposed Policy 13c**

- The need for safe accessways during floods will be considered in the preparation of strategic plans for future development, it will also be considered in Municipal Planning Schemes.

Agree with this proposed Policy, it is imperative that safe access/egress is considered prior to land being identified for future residential if there is a flooding risk.

#### **Proposed Policy 13d**

- Regional floodplain management strategies will document and report on all urban and rural areas with known flood risks; they will also document and report on those townships that do not have planning controls to regulate any use or development within the 1% State Planning Policy Framework flood event.

Agree

### **Proposed Accountability**

#### **Proposed Accountability 13a**

- LGAs are accountable for ensuring that their Planning Schemes correctly identify the areas at risk of a 1% Annual Exceedance Probability flood, and contain the appropriate objectives and strategies to guide decisions in exercising land use controls to do with flooding.
- LGAs are accountable for considering advice from CMAs as a 'Recommending Authority' in assessing planning permit applications in areas identified at risk of a 1% Annual Exceedance Probability flood.

- LGAs are accountable to comply to recommendations and conditions from Melbourne Water as a 'Determining Authority' in assessing planning permit applications in areas identified at risk of a 1% Annual Exceedance Probability flood.

The first dot point is considered too heavily weighted towards LGAs who do not have the expertise and data to undertake such responsibilities. This accountability should primarily be the CMA's responsibility with the option for LGAs to undertake their own work, if they choose. CMAs are the floodplain authority, not LGAs.

The CMA's could be a Planning Authority and undertake PSA's on behalf of the Responsible Authority.

The second bullet point states that LGA's are accountable for considering the advice of the CMA as a Recommending Authority. However if Council are to be held accountable for not considering the advice of the CMA, it is considered that the comments or conditions given should be adhered to. As Council does not have the in house expertise to challenge the science behind the advice given, by not accepting any conditions given this would place the risk completely on Council. Given other referral authorities are given "veto" powers in the Scheme, i.e. are determining authorities, it is considered the risk associated with flooding is far greater than other referral triggers. For example, Vicroads are a determining referral authority for matters which could be considered lesser of a risk (access to road zone ) yet CMAs are recommending authorities for arguably higher risk matters such as developments in flood prone areas

There should be consistency between the CMA's and Melbourne Water's referral authority status, as MW is essentially a CMA. Therefore, all CMA's should be given the same veto power for a matter for which they are responsible and also have expertise and resources in that LGAs do not..

Section 202 of the *Water Act* 1989 confers responsibility on Authority's including CMAs for various matters including preparation of flood plans and designation of flood prone areas including extent and depth of flooding. The Water Act does not confer this responsibility to LGAs. Section 212 of the Water Act also requires CMAs to hold and make available flooding information which is another responsibility which is also not conferred to LGAs.

It is clear that in a legislative sense, CMAs have a higher and greater responsibility than LGAs when it comes to floodplain management and planning. It is therefore inappropriate for a Flood Strategy such as the one proposed, to be passing on responsibilities of a CMA (as set out in the Water Act) to LGAs.

### **Proposed Accountability 13b**

- LGAs are accountable for developing strategic plans to address known flood risks, including the safety of accessways, in land use planning.
- DELWP, in consultation with the CMAs, Melbourne Water and VICSES, is accountable for developing and maintaining guidelines on the assessment of flood risks associated with accessways.
- The CMAs and Melbourne Water are accountable for providing advice to LGAs so that they can make decisions about the suitability of accessway arrangements for proposed developments.

The onus should not be entirely on Council to prepare strategic plans to address flood risk. It is proposed that this should read 'LGAs, in partnership with the CMA'. As a part of the CMA's requirement to undertake a Regional Catchment Strategy, this could be considered an output of these strategies. Therefore, it should be read as a partnership rather than purely a Council only action as CMAs are the designated Floodplain Authority and not LGAs (see comments above).

### **Proposed Action**

#### **Proposed Action 13a**

- DELWP, in consultation with local government, CMAs and Melbourne Water, will update the State Planning Policy Framework's floodplain management policy to use the 1% Annual Exceedance Probability flood as the terminology for the design flood event, replacing the current reference to the 1-in-100- year design flood event.
- DELWP in consultation with local government, CMAs and Melbourne Water will regularly review and if necessary revise the Victorian Planning Provision flood-related controls to ensure they remain applicable.
- CMAs and Melbourne Water will work with LGAs to ensure that planning schemes use the planning controls that correctly align with their flood risks.

Agree

#### **Proposed Action 13b**

- DELWP will prepare, for inclusion in the State Planning Policy Framework, guidelines on the assessment of flood risks associated with accessways to help inform local land use planning.

Agree, there should be a consistent approach similar to the standards set out in Rescode.

#### **Proposed Action 13c**

- The CMAs and Melbourne Water will develop implementation plans for their regional strategies that, as appropriate, will seek to either:
  - help convert existing flood study data into planning scheme amendments; or
  - conduct new flood studies to provide draft planning scheme amendments.
- DELWP will work with LGAs to streamline the processes involved in converting flood study outputs into appropriate municipal Planning Scheme amendments.
- DELWP will work with key stakeholders such as MAV to understand significant constraints of implementing appropriate municipal Planning Scheme amendments.

Flood studies should include within the process adequate community consultation to allow for Council's, where no major issues have been identified, to run the amendment as a Section 20(4). If flood studies cannot be considered as a Section 20(4), assistance should be provided in allowing Council to process these amendments given resource implications of running a full Planning Scheme Amendment (staff time, panel costs).

#### **Proposed Action 13d**

- DELWP and the Victorian Building Authority will work together and continue to monitor the current system to improve the effectiveness of the flooding provisions of the Building Code Australia.

Agree

Further Comments from Emergency Management:

#### **Section 16.5 Message construction and dissemination**

This paragraph is a real opportunity lost in its current wording.

All agencies should be exploring a united improved process for disseminating messaging to the community as technology develops and improves.

- Flood apps
- Improved flood web portals
- Static video monitoring sites

These need to be made available so that public access to this information can be readily accessible (real time information in a format that allows people to make informed decisions) in times of high user activity.

#### **Section 17 Flood Mitigation Infrastructure**

There are issues with councils being identified as the go to agency to facilitate jointly managed own levee schemes as identified in Section 17.5, as councils are not the subject matter experts in this area.

If councils are delegated the appropriate authority to sort out private levees this would be fraught with danger from a disputes viewpoint. This role would need clear and concise legislated support to allow councils the necessary power to undertake this task.

## **Section 22 Integrated flood emergency management**

Paragraph 7: reads as if Municipal Emergency Planning Committees are supported by VICSES in undertaking community education and awareness for flood. (this is incorrect)

This paragraph should read – This includes its Flood Safe Program. **VICSES is also responsible for preparing Municipal Flood Emergency Plans which are sup plans to the Municipal Emergency Management Plans.**

(remove the section referring to: **acting in support of Municipal Emergency Management Planning Committees**)

## **Section 23 Incident control**

First paragraph: Councils need to be included in this section to provide advice and support. As councils previously managed flood planning, warning and advice to communities and have a vast amount of knowledge that incident controllers seem to be ignoring.

Attached:

Previous Submission – Draft Victorian Floodplain Management Strategy (August 2014)