

YARRA RANGES PLANNING SCHEME

AMENDMENT C217yan

EXPLANATORY REPORT

Overview

This amendment changes the Erosion Management Overlay Schedule by simplifying its structure, creating new exemptions from planning permission for certain buildings and works and altering the tolerable risk criteria from low to medium in certain circumstances.

It does this by amending the current Schedule to the EMO and introducing a new Incorporated Document into the Yarra Ranges Planning Scheme.

Where you may inspect this amendment

The amendment is available for public inspection, free of charge, during office hours at the following Yarra Ranges Community Link Centres:

- Lilydale – 15 Anderson Street, Lilydale
- Monbulk – 21 Main Road, Monbulk
- Healesville – 110 River Street, Healesville
- Upwey – 40 Main Street, Upwey
- Yarra Junction – 2442-2444 Warburton Hwy, Yarra Junction

The Monbulk, Healesville, Upwey and Yarra Junction Community Links are open from 9.00am to 5.00pm Monday to Friday.

The Lilydale Community Link is open from 8.30am to 5.00pm Monday to Friday and from 9.00am to 12 midday on Saturday.

The amendment can also be inspected free of charge at the Department of Planning and Transport and Planning website at www.planning.vic.gov.au/public-inspection.

Details of the amendment

Who is the planning authority?

This amendment has been prepared by Yarra Ranges Council, which is the planning authority for this amendment.

Land affected by the amendment

The amendment applies to the land in Yarra Ranges covered by the Erosion Management Overlay Schedule 1 (EMO).

What the amendment does

The amendment to the Erosion Management Overlay Schedule 1 (EMO) will simplify its structure, include new exemptions for minor buildings and works and vegetation removal, include separate requirements for subdivision applications and amend the tolerable risk criteria from Low to Medium in

particular circumstances, to ensure the risk provisions in the scheme are consistent with contemporary guidance provided in the Australian Geomechanics Society Practice Note Guidelines for Landslide Risk Management (AGS 2007).

Specifically the amendment:

- Amends Schedule 1 to Clause 44.01 Erosion Management Overlay.
- Amends the Schedule to Clause 72.04 Documents Incorporated in the Planning Scheme to insert the *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* (Yarra Ranges Shire Council, March 2023) as an Incorporated Document in the Planning Scheme.
- Amends the Schedule to Clause 72.04 Background Documents to insert *Erosion Management Overlay – Basis for Schedule Amendment* (WSP Australia, May 2023) as a background document in the Planning Scheme.

Strategic assessment of the amendment

Why is the amendment required?

The storm event of June 2021 damaged and destroyed many dwellings in Yarra Ranges, some because of landslip associated with the storm.

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 a number of matters arising from the storms including the need to bring forward a review the Erosion Management Overlay (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 engineering 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.

A review report has now been provided to Council. The review recommends that changes to the current EMO schedule are required to make it more streamlined and useable and that the risk provisions in the schedule are amended to make them consistent with contemporary guidance provided in the Australian Geomechanics Society Practice Note Guidelines for Landslide Risk Management (AGS 2007).

Currently EMO Schedule 1 requires an applicant to demonstrate low or very low risk to property to any development whether it be a garden shed or a hospital. Changing the risk criteria means that greater risk would be tolerated for lower impact structures in accordance with the guidance in the Australian Geomechanics Society Practice Note Guidelines for Landslide Risk Management (AGS 2007).

The amendment seeks to update the existing EMO Schedule 1 to increase the number of exemptions from the requirement of obtaining a planning permit and reduces the need for complex and expensive technical reports associated with the submission of a planning permit for applications.

An Incorporated Document is also included in the amendment. This document, titled *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* (Yarra Ranges Shire Council, March 2023) sets out the requirements for the geotechnical assessment and reporting in support of planning applications required under the provisions of the EMO.

The amendment will result in net community benefit for landowners with the EMO already applying to their land and for landowners affected by the June 2021 storms.

How does the amendment implement the objectives of planning in Victoria?

The amendment is relevant to objectives of planning in Victoria, as contained in Section 4 of the Planning and Environment Act 1987 by applying appropriate planning controls to areas which are at

risk of landslip in order to protect life and property and enabling appropriate development where required.

How does the amendment address any environmental, social and economic effects?

Environmental

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

Social

The amendment protects life and property in areas at risk of land slip. The amendment will apply appropriate development controls in areas that are affected by landslip and to effectively mitigate against risk to life and property. The new controls create a safer living and working environment for the occupants of the properties concerned and allow for appropriate development where the risk is tolerable.

Economic

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.

Does the amendment address relevant bushfire risk?

The amendment will not result in any significant risk to life, property, community infrastructure or the natural environment from bushfire. There is no additional bushfire risk that will be caused as a result of the amendment.

Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?

The amendment complies with the requirements of the Ministerial Direction -The Form and Content of Planning Schemes (section 7(5) of *the Planning and Environment Act 1987*).

The amendment is consistent with the Ministerial Direction No.11 – Strategic Assessment of Amendments pursuant to Section 12(2) (a) of the Planning and Environment Act 1987.

How does the amendment support or implement the Planning Policy Framework and any adopted State policy?

The objective of Clause 13.04-2S (Erosion and landslip_ of the Planning Policy Framework is to protect areas prone to erosion, landslip or other land degradation processes. The strategies identified under this objective are to:

- Identify areas subject to erosion or instability in planning schemes and when considering the use and development of land.
- Prevent inappropriate development in unstable areas or areas prone to erosion.
- Promote vegetation retention, planting and rehabilitation in areas prone to erosion and land instability.

The amendment supports the implementation of these objectives and strategies for landslip by providing appropriate controls on areas subject to landslip.

The amendment also supports Clause 52.10 (Reconstruction After an Emergency) the purpose of which is to:

- Facilitate the reconstruction of buildings and works damaged or destroyed as a result of an emergency.

- To facilitate the continued use of land for dwellings after an emergency.

How does the amendment implement the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan?

The role of the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan is to ensure that planning in the Region continues to protect the special character and features of the Region in accordance with the Principles of Statement of Planning Policy No 3. It is administered under Section 46F of the P&E Act, which prohibits the Minister for Planning from approving any amendment to the Yarra Ranges Planning Scheme that is inconsistent with the Regional Strategy Plan and its key policy directions.

The Regional Strategy Plan applies to all land within the Shire of Yarra Ranges and affects properties with the Erosion Management Overlay. The Regional Strategy Plan was prepared to have regard to matters to enable increased protection for the special features and character of the Region. Areas prone to landslip risk and other erosion processes include many sensitive and characteristic areas of the Region.

The amendment complies with the Regional Strategy Plan by carefully considering land use and potential land use within the Region, including redevelopment and renewal of areas and other matters which should be considered to ensure that the planning of the Region proceeds in the best interests of the Region's residents and the community generally. The amendment is consistent with the intent of the Regional Strategy Plan which seeks to implement more restrictive controls associated with its natural environments and significant landscapes, while balancing social and economic outcomes in Yarra Ranges.

The amendment is specifically consistent with:

Section 1: Preface to the Regional Strategy Plan

Section 2: The Region and its Future

Section 4: Landscape Living Policy Areas

Section 5: Rural Policy Areas

Section 7: Management of Sites of Natural Significance

Section 8: Management of Sites of Cultural Significance

Section 10: Floodplan Management

Section 11: Special Study Areas

How does the amendment support or implement the Municipal Planning Strategy?

The amendment is consistent with and supports the Municipal Planning Strategy, particularly Clause 02.03-3 (Environmental risks and amenity) by updating appropriate erosion management measures in areas of known land slip risk.

The controls are being applied in order to protect life and property from the impact of land slip. Clause 02.03-3 states that by recognising and planning for the risks associated with projected climate changes, the adverse effects of water scarcity, bushfire, flood and landslip events will be minimised.

Council's strategic direction is to locate and design development within areas of landslip risk to minimise the potential risk to life and property. The proposed controls assist Council in appropriately responding to the environmental risk and create a safer living and working environment for the occupants of the properties concerned.

Does the amendment make proper use of the Victoria Planning Provisions?

The Victoria Planning Provisions include the Erosion Management Overlay in its suite of controls. The purpose of this overlay is to protect areas prone to erosion, landslip or other land degradation processes, by minimising land disturbance and inappropriate development.

The amendment is to refine the current Erosion Management Overlay schedule in the Planning Scheme based on a full review of existing controls. The amendment will result in planning scheme provisions that better reflect the land tenure and land use planning objectives for the land.

The amendment makes appropriate use of the Victoria Planning Provisions through the implementation of overlays to appropriately guide use and development of the relevant land.

How does the amendment address the views of any relevant agency?

The views of relevant agencies have been sought through the public exhibition of the amendment, however prior to this, a steering group committee comprising members including staff from DELWP and DEECA were instrumental through the initial processes following on from storm recovery to the preparation of the Erosion Management Overlay review by geotechnical engineering specialists. The exhibition process included notice to referral authorities with information regarding the amendment and making a submission.

Does the amendment address relevant requirements of the Transport Integration Act 2010?

The amendment does not result in any negative impact on the transport system as defined by Section 3 of the Transport Integration Act 2010. As the amendment reduces the risk of landslip hazards, it is consistent with Section 13 of the Transport Integration Act 2010 which seeks to improve the safety of the transport system.

Resource and administrative costs

What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?

The amendment is expected to improve the administration of the Yarra Ranges Planning Scheme by providing greater certainty for Council, landowners, developers and the community.

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.