

Summary of Written Submissions to Amendment C217

The below table provides a summary of the written submissions, together with an officer response to the submission and recommendations.

Submitter No.	Theme	Summary of Submission	Response to submission
1	In support	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>Thank you for making a submission. In response to your submission, we advise that your position is noted.</p> <p>Recommendation: No change required to the amendment.</p>
2	In support	<p>The submitter supports the review and amendment. The submitter also raised the following general concerns:</p> <ul style="list-style-type: none"> • That residents in the Yarra Ranges Council area fail to manage the landslip risk on their properties, including inspection of large trees and acting on reducing the risk of tree plate failures. • That downstream consequences of landslip are catastrophic particularly with respect to damage to neighbouring properties and the impacts of this damage to people's lives. • That the above issues are related to residents seeking to avoid the upkeep and management of their properties, however this avoidance is not acceptable and that Council is the only entity who can act to require more of residents with large trees at risk of falling. • The submitter has also expressed an interest in understanding what Council will require residents to do in response to the change in the Erosion Management Overlay. 	<p>Thank you for making a submission. In response to your submission, we advise that your position is noted.</p> <p>Your concerns in relation to the management of properties with landslip are also noted.</p> <p>Part of the review undertaken of the Erosion Management Overlay also included consideration of strategies to help build community resilience to landslide hazards including:</p> <ul style="list-style-type: none"> • Improved information management practices which is critical for emergency preparedness, response, and recovery. • Improved materials and practices by putting in place durable and bushfire resilient drainage, ground retention, wastewater, and transport infrastructure in areas susceptible to landslide. • Balancing vegetation removal and considering the importance of retention of vegetation to promote slope stability.

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			<ul style="list-style-type: none"> • Improving measures and enforcing compliance with good engineering practices for development. • Clear communication to the community about landslip changes and the reasons for change. More information about hazards and equipping the community with more knowledge about practices to avoid and encourage. <p>Council also has the ability to enforce planning permit conditions, and with respect to property maintenance, Council has the ability under its Neighbourhood Local Law to require residents to maintain the safety and condition of private premises.</p> <p>Recommendation: No change required to the amendment.</p>
3	In support and requests a change	<p>The submitter has indicated they support the amendment and thanked Council for its efforts in reviewing 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 submission has also requested that the amendment should consider assessment of any signs of landslip in existing dwellings and provide exemptions for these 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>Thank you for making a submission. In response to your submission, we advise that your position is noted.</p> <p>Advice has been sought from Council's geotechnical practitioner who has advised:</p> <ul style="list-style-type: none"> • The Erosion Management Overlay encompasses both areas where landslides have occurred in the past, or where they could occur in the future based on identifying areas with geological characteristics similar to where landslides have occurred in the past.

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			<ul style="list-style-type: none"> • In areas affected by the EMO where no landslides are known to have occurred, 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. • 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 the site is assessed by appropriately qualified persons 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. • The proposed change cannot be supported because it is essential that existing dwellings which have been damaged, despite their age continue to form part of the planning application process and that their age, does not mean that dwellings should be excluded from the necessary steps of a contemporary planning scheme. • There are numerous examples of dwellings constructed in the hills pre-planning scheme controls which may be impacted by a natural disaster and should this occur, rebuilding measures must continue to require planning approval for the safety and integrity of the property.

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			<p>Recommendation: No change required to the amendment. The submission will be referred to an independent Planning Panel for further consideration.</p>
4	In support	<p>The submitter has indicated they 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>Thank you for making a submission. In response to your submission, we advise that your position is noted.</p> <p>The Ben Cairns Estate is affected by a Restructure Overlay that requires all lots to be consolidated into one lot.</p> <p>The proposed changes to the EMO are unlikely to have any impact on the ability for development in this area.</p> <p>Council officers have made contact with the land owners to explain this. No response has been received.</p> <p>Recommendation: No change required to the amendment.</p>
5	General EPA	<p>The amendment was referred to EPA as a referral authority. The submission states that the EPA will not be making a submission on the amendment.</p>	<p>Thank you for this advice. We advise that your position is noted.</p> <p>Recommendation: No change required to the amendment.</p>
6	In support	<p>The submitter supports the proposed changes to the EMO.</p> <p>The submitter also notes that as Council are prepared to accept a higher risk for certain activities, Council should prioritise</p>	<p>Thank you for making a submission. In response to your submission, we advise that your position is noted.</p>

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		<p>other measures to improve community safety. Specifically the sealing and drainage of roads adjacent to properties affected by the EMO. Council's existing road sealing program could be updated to prioritise roads in affected areas.</p>	<p>Refer to the response to Submission 2 relating to measures to improve community safety.</p> <p>Suggestions relating to Council's road sealing program have been passed on to Council's traffic department.</p> <p>Recommendation: No change required to the amendment.</p>
7	Opposed	<p>The submitter does not support the amendment.</p> <p>The submitter states that their properties are not subject to erosion or landslip risk.</p> <p>The submitter also raises the following:</p> <ul style="list-style-type: none"> • That the soil is stable as evidenced by the conditions of vegetation and further states that the subject properties have not been subject to or have record of landslip or erosion. • That the adjoining road drainage poses a risk of erosion and landslip and that Council refuses to resolve this matter and uses the subject properties as a drain for water run-off from the road. • Suggests that Council should address the matter of infrastructure drainage rather than pursue 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>Thank you for making a submission. In response to your submission, we advise that your position is noted.</p> <p>Advice has been sought from Council's geotechnical practitioner who has advised:</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 sites 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's geology is known to be susceptible to landslide where it underlies slopes that are steeper than 30%. History shows it has been common for those landslides to be triggered by inappropriate earthworks, poor drainage or

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			<p>land clearance which by steepening slopes and allowing soil moisture to increase can trigger landslide.</p> <ul style="list-style-type: none"> • The purpose of the Erosion Management Overlay is to prevent inappropriate development that could lead to a landslide, for example excessive vegetation clearance, earthworks or poor drainage. • 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>Issues relating to drainage were referred to Council's stormwater team for further investigation and they have made contact with the submitter related to road and drainage matters.</p> <p>Due to Federal funding cuts, the road where the objector lives will not be constructed under the Roads for Community Initiative.</p> <p>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.</p> <p>For roads that are not funded through the Roads for Communities Initiative program, the Council currently offers incentive for landowners to participate in a</p>

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			<p>Special Charge Scheme, which can help fund specific infrastructure improvements.</p> <p>Council departments are also continuing exploring alternative solutions and potential funding opportunities that may become available in the future. It should be noted that this matter 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>Recommendation: No change to be made to the amendment. The submission will be referred to an independent Panel for further consideration.</p>
8	In support	The submitter supports the proposed changes to the EMO.	<p>Thank you for making a submission. In response to your submission, we advise that your position is noted.</p> <p>Recommendation: No change required to the amendment.</p>
9	In support	<p>The submitter supports the amendment and recognises that it is urgent especially for those residents waiting to rebuild following the June 2021 storms.</p> <p>The submitter has made the following suggestions/comments for further clarity which includes:</p>	<p>Thank you for making a submission. In response to your submission, we advise that your position is noted.</p> <p>Advice has been sought from Council’s geotechnical practitioner who has advised:</p>

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		<ul style="list-style-type: none"> • If all four requirements (rather than any of the four) must be met for the retaining wall to be exempt from a planning permit. • This provision seems confusing in relation to exemptions which do allow new earthworks, if they result in a modified ground surface less than one meter above or below the natural ground level. • Concern if the changes now require permits for any retaining wall less than 1m, unless it was associated with existing unsafe earthworks. • Suggests that the exemptions need to be clarified; specifically if any of the four requirements under dot point 6 apply, or if all of the four requirements apply. • Regarding the fifth permit exemption, could aluminium be included as a material in addition to a fence of lightweight timber or wire construction. This material is lightweight and would not impact surface water flow. • Suggests that lightweight aluminium fences which are more than 50 mm above ground surface and do not obstruct surface water flow should also form part of exemptions to planning permits. 	<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 3 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. • While the clause mentions timber and wire, aluminium is also a suitable material as it would not increase landslide risk. • However the list of exemptions cannot specify every suitable material within this context. <p>Recommendation: Make changes to the amendment as requested.</p>
10	Does not object	<p>The submitter does not object to the amendment and makes the following statements:</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. 	<p>Thank you for making a submission. In response to your submission, we advise that your position is noted.</p> <p>As you do not object to the amendment or make suggestions regarding changes, your comments are noted.</p>

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		<ul style="list-style-type: none"> Requiring information regarding Amendment C217. 	<p>Council further reiterates that by notifying you of the amendment and providing you with an opportunity to provide a submission and is the case, this entitles you to be involved in the decision-making process on the amendment.</p> <p>It is additionally noted that being made aware of construction and works associated with neighbouring properties cannot be achieved under the amendment. It is suggested that the submitter make contact with Council's statutory planning department so that they may be advised of applications concerning adjoining properties.</p> <p>Recommendation: No change required to the amendment.</p>
11	Does not object and requests a change	<p>The submitter does not object to the amendment and makes a suggestion regarding expanding the list of suitable geotechnical engineers to include Victorian Registered Engineers with suitable experience.</p> <p>Submitter 11 also suggest Council to consider providing details for accessing the Yarra Ranges landslide inventory.</p>	<p>Thank you for making a submission. In response to your submission, we advise that your position is noted.</p> <p>Advice has been sought from Council's geotechnical engineering consultant who has advised that:</p> <ul style="list-style-type: none"> That it would be appropriate to amend the terminology in the Incorporated Document from Registered Professional Engineer (RPEng) to Registered Professional Engineer, Victoria (meaning a person who is registered under Part 2 of the Victorian Professional Engineers Registration Act 2019) to clarify that

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			<p>the Victorian engineers registration is the necessary qualification.</p> <ul style="list-style-type: none"> • Further, the revised schedule introduces an incorporated document which includes technical requirements for geotechnical and landslide risk assessments and sets out who can undertake geotechnical and landslide risk assessments. This lists a Registered Professional Engineer (RPEng) as a qualified person. A Victorian Registered Professional Engineer registered through the Victorian Business Licencing Authority would meet this requirement. • Access to the Yarra Ranges landslide inventory 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 documents. <p>Recommendation: Make changes to the amendment as requested.</p>
12	General South-East Water	<p>The amendment was referred to South-East Water as a referral authority.</p> <p>The submission states that South-East Water has no objection to the amendment.</p>	<p>Thank you for this advice. We advise that your position is noted.</p> <p>Recommendation: No change required to the amendment.</p>