

PLANNING SCHEME AMENDMENT C217 EROSION MANAGEMENT OVERLAY SUBMISSIONS AND REQUEST FOR A PLANNING PANEL

Report Author: Senior Strategic Planner
Responsible Officer: Director Planning & Sustainable Futures
Ward(s) affected: (All Wards);

The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.

CONFIDENTIALITY

This item is to be considered at a Council meeting that is open to the public.

SUMMARY

Amendment C217 proposes to update the schedule to the Erosion Management Overlay and include the Incorporated Document 'Requirements for a Geotechnical Assessment, Landslide Risk Assessment or Landslide Hazard Assessment prepared in support of a planning permit application under the Erosion Management Overlay (EMO1)' in the Planning Scheme.

The amendment was placed on public exhibition from 22 June 2023 to 27 July 2023 with a total of 12 submissions received. Of those, two submissions support the amendment, six submissions support the amendment and have requested changes, one submission neither supports the amendment nor suggests changes, one submission opposes the amendment and two submissions state they have no objection to the amendment. As officers are unable to resolve all submissions the amendment must now be referred to an Independent Planning Panel.

RECOMMENDATION

That Council

- 1. Note the matters raised in submissions to Amendment C217.***
- 2. Note the changes proposed to be made to the Amendment in response to submissions.***
- 3. Request the Minister for Planning to appoint an Independent Planning Panel under section 23 of the Planning and Environment Act 1987, to consider unresolved submissions to Amendment C217.***
- 4. Write to all submitters advising them of Council's decision to refer the submissions to a Panel.***

RELATED COUNCIL DECISIONS

At the Ordinary Council meeting of 9 June 2023, Council resolved to:

- Request the Minister for Planning to authorise the preparation and exhibition of Amendment C217 to update the schedule to the Erosion Management Overlay and include the Incorporated Document 'Requirements for a Geotechnical Assessment, Landslide Risk Assessment or Landslide Hazard Assessment prepared in support of a planning permit application under the Erosion Management Overlay (EMO1' in the Planning Scheme.
- Subject to the Minister's authorisation, exhibit Amendment C217 to the Yarra Ranges Planning Scheme.
- Receive a further report considering submissions following exhibition of the amendment.

DISCUSSION

Purpose

The purpose of this report is to discuss the submissions received to Amendment C217 that was exhibited from 22 June to 27 July 2023, and recommend that the amendment be referred to an independent Planning Panel, appointed by the Minister for Planning.

Background

Erosion Management Overlay

Landslide management was first implemented by the former Shire of Lillydale in the early 1990's through changes to the planning scheme in response to property destruction caused by landslides through the 1980's and early 1990's. The forerunner to the current Yarra Ranges EMO was implemented in 2001 and was based on historic mapping undertaken using topographic information available at the time, mostly 1960's Melbourne Metropolitan Board of Works (MMBW) contour plans and through viewing aerial photography.

In December 2009, Amendment C40 to the Yarra Ranges Planning Scheme replaced the schedule to the EMO introduced in 2000, by including an updated landslip risk assessment process which enabled the consideration of development on land with serious risk characteristics. The objectives, decision guidelines, exemptions and information requirements were also updated to include more detail. One of the key changes was that geotechnical assessments submitted with a planning application had to be prepared by practitioners with a specified level of experience and expertise.

Since the EMO Schedule was introduced in 1999, and further updated in 2009, there have been advances in the accuracy and methodology of landslide risk assessment in Australia. Notably the development of the Australian Geomechanics Society guidelines (AGS 2007), recent precedents of other Council EMO schedules being

updated to reflect the AGS 2007 criteria, and technology developments, particularly high-resolution 3D scanning of topography (LIDAR). It is imperative that Yarra Ranges, as one of the most significant EMO areas in Victoria, now review and update the overlay and schedule to align with these improvements. There is also an obligation under the *Planning and Environment Act 1987* to keep controls up to date, with this proposed Amendment achieving this outcome for the EMO.

Storm Event June 2021

The storm event of June 2021 damaged and destroyed many dwellings in Yarra Ranges, some because of landslip associated with the storm. It was identified at that time that there was a need to review and update landslip and debris flow risks in Yarra Ranges, especially considering the increased landslip risks arising from significant loss of trees which offer a degree of stabilisation to the soil. According to information collated by Council’s Rebuilding Support Service (RSS), the storms were destructive and caused 71 properties to be uninhabitable and a further 51 properties were damaged but still habitable.

Council requested financial assistance to assist with several matters arising from the storm event including the need to bring forward a review the EMO due to changed land conditions. Council received \$300,000 in grant funding under the National Recovery and Resilience Agency’s Preparing Australian Communities Program – Local to prepare the review of the EMO in Yarra Ranges.

Council engaged an expert Geotechnical consultant to review and advise on changes required to the EMO in the Yarra Ranges Planning Scheme. The report also considers the potential impacts of climate change on landslip susceptibility and how this can be factored into decision-making.

The report was considered by Council at the Council Meeting on 9 June 2023 and recommended that changes to the current EMO schedule are required to make it more streamlined and user friendly and that the risk provisions in the schedule are consistent with the guidance provided in the AGS 2007 (Australian Geomechanics Society Practice Note Guidelines for Landslide Risk Management). The proposed changes are discussed further below.

Amendment C217

The amendment proposes to amend the current EMO schedule to make it more streamlined and user friendly and make the risk provisions in the schedule consistent with the guidance provided in the AGS 2007 (Australian Geomechanics Society Practice Note Guidelines for Landslide Risk Management).

The recommended changes proposed to the EMO planning scheme provisions in the Planning Scheme are (in summary):

Table 1: Proposed Provisions

Provision	Change	Benefit
EMO Schedule 1: Permit Exemptions	An expansion of the planning permit exemptions for minor buildings and works and vegetation removal in the	Revise exemptions for minor or essential development for which

Provision	Change	Benefit
	schedule.	landslide risks are typically, low or where society benefit clearly outweighs landslide risk.
	Introduction of discretionary clauses in the schedule to enable Council to exempt applications for cases where the community benefit outweighs landslide risk or where delaying works could be detrimental to slope stability.	Avoid delaying essential, beneficial work.
EMO Schedule 1: Subdivision Provisions	Developing separate requirements in the schedule for subdivision applications compared to new buildings and works.	Allows appropriate information to be provided and better informs assessment of applications within the EMO.
EMO Schedule 1: Tolerable Risk Criteria	Amending the tolerable risk criteria from Low to Medium for some structures such as houses and sheds. Further explanation is provided below.	Consistency with AGS 2007 Guidelines to provide a clear decision basis. Allows risk threshold requirements to be consistent with importance of structure.
Incorporated Document	Simplification of the EMO schedule by relocating technical content intended for use by geotechnical practitioners to an Incorporated Document.	Simplify the EMO by removing technical jargon.

Reconsideration of risk to property criteria

The most significant change proposed is to amend the 'risk to property' criteria in the current EMO schedule, which currently requires an applicant to demonstrate low or very low risk to property to any development whether it be a garden shed or a hospital.

The report recommends that the threshold be amended from low to medium to bring the risk criteria into alignment with the industry standard AGS Guidelines (2007) which has also been adopted and included in other Planning Schemes (like Colac Otway).

Changing the risk criteria means that greater risk would be tolerated for lower impact structures. For example, a greater level of risk to a residential dwelling or farm shed could be tolerated compared to critical infrastructure such as a school or hospital.

Adoption of the criteria set out in the AGS 2007 Guidelines would require typical residential development to demonstrate at most a Moderate risk to property, which would also mean that there would be increased opportunities for development including the building of dwellings or dwelling extensions (subject to a planning permit) which is not currently possible.

The acceptance of a different risk criteria is discussed further below under Risk Assessment.

Key Issues

Submissions

A total of twelve submissions were received in response to the amendment exhibition. A detailed summary of submissions is at Attachment 1 and further discussed below:

No	Submission and Officer Response
1	<p><u>Submission 1 – in support</u></p> <p>The submitter supports and welcomes the amendment on the basis that it will seek to simplify the process of a planning permit application under the Erosion Management Overlay.</p> <p><u>Response to submission</u></p> <p>The submitters support and comments are noted. The Amendment seeks to simplify the structure of the schedule to the EMO and proposes new exemptions.</p> <p><u>Recommendation</u> – No change is proposed to the amendment.</p>
2	<p><u>Submission 2 – in support</u></p> <p>The submitter supports the review and amendment. The submitter also raised several general concerns relating to how landowners manage landslip risk on their properties and Council’s role in this.</p> <p><u>Response to submission</u></p> <p>The submitters support and comment are noted.</p> <p>The changes to the EMO Schedule relate to planning permission for buildings and works. Any development would require compliance with Council requirements for development in landslip affected areas.</p> <p>Council has the ability to enforce planning permit conditions, and with respect to property maintenance, Council under its Neighbourhood Local Law has the ability to require residents to maintain the safety and condition of private premises.</p> <p>As part of the review of the EMO Council has also been provided with guidance from its geotechnical consultant on strategies to help build community resilience to landslide hazards including:</p>

	<ul style="list-style-type: none"> • Improved information management practices; • Improved materials and practices for future development; • Vegetation management guidance; • Improved communication practices. <p>These strategies will assist with future land management.</p> <p><u>Recommendation</u> – No change is proposed to the amendment.</p>
3	<p><u>Submission 3 – in support and requests a change</u></p> <p>The submitter has indicated they support the review of the EMO and acknowledges that some effort has been made to address the difficulties faced by people who are unable to rebuild damaged or destroyed buildings.</p> <p>The submitter has requested that the amendment should also consider assessment of any signs of landslip in existing dwellings and include exemptions for dwellings to be rebuilt ‘as is’, if damaged. Particularly those dwellings greater than 50 years of age that have been established without issue.</p> <p><u>Response to submission</u></p> <p>The submitter’s support is noted. Advice has been sought from Council’s geotechnical engineering consultant who has advised in summary:</p> <ul style="list-style-type: none"> • The primary intent of the EMO is to prevent inappropriate development such as poor earthworks, land clearance and drainage that could cause landslides in the future. • In a similar way to inappropriate development, a natural disaster in the Yarra Ranges is likely to change the landslide risk because it involves loss of vegetation, for example tree fall or bushfire or could involve loss of retaining structures, damage to drainage or re-direction of drainage. • It is important after a natural disaster that a site and any new development is assessed to check whether the landslide risk has changed because of the disaster and to ensure that any increased landslide risks identified are properly managed and mitigated through the rebuild process. <p>The proposed change to the amendment cannot be supported because it is essential that existing dwellings which have been damaged, despite their age, be assessed as part of a planning application process, to ensure that all requirements of the Planning Scheme are taken into consideration to address any hazards or other matters.</p>

	<p><u>Recommendation</u> – No change is proposed to the amendment. The submissions will be referred to an Independent Panel for further consideration.</p>
4	<p><u>Submission 4 – in support</u></p> <p>The submitter has indicated they would support revisions to the EMO if this results in easing of restrictions regarding the development of land as part of the Ben Cairn Estate in Don Valley.</p> <p><u>Response to submission</u></p> <p>The submitter’s support is noted.</p> <p>The Ben Cairn Estate is historically an estate which is affected not only by high landslip risk, it is also affected by bushfire risk, contains significant landscape and is within a Restructure Overlay which designates that the lots comprising the Ben Cairn Estate as being part of an old and inappropriate land subdivision. Restructure Overlay (RO81) applies to the whole estate and requires all 272 lots be consolidated into one lot. This means that no new development, including houses, extensions and outbuildings are permitted.</p> <p>It is unlikely that the proposed changes to the EMO would have any impact on the ability for development in this area. Council officers have made contact with the land owners to explain this but did not receive a response.</p> <p><u>Recommendation</u> – The matters raised in the submission are outside the scope of the amendment and therefore no change is proposed to the amendment.</p>
5	<p><u>Submission 5 – Environment Protection Authority (EPA)</u></p> <p>The amendment was referred to EPA as a referral authority.</p> <p>The EPA noted the amendment and advised that will not be making a submission.</p> <p><u>Response to submission</u></p> <p>The EPA’s position is noted.</p> <p><u>Recommendation</u> – No changes are required to the amendment</p>
6	<p><u>Submission 6 – in support</u></p> <p>The submitter supports the proposed changes to the EMO. The submitter also notes that if Council are prepared to accept a higher risk for certain activities, Council should prioritise other measures to improve community safety. Specifically, the sealing and drainage of roads adjacent to properties affected by the EMO and suggests Council’s existing road sealing program could be updated to prioritise roads in affected areas.</p>

	<p><u>Response to submission</u></p> <p>The submitter's support is noted. The suggestions relating to prioritisation of road sealing has been provided to Council's traffic and drainage teams for their consideration for future work programming.</p> <p><u>Recommendation</u> – No changes are required to the amendment.</p>
7	<p><u>Submission 7 – Opposes the amendment</u></p> <p>The submitter does not support the amendment. The submitter has stated in summary:</p> <ul style="list-style-type: none"> • Considers that the properties referred to in their submission are not subject to erosion or landslip risk. • That road drainage poses a risk to erosion and landslip and Council uses the properties referred to in the submission as a drain for water run-off, and that Council should address infrastructure drainage matters rather than progress Amendment C217. • That the amendment should be abandoned until road repairs have been carried out. • That the EMO should be removed from the properties referred to in their submission. <p><u>Response to Submission</u></p> <p>The submission was referred to Council's geotechnical consultant for further assessment.</p> <p>The consultant has advised that:</p> <ul style="list-style-type: none"> • The subject properties were included in the erosion management overlay on the basis of a 1999 geological study which indicated the site to be susceptible to landslide. 'Susceptibility' does not necessarily mean a landslide is known to have occurred on the site in the past. It means that there is potential for a landslide to occur on the site in the future if adverse conditions prevail. • Based on studies undertaken by the Geological Survey of Victoria, the site is underlain by a rock type (Ferry Creek Rhyodacite) which is known to be susceptible to landslide where it underlies slopes that are steeper than 30%. There are many examples of landslides having occurred on sites with these attributes in the Ferry Creek and the broader Mount Dandenong areas. • History shows it has been common for those landslides to be triggered by inappropriate earthworks, poor drainage or land clearance which, by

	<p>steepening slopes and allowing soil moisture to increase, can trigger landslide.</p> <ul style="list-style-type: none"> • The purpose of the Overlay is to prevent inappropriate development that could lead to a landslide. It is also intended to afford protection from inappropriate development on adjacent sites that could cause landslide to the subject properties. <p>The amendment does not propose to remove the EMO from any sites and this change is not supported. Any changes to the mapping of the EMO would require further investigation and consideration through a future separate planning scheme amendment.</p> <p>Issues relating to drainage were referred to Council’s stormwater team for further investigation and they have made contact with the submitter to discuss their road and drainage concerns. Due to Federal funding cuts, the road where the objector lives will not be constructed under the Roads for Community Initiative. The funding reductions have had a significant impact on the Council's ability to proceed with planned projects under the Roads for the Community Initiative. For roads that were not funded through the program, the Council currently operates under a policy in which it contributes 20% of the total project cost. This contribution serves as an incentive for landowners to participate in a Special Charge Scheme, which can help fund specific infrastructure improvements. Council departments are also continuing exploring alternative solutions and potential funding opportunities that may become available in the future to address the submitter’s concerns.</p> <p>It should be noted that this matter raised by the submitter is separate to the proposed changes to the planning scheme under Amendment C217.</p> <p>Council officers have also contacted the submitter to discuss their concerns and further explain the amendment. The submitter has not withdrawn their opposing submission.</p> <p><u>Recommendation</u> – No changes are required to the amendment. The submission will be referred to an Independent Panel for further consideration.</p>
8	<p><u>Submission 8 – in support</u></p> <p>The submitter supports the proposed changes to the EMO.</p> <p><u>Response to submission</u></p> <p>The submitters support is noted.</p> <p><u>Recommendation</u> – No changes are required to the amendment.</p>
9	<p><u>Submission 9 – in support and seeks changes</u></p> <p>The submitter supports the proposed changes to the EMO and has also made suggestions associated to the wording of the EMO Schedule 1 related to</p>

	<p>exemptions to permit requirements for retaining walls and fencing.</p> <p><u>Response to submission:</u></p> <p>The submitters support is noted. Advice has been sought from Council's geotechnical consultant on the requested changes who has advised in summary:</p> <ul style="list-style-type: none"> • It would be appropriate to separate the new retaining wall exemption related to expediting retaining wall works to address hazards, from the three existing retaining wall exemptions which apply to proposed or new development. • With respect to expanding the exemptions for fences to also include aluminium fences, it would be appropriate to vary the proposed exemption wording to include reference to aluminium or other lightweight material, where the fence is permeable or the fence is at least 50mm above the ground surface and does not obstruct surface water flow. <p>On this basis it is proposed that the amendment (EMO schedule 1 and Incorporated Document) be amended as requested to:</p> <ul style="list-style-type: none"> • Include the proposed new exemption for retaining wall works to address hazards as a separate exemption. • Amend the fencing exemption to include other types of lightweight fences. <p>A copy of the changes are shown at Attachment 3 and 4.</p> <p><u>Recommendation</u> - Make changes to the amendment as requested.</p>
10	<p><u>Submitter 10 does not object to the amendment and makes the following statements:</u></p> <ul style="list-style-type: none"> • That they wish to be involved in the decision-making process of the EMO. • Concerns regarding the likelihood of further landslip. • Seek to be involved in all construction and works on their property or properties along their boundary. • Requiring information regarding Amendment C217. <p><u>Response to submission</u></p> <p>The submitter's comments are noted. The submission does not appear to be seeking changes to the amendment or expressing opposition to any aspect of the amendment. Officers have contacted the submitter to seek clarification, however no response has been received.</p> <p>As a landowner directly affected by the Amendment C217, the submitter has</p>

	<p>been directly notified of the amendment and provided with information.</p> <p>As a submitter to the amendment, they will continue to be involved in the amendment process, including being notified of when the matter is considered by Council, and invited to be part of the Independent Planning Panel process.</p> <p><u>Recommendation</u> – No changes are required to the amendment.</p>
11	<p><u>Submitter 11 does not object and seeks changes</u></p> <p>The submitter does not express any objection to the amendment but suggests that the Incorporated Document be amended to include Victorian Registered Engineers with suitable experience to the list of practitioners qualified to conduct a geotechnical assessment. The submitter also suggest Council consider providing details for accessing the Yarra Ranges Landslide Inventory.</p> <p><u>Response to submission</u></p> <p>The submitters suggestions are noted. Advice has been sought from Council’s geotechnical consultant who has advised that it would be appropriate to amend the Incorporated Document to refer to Registered Professional Engineer, Victoria (meaning a person who is registered under Part 2 of the <i>Victorian Professional Engineers Registration Act 2019</i>) to clarify that the Victorian engineers registration is the necessary qualification to undertake a geotechnical assessment. A copy of the revised changes are at Attachment 4.</p> <p>In response to the submitter’s suggestion concerning the provision of details for accessing the Yarra Ranges Landslide Inventory, access is available to geotechnical practitioners qualified to undertake landslide risk assessment work within Yarra Ranges, as defined in the schedule to the EMO and Incorporated Document.</p> <p><u>Recommendation</u> – Make changes to the amendment as requested.</p>
12	<p><u>Submission 12 – South-East Water</u></p> <p>The amendment was referred to South-East Water as a referral authority.</p> <p>South-East Water noted they have no objection to the amendment.</p> <p><u>Response to submission</u></p> <p>South-East Water’s position is noted.</p> <p><u>Recommendation</u> – No changes are required to the amendment.</p>

Options considered

Option 1 – Make changes to the amendment where agreed and refer unresolvable submissions to a Panel

- Change the amendment as requested by submitters nine (9) and 11. As discussed above, and in accordance with the advice provided by Council's geotechnical consultant, it is agreed that the changes as suggested by Submitters nine (9) and 11 can be made to the amendment.
- Refer the remaining submissions that cannot be resolved to an Independent Planning Panel as required by section 23(1)(b) of the *Planning and Environment Act 1987*. This will enable all parties with an opportunity to have their concerns or requested changes to the amendment further considered.

Option 2 – Abandon the amendment

Abandon the amendment. If the proposed changes were not pursued, Council would be failing in its obligations under the *Planning and Environment Act 1987* and the Yarra Ranges Planning Scheme to ensure its planning scheme is reviewed and kept up to date. This option is not recommended.

Recommended option and justification

It is recommended that Option 1 be pursued. The further consideration of the amendment and matters raised by submitters who oppose or seek a change to the amendment by an Independent Planning Panel provides all parties with an opportunity to have their concerns further considered.

FINANCIAL ANALYSIS

Council has received \$300,000 in grant funding under the National Recovery and Resilience Agency's Preparing Australian Communities Program – Local (PAC) which has been partly used to fund a review of the EMO by a geotechnical consultant, obtain the relevant LiDAR data, and the cost of a strategic planner to project manage the review and planning scheme amendment preparation.

The costs associated with a Planning Scheme Amendment would also be funded through the PAC funding.

This includes the costs associated with engaging a geotechnical consultant in reviewing submissions and appearing as an expert witness at a Planning Panel.

Council's grant funding under the National Recovery and Resilience Agency's Preparing Australian Communities Program will cover the costs associated with the Planning Panel.

APPLICABLE PLANS AND POLICIES

This report contributes to the following Council strategies and plans:

- Council Plan (2021-25): Quality Infrastructure and Liveable Places.
- Municipal Recovery Plan Pandemic and Storm Recovery, 2022.
- Yarra Ranges Planning Scheme.
- Clause 44.01 Erosion Management Overlay the purpose of which is to protect areas prone to erosion, landslip, other land degradation or coastal processes by minimising land disturbance and inappropriate development.
- Clause 52.10 Reconstruction After an Emergency the purpose of which is to:
 - To facilitate the reconstruction of buildings and works damaged or destroyed as a result of an emergency.
 - To facilitate the re-establishment of businesses and services after an emergency.
 - To facilitate the continued use of land for dwellings after an emergency.

RELEVANT LAW

The proposed planning scheme amendments will be prepared in accordance with the legislative requirements of the *Planning and Environment Act 1987*.

SUSTAINABILITY IMPLICATIONS

Economic Implications

The amendment is not expected to have significant adverse economic effects. Inclusion of a site within the EMO generally does not prohibit changes to that site or buildings, but rather requires an application process whereby landslip can be considered and responded to appropriately.

Social Implications

The proposed changes to the planning scheme will make it clear to residents and the community what the intended outcomes are for properties impacted by an EMO. It will support improved recovery in natural disasters.

Environmental Implications

The primary environmental implication of the proposed changes will be to manage the risk of landslip in the affected areas of Yarra Ranges.

COMMUNITY ENGAGEMENT

The amendment was placed on public exhibition for a month from 22 June to 27 July 2023 in accordance with the statutory requirements under the *Planning and Environment Act 1987*. Notification comprised:

- Notices published on 20 June 2023 in all local newspapers which circulate in the Yarra Ranges Local Government area
- Letters sent by mail to all property owners and occupiers who are affected by the Erosion Management Overlay
- Letters to relevant government agencies and departments
- Notice published in the Government Gazette on 22 June 2023
- Information provided on Council's and the Department of Transport and Planning's websites.

In addition, an online information webinar was held on 26 June 2023 that included Council officers and a geotechnical engineering consultant on the panel.

The webinar was available for residents to view in a live setting and 27 people joined the webinar. The panel provided answers to questions following a slide show presentation of landslide issues and the proposed changes to the EMO. The webinar has since been recorded and is available on Council's Amendment C217 webpage.

Detailed frequently asked questions (FAQs) and answers have also been added to Council's website, many of which are in response to the main questions asked by residents over the exhibition period.

Throughout the exhibition period, more than one hundred phone calls have been received regarding the planning scheme amendment.

COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT

Amendments to the EMO planning scheme controls will contribute towards continuous improvement of the Yarra Ranges Planning Scheme by accurately reflecting landslip risks to appropriately guide land use and development.

RISK ASSESSMENT

One of the primary intentions of an EMO is to identify land that is susceptible to landslip and debris flow to reduce the associated risk to property and human life as a direct consequence.

The proposed changes to the EMO seek to bring Council's EMO schedule into line with the Australian Geomechanics Society Guidelines for Landslide Risk Management, AGS 2007 which recommends that greater risk can be tolerated for

less 'important' structures (i.e.: a greater level of risk to a dwelling could be tolerated compared to a school or hospital).

To date there has been one measure of risk for all developments, with the current EMO requiring risk be low in all circumstances, which is more conservative than what other councils with an EMO control have adopted in their planning scheme (Colac-Otway for example). Some Councils with limited EMO areas do not specify tolerable risk levels at all.

The review of the EMO provides an opportunity for Council to consider applying a moderate risk in appropriate circumstances and including more exemptions for planning applications. It is important to advise that the consideration of changing the risk tolerability to moderate for certain types of development/buildings like dwellings and other domestic buildings does not mean that Council changes their stance towards accepting risk. If a moderate risk to property for certain types of buildings was unacceptable Council would not be considering any change to its current tolerability criteria. Previously Council has generally opted for a low-risk approach – the updated information coming from the review allows increased flexibility and aligns with industry standards.

The benefit would mean that by accepting a moderate risk to property, Council will be able to provide improved opportunities for some properties that cannot achieve a rebuild under the current requirements, particularly after a major storm event.

Council must act in accordance with its adopted policies to be fully protected with insurance. Updating Council's position to align with industry standard guidance and updating the associated Planning Controls will enable Council to consider appropriate development in areas classified as having Moderate risk and still be consistent and not compromising Council's insurance protection. Formal advice has been sought from Council's insurance provider and will be considered as part of the Amendment process.

CONFLICTS OF INTEREST

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

ATTACHMENTS TO THE REPORT

1. Summary of Submissions
2. Amendment C217 Explanatory Report
3. Proposed changes to EMO 1 Schedule
4. Proposed changes to Incorporated Document