

MERRI-BEK PLANNING SCHEME

AMENDMENT C196MORE

EXPLANATORY REPORT

Overview

The amendment proposes to introduce Schedule 2 to the Special Building Overlay – Council drains to land affected by stormwater overland flows associated with the municipality's local drainage areas, where Merri-bek City Council is the local drainage authority.

Stormwater overland flow happens in built-up areas when severe storms generate runoff that affects land. This runoff is known as stormwater overland flow. This stormwater flows over land until it finds its way to a waterway.

The Special Building Overlay will require a planning permit to develop land affected by 1 in 100-year stormwater overland flow paths in the municipality's local drainage areas.

Where you may inspect this amendment

The amendment can be inspected free of charge at the City of Merri-bek website at www.merri-bek.vic.gov.au/amendment-c196 and during office hours at the office of the planning authority, Merri-bek City Council, 90 Bell Street, Coburg by contacting the Strategic Planning Unit on 9240 1111 to arrange a time to view the amendment documentation.

The amendment can also be inspected free of charge at the Department of Transport and Planning website at <http://www.planning.vic.gov.au/public-inspection> or by contacting the office on 1800 789 386 to arrange a time to view the amendment documentation.

Submissions

Any person may make a submission to the planning authority about the amendment. Submissions about the amendment must be received by **Monday, 17 June 2024**.

A submission must be mailed to:

Amendment C196more
Strategic Planning Unit
Merri-bek City Council
Locked Bag 10
BRUNSWICK VIC 3056

Or emailed to:

strategicplanning@merri-bek.vic.gov.au

Panel hearing dates

In accordance with clause 4(2) of Ministerial Direction No.15 the following panel hearing dates have been set for this amendment:

- directions hearing: week commencing Monday, 5 August 2024
- panel hearing: week commencing Monday, 2 September 2024

Details of the amendment

Who is the planning authority?

This amendment has been prepared by Merri-bek City Council, which is the planning authority for this amendment. The amendment has been made at the request of the council.

Land affected by the amendment

The amendment applies to land subject to 1% AEP (Annual Exceedance Probability) stormwater overland flows in the council's local drainage catchments, where it is the local drainage authority. These flow paths are shown below. 1% relates to a major storm event where there is a probability the event will happen once every 100 years. This event is sometimes referred to as the 1 in 100-year storm or 100-year storm.

An interactive map to check whether your property is affected by the amendment is available on Councils website at www.merri-bek.vic.gov.au/amendment-c196. Alternatively, call Council on 9240 1111 or email strategicplanning@merri-bek.vic.gov.au.

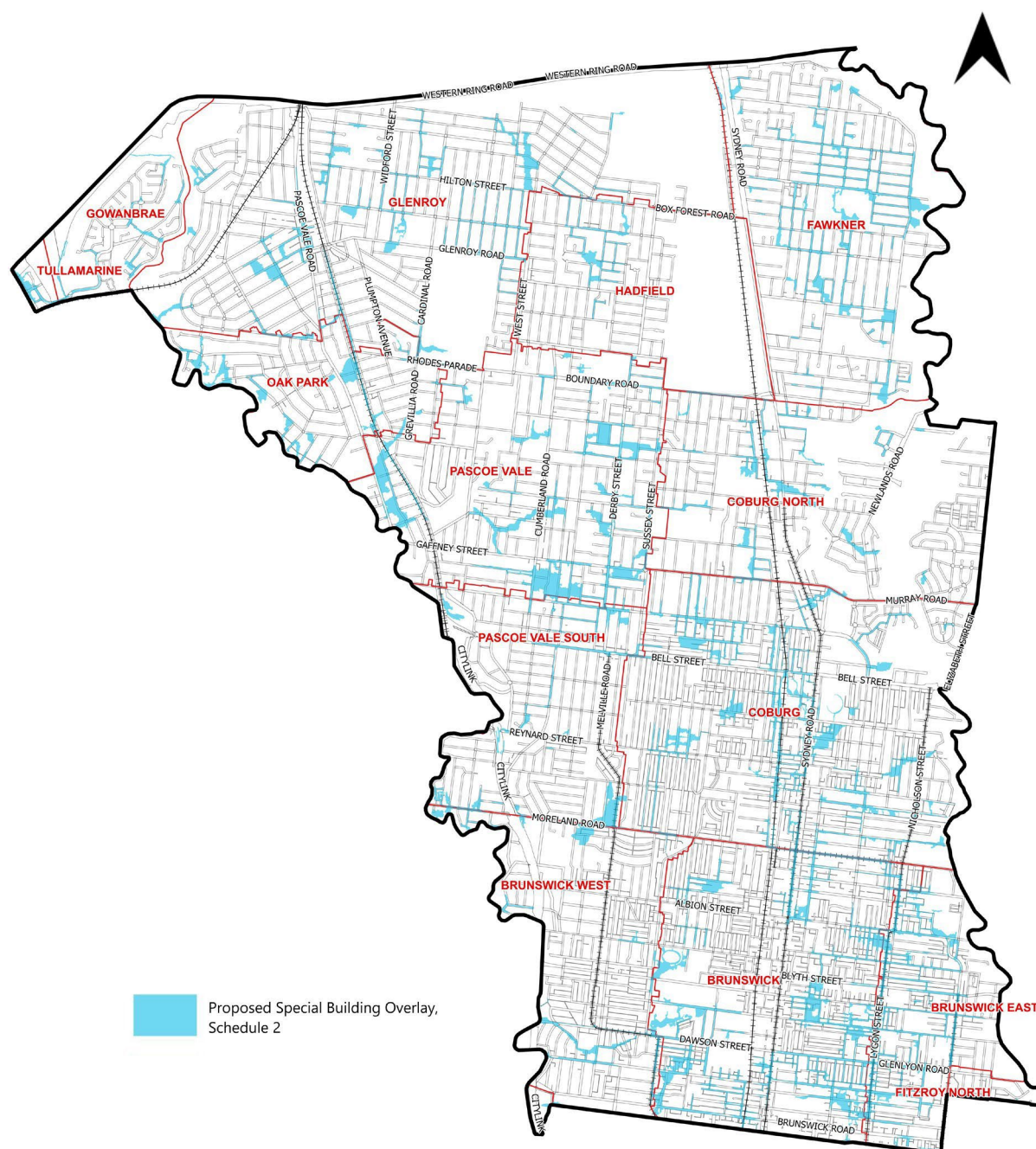


Figure 1 – indicative map showing the proposed Special Building Overlay, Schedule 2.

What the amendment does

The amendment seeks to apply a Schedule 2 to the Special Building Overlay – Council drains (SBO2) to land liable to inundation by overland flows in the city's local drainage areas. These areas are where Merri-bek City Council is the local drainage authority.

Including the SBO2 in the planning scheme enables stormwater issues to be addressed early in the development process, through the triggering of a planning permit application for buildings and works. There are some buildings and works that don't require a planning permit and these are set out in the Special Building Overlay parent provision. The proposed SBO2 does not vary these exemptions.

The effect of the SBO2 is not to prevent development but to require a planning permit to ensure development is sited and designed to minimise the impact of stormwater overland flow.

The amendment proposes to change the following in the ordinance:

- Introduce a new Schedule 2 to Clause 44.05 Special Building Overlay.
- Amend the Schedule to Clause 72.03 *What does this planning scheme consist of?* to update the list of maps that form part of the planning scheme.
- Amend the Schedule to Clause 72.08 *Schedule to Background Documents* to introduce a new background document *Merri-bek City Council, Creating the Local Drainage Authority's Stormwater Map, Technical Report*.

The amendment also proposes to change the following maps:

- Amends map nos. 1SBO, 2SBO, 3SBO, 4SBO, 5SBO, 6SBO, 7SBO, 8SBO, 9SBO, 10SBO, 11SBO, 12SBO, 13SBO, 14SBO, 15SBO to introduce SBO2.

Strategic assessment of the amendment

Why is the amendment required?

Preparing the stormwater map

Stormwater overland flow is a type of flooding. In November 2023 the council prepared an updated stormwater map for land expected to experience stormwater flows from a 1 in 100-year storm event.

The map was prepared by specialist engineers and was informed by national engineering guidelines, known as *Australian Rainfall and Runoff 2019* which inform how such mapping should be done, and how to consider climate change. The mapping method uses stormwater models for the city's local drainage areas. More information about this is in the specialist engineers report, known as the *Merri-bek City Council, Creating the Local Drainage Authority's Stormwater Map, Technical Report*.

The stormwater map has been designated and is in use for building permits

The stormwater map has been designated under the *Building Regulations 2018*. This was initially done in 2021 when an initial map was prepared. Then, more recently in November 2023, after review work was completed. On both occasions, public consultation was done before these designations occurred.

The stormwater map is designated for use by building surveyors, architects, and landowners to ensure stormwater flows are considered for the design and construction of buildings on affected properties. This designation allows the stormwater map to be incorporated into relevant statutory processes, enabled by the *Building Act 1993*, and associated with the *Building Regulations 2018*. Such processes include the:

- Issuing of property information certificates under regulation 51 of the *Building Regulations 2018*.
- Triggering of the reporting and consenting requirement for the council, under Regulation 153 of the *Building Regulations 2018*.

Managing stormwater risks

The council has various solutions for managing stormwater risks. This includes a drainage improvement plan that identifies priority locations where drainage works can reduce the impact of the 1 in 100-year storm. The council also funds other works to repair drains and do maintenance.

It is also necessary to use the planning system to manage stormwater risk. The amendment is needed to translate the stormwater map into the planning scheme and ensure new development is designed to maintain the free passage and temporary storage of stormwater.

Including the map in the Merri-bek Planning Scheme provides clarity and certainty to landowners, developers, and prospective purchasers that stormwater hazard must be considered early in the development feasibility, engineering, planning, and design processes for land development. Considering stormwater risk in these areas will then inform the assessment of future planning permit applications, balanced with the need to achieve good design outcomes in the municipality.

Merri-bek City Council has a statutory obligation to protect life, property, public health, assets, and the environment under the *Planning and Environment Act 1987* and to plan for the effects of climate change.

Amendment C196more is required to introduce the SBO2 for affected properties, where the technical work has been done to justify the introduction of the proposed SBO2 map.

The amendment is for the local drainage authority's urban drainage catchments in the city. These are the upstream, smaller catchments that enable stormwater runoff towards the larger, regional catchments where Melbourne Water is the main drainage authority. The amendment enables the role of the local drainage authority, to consider SBO2 permit applications.

There is an existing SBO1 in the Merri-bek Planning Scheme for Melbourne Water's regional, urban drainage catchments in the city. Any changes to the SBO1 would be done as a separate planning scheme amendment, with Melbourne Water as the proponent.

Council's strategic direction

The *Council Plan 2021-25* recognises the importance of responding to the climate emergency and supporting the community to adapt and build climate resilience. This includes responding to severe storms.

The *Council Action Plan 2023-24* has Action 148 to complete stormwater modelling. The council's *2022 Planning Scheme Review* indicates this modelling will be used to prepare a stormwater map for the council's drainage areas, where it is the local drainage authority.

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

The amendment implements the following objectives in section 4 (1) of the *Planning and Environment Act 1987*, to:

- a) provide for fair, orderly, economic, and sustainable use and development of land.
- b) provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity.
- c) secure a pleasant, efficient, and safe working, living, and recreational environment for all Victorians and visitors to Victoria.
- e) protect public utilities and other assets and enable the orderly provision and coordination of public utilities and other facilities for the benefit of the community.
- f) facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), and (e).
- g) balance the present and future interests of all Victorians.

The amendment implements the following objectives of the planning framework established in section 4 (2) of the *Planning and Environment Act 1987*, to:

- c) enable land use and development planning and policy to be easily integrated. with environmental, social, economic, conservation, and resource management policies at State, regional, and municipal levels.
- d) ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land.

- e) facilitate development which achieves the objectives of planning in Victoria and planning objectives set up in planning schemes.
- g) encourage the achievement of planning objectives through positive actions by responsible authorities and planning authorities.

The amendment implements the objectives of planning in Victoria by translating up-to-date stormwater modelling and mapping data into the Merri-bek Planning Scheme, to ensure an environmental risk is appropriately considered for planning permit applications.

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

The amendment will deliver positive environmental outcomes because the proposed SBO2 will support the environmental health of Merri-bek's waterways and wetlands.

Climate change alters flood risk through increased rainfall intensities. This increased intensity helped to inform the SBO2 map.

Significant stormwater overland flow can result in significant costs for the community. It can severely disrupt communities and in extreme cases, cause extensive damage to public and private property, cause personal hardship, and potential loss of life.

The amendment also:

- Has positive economic and social benefits by enabling new buildings and works to be appropriately designed to minimise flood damage and respond to climate change.
- Ensures stormwater overland flow risk is considered in the early stages of development feasibility and planning assessment.

Does the amendment address relevant bushfire risk?

The amendment is not relevant to bushfire risk.

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

Ministerial Direction on the Form and Content of Planning Schemes

The amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes under section 7(5) of the *Planning and Environment Act 1987*.

Ministerial Direction No. 9 – Metropolitan Strategy

The amendment is consistent with Ministerial Direction No. 9 pursuant to section 12 of the *Planning and Environment Act 1987* which requires planning authorities to have regard to the Metropolitan Strategy (Plan Melbourne 2017-2050).

The amendment supports the following directions and policies of the Metropolitan Strategy (Plan Melbourne):

- Direction 4.3: Achieve and promote design excellence
 - Policy 4.3.1: Promote urban design excellence in every aspect of the built environment
- Direction 6.2: Reduce the likelihood and consequences of natural hazard events and adapt to climate change
 - Policy 6.2.1: Mitigate exposure to natural hazards and adapt to the impacts of climate change
 - Policy 6.2.2: Require climate change risks to be considered in infrastructure planning
- Direction 6.3: Integrate urban development and water cycle management to support a resilient and liveable city
 - Policy 6.3.2: Improve alignment between urban water management and planning by adopting an integrated water management approach
 - Policy 6.3.3: Protect water, drainage, and sewerage assets

The amendment enables the council to better manage flood and climate change impacts by identifying the risk in the scheme which ensures orderly planning can be achieved. In turn, this will help protect

stormwater quality and ensure flood impacts are minimised to protect life, property, assets, and the environment.

Ministerial Direction No. 11 – Strategic Assessment of Amendments

The proposed amendment complies with Ministerial Direction No. 11 pursuant to section 12 of the *Planning and Environment Act 1987*. The amendment is consistent because it ensures a comprehensive strategic evaluation of a Planning Scheme Amendment and the outcomes it produces.

Ministerial Direction No. 15 – The Planning Scheme Amendment Process

The proposed amendment complies with Ministerial Direction No. 15 (The Planning Scheme Amendment Process). The proposed amendment is consistent because it will set times for completing steps in the planning scheme amendment process.

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

The proposed amendment has been assessed against the objectives of the Planning Policy Framework and is consistent with the principles of State policy, in particular:

Clause 11.02-1S (Supply of urban land)

The relevant strategy for this provision is:

- Planning for growth should consider the limits of land capability and natural hazards and environmental quality.

Clause 13.01-1S (Natural hazards and climate change)

The objective of this provision is to minimise the impacts of natural hazards and adapt to the impacts of climate change through risk-based planning. The relevant strategies are:

- Consider the risks associated with climate change in planning and management decision-making processes.
- Identify at risk areas using the best available data and climate change science.
- Integrate strategic land use planning with emergency management decision making.
- Ensure planning controls allow for risk mitigation or risk adaptation strategies to be implemented.
- Site and design development to minimise risk to life, property, the natural environment, and community infrastructure from natural hazards.

Clause 13.03-1S (Floodplain management)

The objective of this provision is for floodplain management to assist in the protection of:

- Life, property, and community infrastructure from flood hazard.
- The natural flood-carrying capacity of rivers, streams and floodways.
- The flood storage function of floodplains and waterways; and
- Floodplain areas of environmental significance or of importance to river health.

The relevant strategies are:

- Identify land affected by flooding, including land inundated by the 1 in 100-year flood event or as determined by the floodplain management authority in planning schemes.
- Avoid intensifying the impact of flooding through inappropriately located use and development.
- Locate emergency and community facilities (including hospitals, ambulance stations, police stations, fire stations, residential aged care facilities, communication facilities, transport facilities, community shelters, and schools) outside the 1 in 100-year floodplain and, where possible, at levels above the height of the probable maximum flood.

Clause 15.01-1S (Urban design)

The objective of this provision is to create urban environments that are safe, healthy, functional, and enjoyable and that contribute to a sense of place and cultural identity. The relevant strategies are:

- Require development to respond to its context in terms of character, cultural identity, natural features, surrounding landscape and climate.
- Ensure the interface between the private and public realm protects and enhances personal safety.
- Ensure development supports public realm amenity and safe access to walking and cycling environments and public transport.

Clause 15.01-2S (Building design)

The objective of this provision is to achieve building design outcomes that contribute positively to the local context and enhance the public realm. The relevant strategies are:

- Ensure the form, scale, and appearance of development enhances the function and amenity of the public realm.
- Ensure buildings and their interface with the public realm support personal safety, perceptions of safety and property security.
- Ensure development provides safe access and egress for pedestrians, cyclists, and vehicles.

How does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?

The Merri-bek Planning Scheme's Municipal Strategic Statement has been taken into the Planning Policy Framework. This strategic consideration is not relevant.

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

The proposed amendment is supported by the MPS at Clause 02, which has a Vision to manage population growth and associated development to create sustainable neighbourhoods of well-designed environmentally sustainable development.

The Strategic Directions in Clause 02.03 has a direction for Environmentally Sustainable Design, which prompts the design of buildings to provide greater resilience to the impact of Climate Change. This improved resilience is being enabled by the amendment, so future buildings have greater resilience for climate change impacts associated with the 1 in 100-year storm.

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

The proposed amendment has been prepared consistently with Planning Practice Note 12 (PPN 12) for *Applying the Flood Provisions in Planning Schemes*, which gives direction for applying the VPPs for stormwater maps.

PPN 12 refers to 'stormwater flooding' and indicates the Special Building Overlay is the appropriate tool for stormwater overland flows in urban areas.

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

Melbourne Water is the region's Floodplain Management Authority. During the preparation of the SBO2 map, Melbourne Water played a role for:

- Enabling the preparation of stormwater models.
- Enabling the peer review of the models.
- Providing mapping specifications which informed the preparation of the proposed SBO2 map.

More information about Melbourne Water's involvement is in the *Merri-bek City Council, Creating the Local Drainage Authority's Stormwater Map, Technical Report*.

Melbourne Water will be directly notified of the amendment during the exhibition period.

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

There are no relevant requirements for the *Transport Integration Act 2010*.

Resource and administrative costs

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

The council has absorbed costs and activated resources to ensure the preparation of the SBO2 map. This involved technical expertise to prepare the map and do a suite of pre-amendment consultation activities that involved direct notice for affected properties.

In 2021, an initial stormwater map was designated for use. This outcome triggered a statutory building permit process that is now in operation. The council has had its resources in place to operate these processes since 2021. Metrics for this process are:

21/22 – 35 applications

22/23 – 77 applications

23/24 – 78 applications (projected)

In the future, when the SBO2 is introduced, the 'reporting and consenting' for building permits will be mostly replaced by a planning permit application assessment process.

The funds required to administer and operate the planning scheme amendment are in place. By operating a building permit process, the council has been able to review and refine its associated in-house processes for administering and responding to 'reporting and consenting' requests. This puts the council in a good position to effectively manage future customer dealings for the proposed SBO2.

ATTACHMENT 1 - Mapping reference table

Location	Land /Area Affect ed	Mapping Reference	Address	Proposed changes		
				Zone	Overlay	Deletion
Gowanbrae and Tullamarine	As shown by the proposed SBO2 map	1SBO	Those properties affected by the SB02 map	Nil	SBO2 (new)	Nil
Gowanbrae and Glenroy	As shown by the proposed SBO2 map	2SBO	Those properties affected by the SB02 map	Nil	SBO2 (new)	Nil
Glenroy and Hadfield	As shown by the proposed SBO2 map	3SBO	Those properties affected by the SB02 map	Nil	SBO2 (new)	Nil
Fawkner, Glenroy, and Hadfield	As shown by the proposed SBO2 map	4SBO	Those properties affected by the SB02 map	Nil	SBO2 (new)	Nil
Fawkner	As shown by the proposed SBO2 map	5SBO	Those properties affected by the SB02 map	Nil	SBO2 (new)	Nil
Glenroy, Oak Park, and Pascoe Vale	As shown by the proposed SBO2 map	6SBO	Those properties affected by the SB02 map	Nil	SBO2 (new)	Nil
Glenroy, Hadfield, Oak Park, Pascoe Vale, and Pascoe Vale South	As shown by the proposed SBO2 map	7SBO	Those properties affected by the SB02 map	Nil	SBO2 (new)	Nil
Coburg, Coburg North, Fawkner, Hadfield, and Pascoe Vale	As shown by the proposed SBO2 map	8SBO	Those properties affected by the SB02 map	Nil	SBO2 (new)	Nil
Coburg, Coburg North, and Fawkner	As shown by the proposed SBO2 map	9SBO	Those properties affected by the SB02 map	Nil	SBO2 (new)	Nil
Brunswick West, Pascoe Vale, and Pascoe Vale South	As shown by the proposed SBO2 map	10SBO	Those properties affected by the SB02 map	Nil	SBO2 (new)	Nil
Brunswick, Brunswick West, Coburg, Pascoe Vale, and Pascoe Vale South	As shown by the proposed SBO2 map	11SBO	Those properties affected by the SB02 map	Nil	SBO2 (new)	Nil
Brunswick, Brunswick East, and Coburg	As shown by the proposed SBO2 map	12SBO	Those properties affected by the SB02 map	Nil	SBO2 (new)	Nil
Brunswick West	As shown by the proposed	13SBO	Those properties affected by the	Nil	SBO2 (new)	Nil

Brunswick West, Brunswick	SB02 map As shown by the proposed SB02 map	14SBO	SB02 map Those properties affected by the SB02 map	Nil	SB02 (new)	Nil
Brunswick, Brunswick East, and Fitzroy North	As shown by the proposed SB02 map	15SBO	Those properties affected by the SB02 map	Nil	SB02 (new)	Nil