

Submission #1

Our Ref: 82230
Your Ref: C196more
15 May 2024

Strategic Planning Unit
Merri-bek City Council
Locked Bag 10
MORELAND VIC 3058

Emailed to: info@merri-bek.vic.gov.au
strategicplanning@merri-bek.vic.gov.au

Dear Sir/Madam

**Merri-Bek Planning Scheme Amendment C196
Introduction of the Special Building Overlay – schedule 2.**

We refer to Council's correspondence dated 10 May 2024 notifying VicTrack of Amendment 196 to the Merri-Bek Planning Scheme.

We understand that the amendment proposes to introduce the Special Building Overlay – schedule 2 which will apply to land affected by stormwater overland flows from a 1 in 100-year storm event.

We have reviewed the amendment documentation in the context of the site and the rail corridor. VicTrack has no objection to the amendment.

Should you have any queries, please contact me on [REDACTED]
[REDACTED]

Yours sincerely

[REDACTED]
[REDACTED]
[REDACTED]

Submission #2

From: [REDACTED]
To: [Strategic Planning](#)
Subject: C196 amendments
Date: Friday, 17 May 2024 12:06:14 PM

My property is at [REDACTED] and within SB02 map.

My concern with C196 is that it will impose an additional layer of administration, cost and delays for any future development I wish to make on my property. I need to be given assurance that this overlay will not adversely impact my property and any future use of my property.

Please accept my email as my submission.

regards

[REDACTED]

From: [REDACTED]
Sent: Monday, 20 May 2024 3:28 PM
To: Strategic Planning
Subject: [REDACTED] drainage submission

Dear Sir or Madam,

In submission to this proposal I do not believe that map is correct.
I'm attaching photos of brick walls and ramps in to doors in front of the shops.

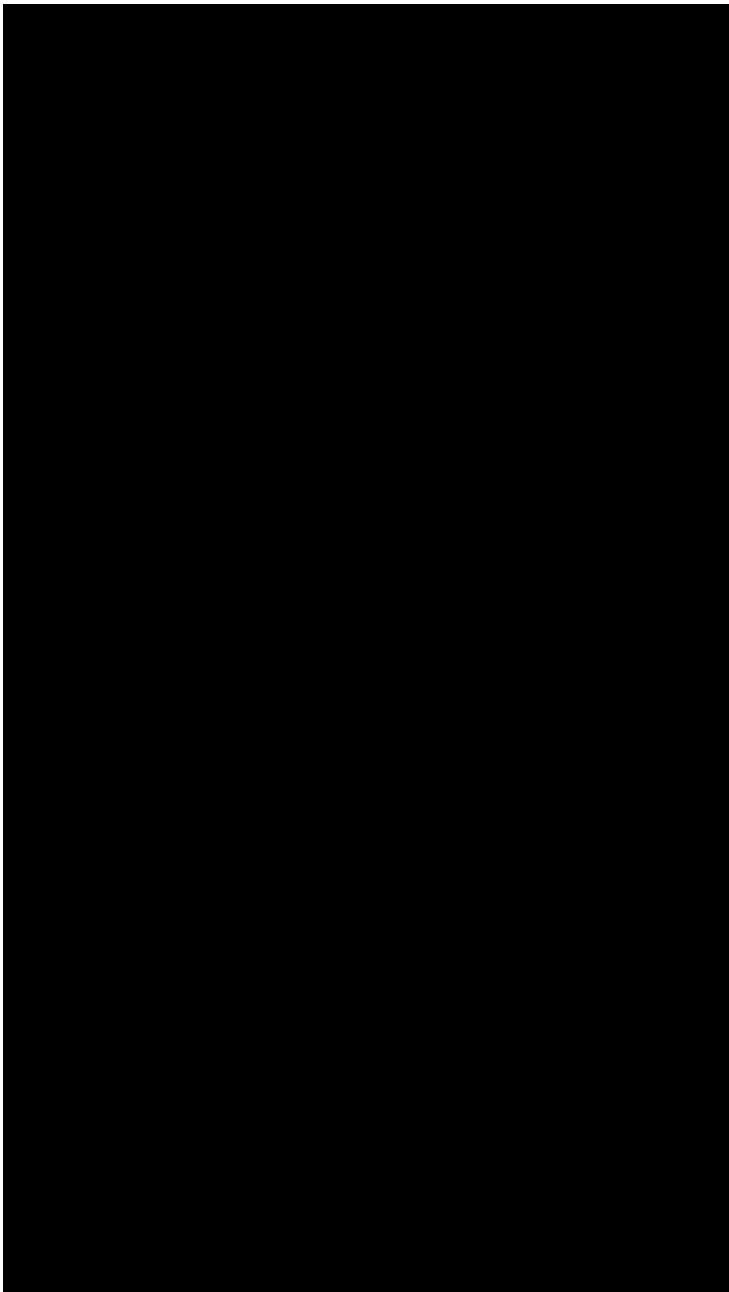
Shops are built on concrete slab and walls are double brick all around.

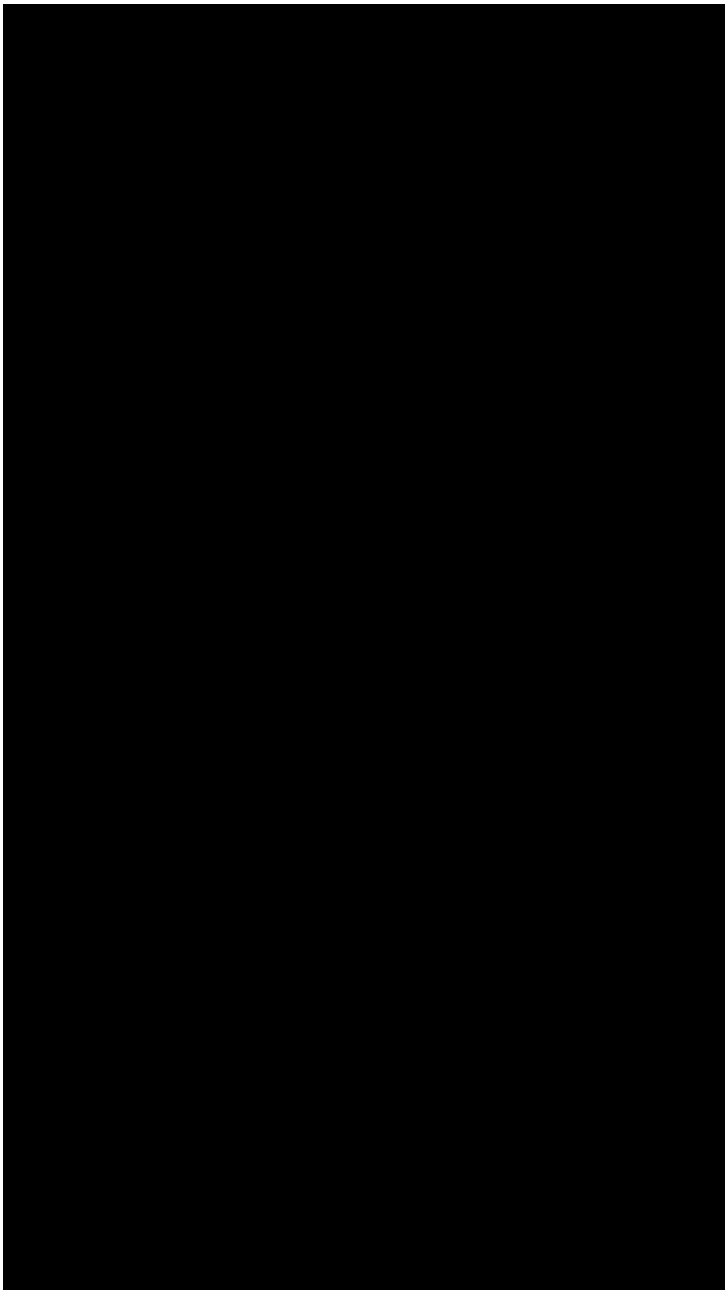
There's also overhead cover from the rain over the footpath.
Because of this I do not believe that storm water can go pass them.
House behind is over 60cm of the ground.

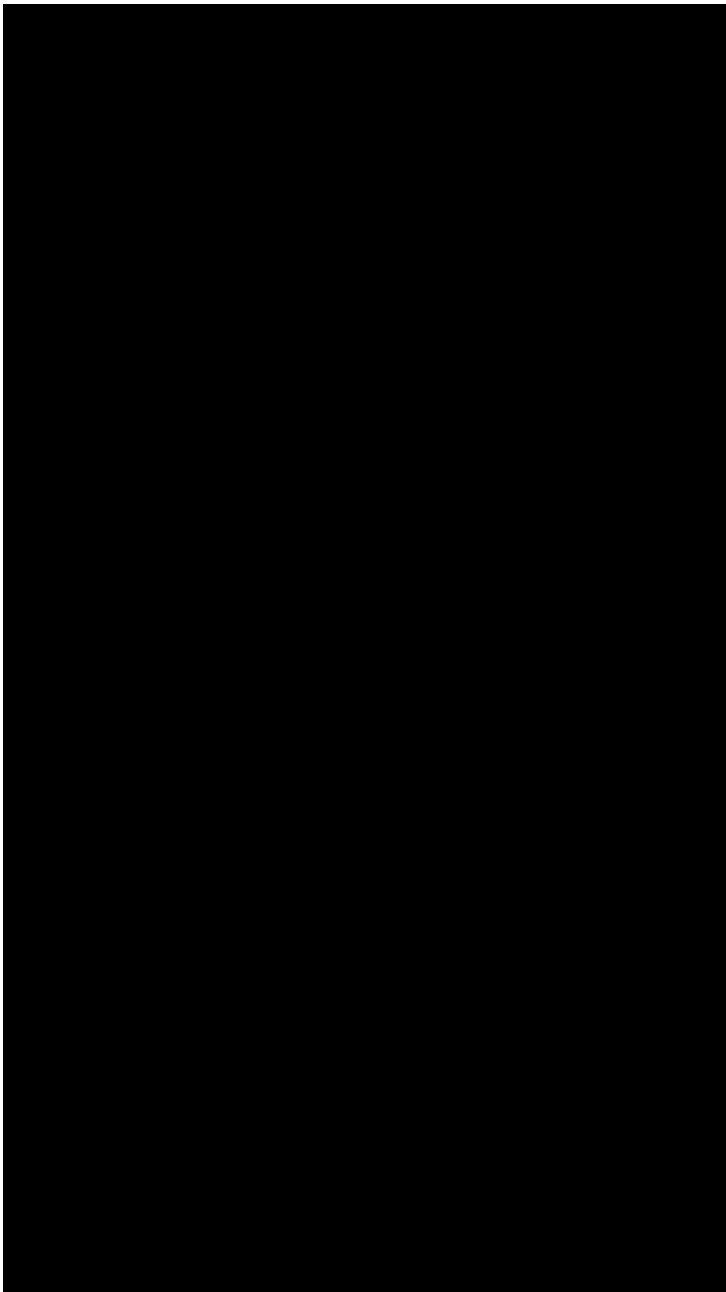
I also live on high side of the hill, therefore any storm water is draining down the hill towards [REDACTED].

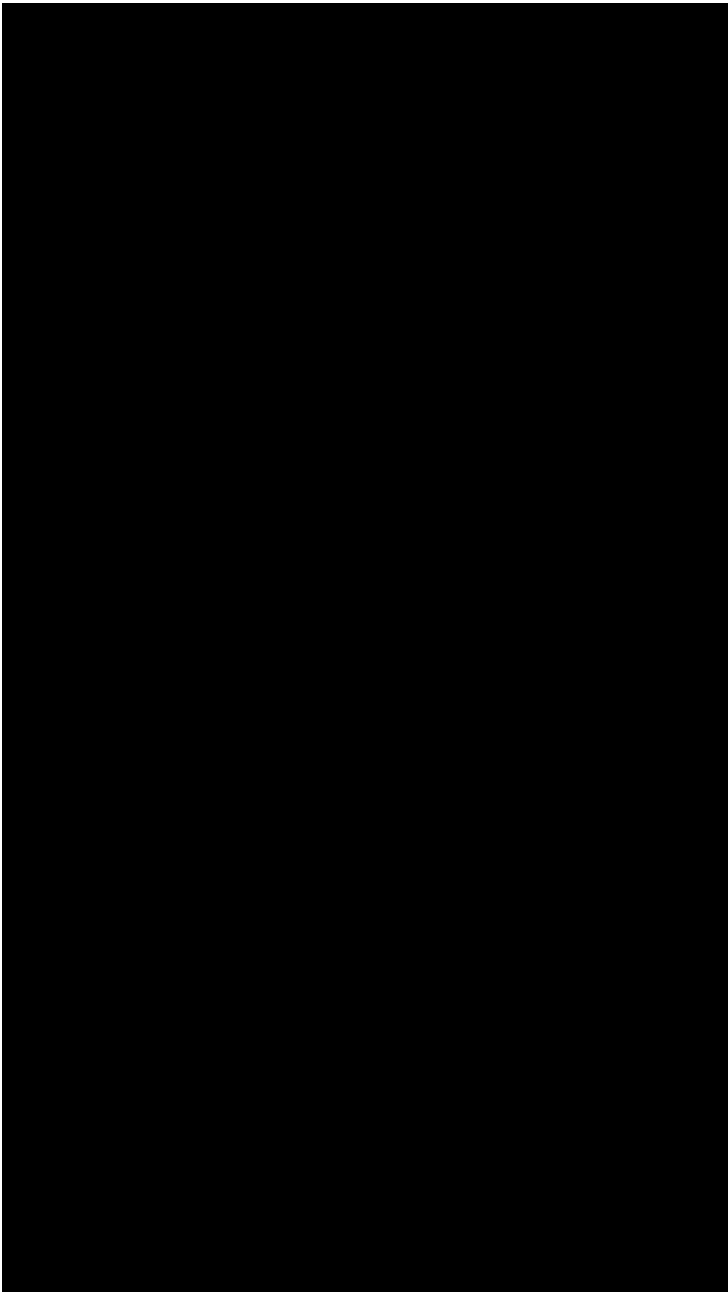
Please see attached.

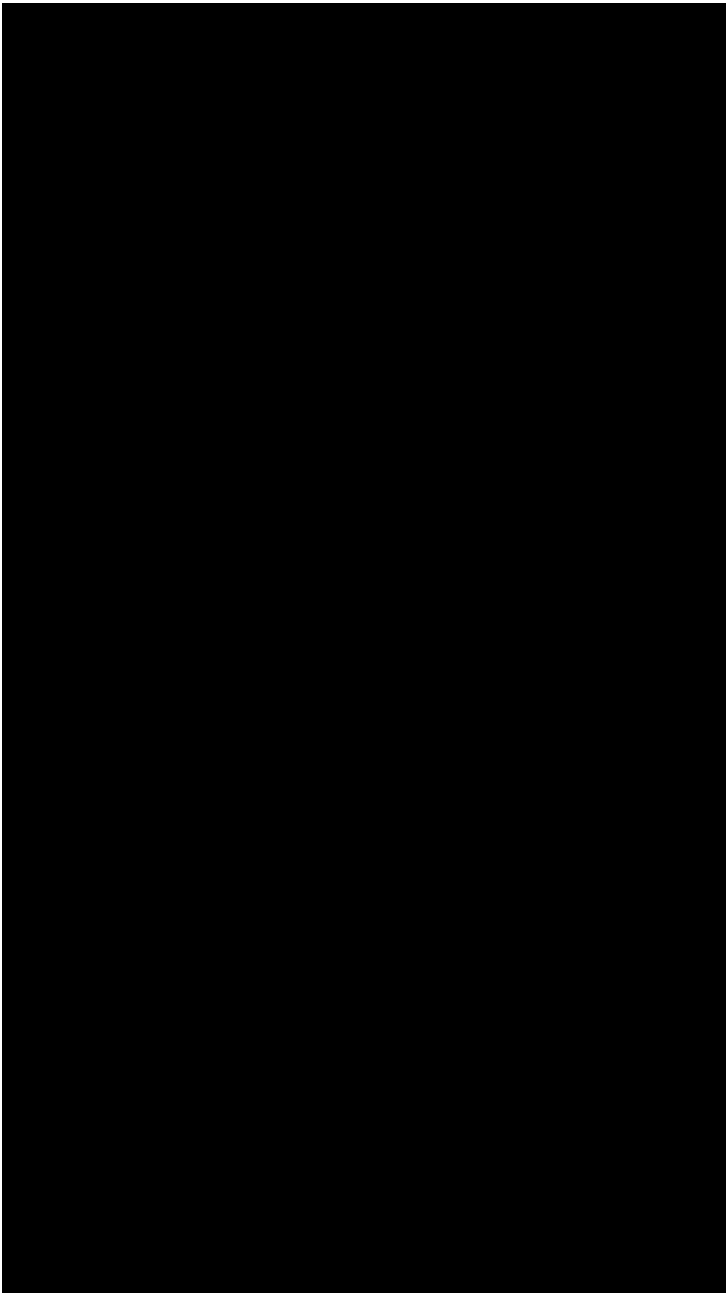
Kind regards,
[REDACTED]











Sent from my iPhone

Submission #4 - WITHDRAWN

SUBMISSION #5 WITHDRAWN

SUBMISSION #6 - WITHDRAWN

Submission #7

From: [REDACTED]
Sent: Mon 24/06/2024 5:45 PM
To: [REDACTED]
Subject: Re: Amendment C196more: Submission received

Hi [REDACTED]

Apologies, I have been overseas with limited access to my email.

The council should update their lodgement of submission page as this has been a consistent issue with previous matters where attachments are not received when uploaded. A system error could result in a defect of procedure under section 29 of the Planning and Environment Act.

Please see the content of my attachment which must be considered by the council and panel below:

Submission to Amendment C196more - [REDACTED]

Methodology of modelling

The Engeny Technical Report (2023) outlines the methodology of the modelling and process of filtering the mapping layers with specific reference to 'logical' steps undertaken to ensure the extent the SBO2 is applied in a reasonable and purposeful manner. Specifically, the report states:

'The presence of a mapping edge at property boundaries is helpful because it goes to show that changes to front boundary conditions (enabled by property development that lowers land levels) can still be highlighted via the SBO map. A small gap is deliberately left between the property boundary and the stormwater flow extent boundary. This gap is left as different geographic information systems (GIS) which are used by government organisations can result in very small movements to the locations of the lines depending on the file format used. If the lines are perfectly on top of one another and the files are converted to a different GIS platform it can result in overlaps between the extent and the property boundary which are not intended. Given that property overlaps are a key method of identifying if a property is affected by an overlay, leaving a very small gap prevents this issue from occurring' (p.27)

The extents have subsequently been manually adjusted and refined to:

- Connect some of the discontinuous areas of the extent, where the model identifies that the disconnected areas are connected by wet cells with a depth of less than 50 mm. An example of where this can occur is if ponded water is dropping off a ledge, flowing down a very steep embankment or overtopping a road the depth can reduce to less than 50 mm, but the flow path is still continuous.
- Remove some areas where the extent was being included due to the modelling approach of applying flows directly to the 2D domain, but the extent did not represent part of the major flow path but was rather a minor lateral inflow.
- Starting stormwater overland flow extents in roads or council reserves rather than having flow paths beginning in private or commercial properties.
- Starting stormwater overland flow extents where 100 mm stormwater depth occurs rather than 50 mm to ensure flow paths are continuous and not caused by modelling limitations (such as model grid size and kerb definition limitations).

In the case of [REDACTED], it appears the above approach has not been undertaken as a small gap between the overlay map and property boundary has not been applied. As outlined in Figures 1, 2, 3, 4 and 5, the SBO extent should be within the [REDACTED] and not be applied within the property boundary which appears to be an anomaly in accordance with the methodology of the Engeny Technical Report (2023). Therefore, Map [REDACTED] must be amended to provide a gap between the property boundary and the laneway to ensure it is not affected by SBO2. It is unclear whether the black outline of SBO2 as shown in Figure 5 triggers a permit, and this should be removed from the property boundary extent for the reasons set out above.

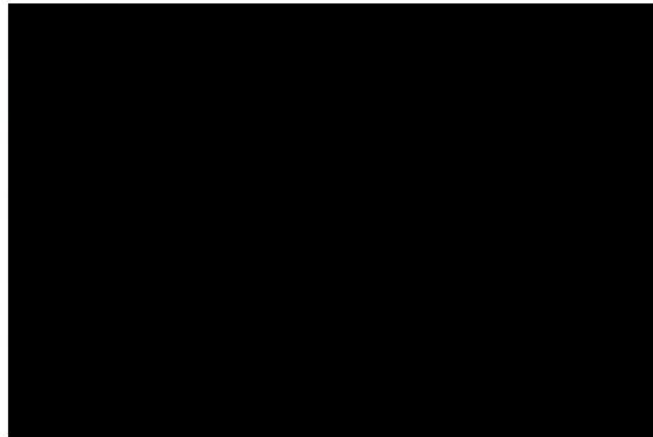


Figure 1 - Corner of the northern and eastern boundary (rear of [REDACTED])

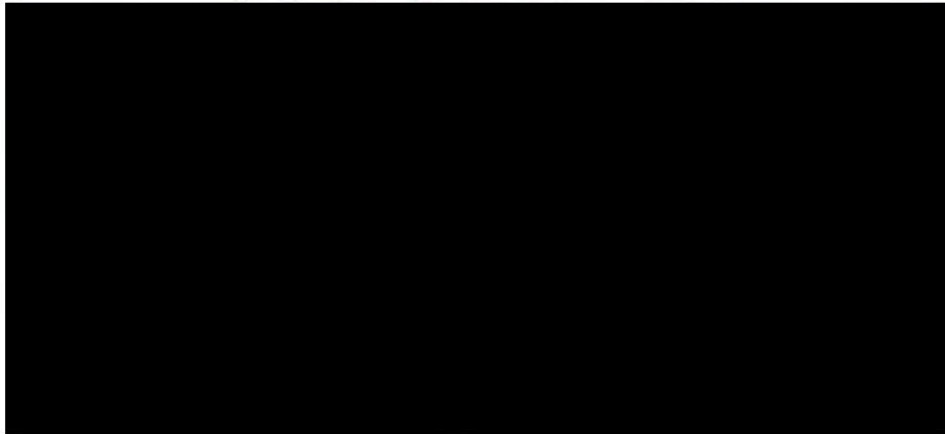


Figure 2 - Northern and eastern boundary of [REDACTED]

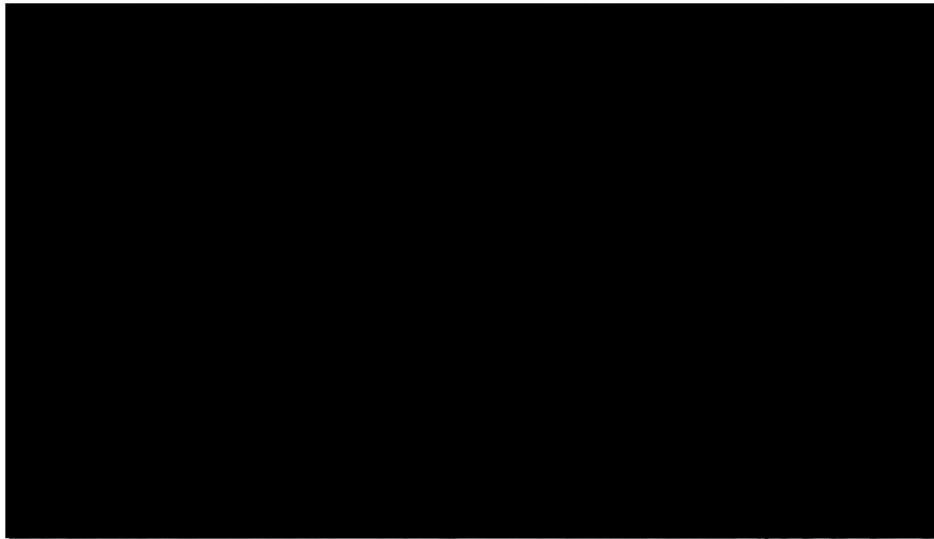


Figure 3 - Eastern boundary of [REDACTED]

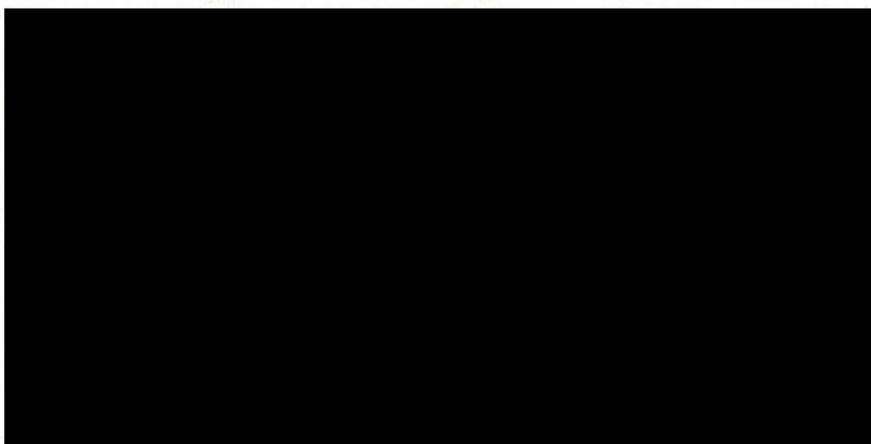


Figure 4 - [REDACTED] interface (South and eastern boundary of [REDACTED]).

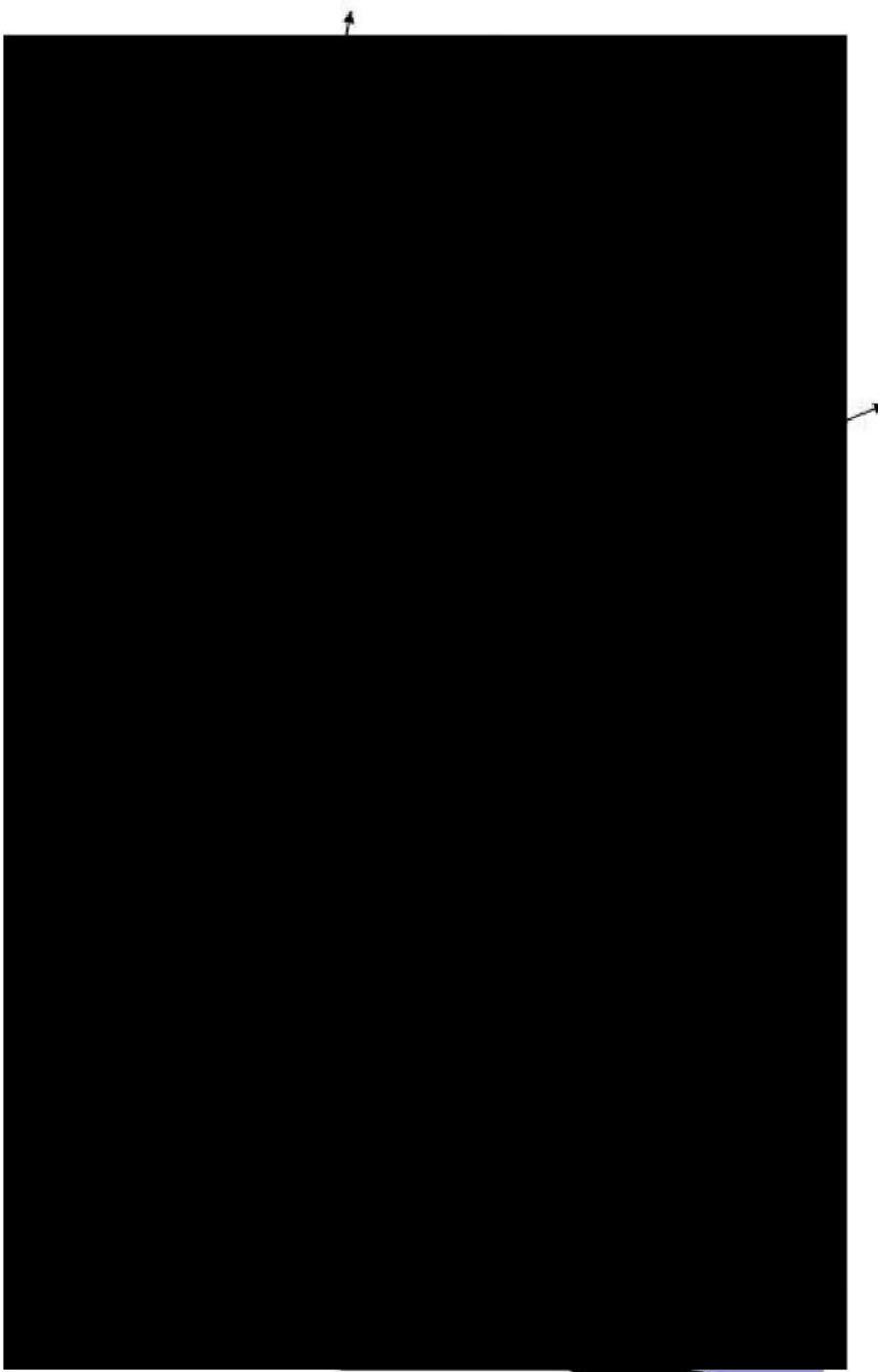


Figure 5 – [REDACTED] shown within yellow hatch (Map No. [REDACTED]). Note the arrows show the SBO2 to be removed (as well as the black outline if it triggers a permit).

In the case of Amendment C384melb (Flood overlays), the report prepared by Engeny Water Management states that:

The delineation of the planning scheme overlays used the raw flooding modelling results from the various flood studies, which consist of large datasets of gridded data with results such as flood depth for each grid cells. A series of processes is applied to the gridded data in order to define the extent of the overlay. The overlay delineation process is summarised by the following:

- *Flood extent filtering criteria were applied to the flood modelling results. The filtering criteria:*
 - *Include areas where the predicted flood depth is equal to or greater than 0.05 metres*
 - *Exclude isolated areas of flooding with an area less than 100 square metres*
 - *Include surrounded dry areas if the area is less than or equal to 100 square metres*
- *After the application of the filtering criteria, a smoothing process was applied to the edges of the flood extent to convert the gridded shape to a smoothed flood extent.*
- *The flood extent was removed from properties if the following criteria were satisfied:*
 - *Less than 2 % of the total area of the property was impacted by the flood extent; and*
 - *Less than 25 % of the road frontage of the property was impacted by the flood extent.*

On this basis, there must be consistency of how the 'smoothing process' is applied to the edges of the flood extent across the mapping in the amendment to ensure properties are not incidentally included in the SBO2. It is recommended the council and consultant undertake a peer review of the smoothing process with an explanation in the submission response in the council report to clearly articulate where any changes are proposed to the mapping extent and the rationale for each change, so it is clearly presented to the planning panel.

Exhibition of background documents

As set out in the *Practitioner's guide to Victoria's Planning Schemes*, a background document may explain why particular requirements are in the planning scheme, substantiate a specific issue or provide background to a provision.

All of the flood studies should be listed as background documents in the Schedule to Clause 72.08 (Background documents) as these documents underpin and support the strategic rationale of the amendment. It is noted these documents were provided on the council website, however, should have been included as exhibited documents on DTP's browse amendments website as supporting or background documents. As this has not occurred, it is a defect of procedure under the P&E Act 1987, as submissions should be able to consider and refer to these reports given, they underpin the strategic basis of the amendment.

In accordance with the *Ministerial Direction on the Form and Content of Planning Schemes* and the *Practitioner's Guide to Victoria's Planning Schemes*, a background document or a document that is incorporated into the scheme must follow the author, month, year format, and the title of the documents should be referenced consistently throughout the relevant clauses of the planning scheme. Therefore, it is recommended that the Schedule to Clause 72.08 (Background documents) be amended consistent with these conventions.

Drafting of SBO2

The drafting of SBO2 should be updated to ensure that the schedule provides appropriate guidance for the assessment of planning permit applications. The tracked version below is consistent with the drafting outlined in the C384melb panel report (refer to appendix).

MERRI-BEK PLANNING SCHEME

revised Proposed C100more	<p>SCHEDULE 2 TO CLAUSE 44.05 SPECIAL BUILDING OVERLAY</p> <p>Shown on the planning scheme map as SBO2.</p> <p>COUNCIL DRAINS</p>
<p>1.0</p> revised Proposed C100more	<p>Flooding management objectives to be <u>achieved</u></p> <p><u>To identify land in areas that may be inundated by the effect of the 1% Annual Exceedance Probability (AEP) flood event by the year 2100.</u></p> <p><u>To minimise the impact of new development on flood extent, depth, and the flow velocity to the detriment of surrounding properties.</u></p> <p><u>To ensure new development appropriately responds to the identified flood hazard and local drainage characteristics.</u></p> <p>None specified.</p>
<p>2.0</p> revised Proposed C100more	<p>Statement of risk</p> <p><u>Areas across the municipality are susceptible to overland flows when runoff from severe storm events exceeds the capacity of the underground drainage system. Overland flows can be <u>localized</u> or widespread depending on the path or extent of the storm activity. Flooding may have the potential to result in significant risk to:</u></p> <ul style="list-style-type: none"> - <u>Human life and safety</u> - <u>Property</u> - <u>Public infrastructure and assets</u> - <u>Public health through contaminated floodwaters</u> - <u>The environment</u> - <u>Economic and social cohesion of communities</u> <p><u>To minimise the impact of such events, it is important buildings are sensitively and appropriately designed to minimise flood damage and protect life, property, assets and the environment. The mapping which forms the basis of the Special Building Overlay identifies areas that may be subject to overland flows by the combined effects of the 1% Annual Exceedance Probability (AEP) flood event incorporating an 18.7% increase in rainfall intensity due to climate change by the year 2100. This information is contained in the background documents listed in the Schedule to Clause 72.01 which is the source of mapping for this overlay.</u></p> <p>None specified.</p>
<p>3.0</p> revised Proposed C100more	<p>Permit <u>requirement</u></p> <p>None specified.</p>
<p>4.0</p> revised Proposed C100more	<p>Application requirements</p> <p><u>The following application requirements apply to an application for a permit under Clause 44.04, in addition to those specified in Clause 44.04 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:</u></p> <ul style="list-style-type: none"> - <u>As existing condition survey plans as prepared by a licensed land surveyor showing boundaries and dimensions of the site, and the layout and location of existing buildings and works, with natural ground level, existing finished floor levels to Australian Height Datum (AHD).</u> - <u>A site development plan which includes:</u> <ul style="list-style-type: none"> <u>The layout and location of proposed buildings and works including building entry/exit points and basement ramps;</u> <u>Existing survey levels to AHD.</u>

The proposed finished floor levels including in relation to building entry/exit points and basement ramps to AHD.

The 1% Annual Exceedance Probability (AEP) flood level and the Nominal Flood Protection Level (NFPL) as determined by the relevant floodplain management authority.

The location of proposed overland flow paths.

- Elevations and cross-section drawings (1:50 or 1:20) to include:

The proposed finished floor levels to AHD

The proposed building entry/exit points, basement ramps and ground levels along access and egress routes within the property boundary to AHD.

Flow paths for the passage of overland flows to AHD.

The 1% Annual Exceedance Probability (AEP) flood level showing the proposed ground and finished floor level and the Nominal Flood Protection Level (NFPL) as determined by the relevant floodplain management authority.

- A written Flood Risk and Design Statement that must include but not be limited to:

A flood assessment of the site which includes reference to the Design Flood Event (1% AEP) and other flood characteristics, including velocities and depths of flooding on the site and access routes, overland flow paths and the duration of flooding.

A written description of the design response which demonstrates how the proposed development responds to the flood characteristics which affect the site and surrounds.

~~None specified.~~

Decision guidelines

The following decision guidelines apply to an application for a permit under Clause 44.05, in addition to those specified in Clause 44.05 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- Any comments from the local drainage authority.
- The practicality and reliability, over the likely lifetime of a development, of any proposed strategies to minimise or mitigate risks of flood damage or safety hazards.
- Whether the proposed development maintains existing flood storage capacity and flow paths
- The likely or modelled extent of any likely or modelled impact development on floodwaters, including the specific and cumulative nature and extent of impact on surrounding properties.
- Whether the proposal appropriately responds to the identified site specific flood risk to the satisfaction of the relevant floodplain management authority.
- Whether the development and design response manage the flood risk appropriately.
- Whether the materials and finishes are resilient to damage in flood events.

Thank you.

From: [REDACTED]
Sent: Monday, 3 June 2024 12:37 PM
To: Strategic Planning
Cc: [REDACTED]
Subject: Submission to C196more

Hi,

We live at [REDACTED] and our property is affected by the Special Building Overlay Schedule 2.

I would have thought that the recent level crossing removal works [REDACTED], especially the substantial drainage works along [REDACTED] would have considerably ameliorated any drainage issues adjacent to our property.

In fact I note that **Merri-bek City Council Creating the Local Drainage Authority's Stormwater Map Technical Report** states:

"Level crossing removal projects were assessed and found to have some beneficial impacts outside of the railway own land corridors."

Unfortunately **Merri-bek City Council Creating the Local Drainage Authority's Stormwater Map Technical Report Appendix B** then states:

"Engeny were unable to obtain the information regarding topography and drainage system changes due to Level Crossing Removal Project to adequately represent them in the models. As agreed with Melbourne Water and Council during the inception meeting, Level Removal Project locations are left as represented by 2017/18 LiDAR and drainage systems assuming that any works undertaken at these locations are expected to provide no change in afflux and no adverse impacts to adjacent areas."

Merri-bek City Council Creating the Local Drainage Authority's Stormwater Map Technical Report Appendix C specifically addresses the Bell to Moreland Level Crossing Removal Project:

Decreases in flooding (afflux) up to 50 mm as a result of the proposed works are noted outside of the project area however are generally contained within Council roadways.

Note that the areas marked on the flood map adjacent to our property occur on Council roadways on the [REDACTED] and adjacent to the Level Crossing Removal Project area.

We would appreciate it if you could clarify the situation.

Thanks,

[REDACTED]

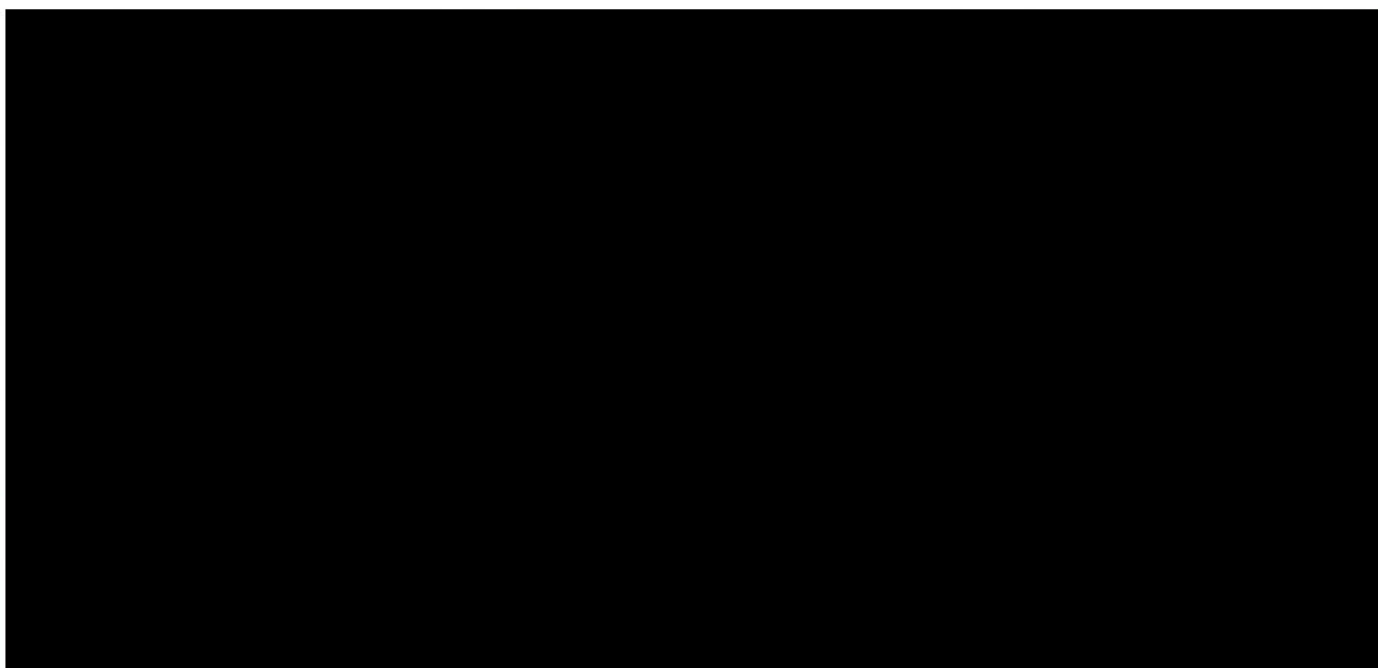
From: [REDACTED]
Sent: Tuesday, 4 June 2024 10:07 PM
To: Strategic Planning
Subject: Amendment C196 query - [REDACTED]

Importance: High

Hello,

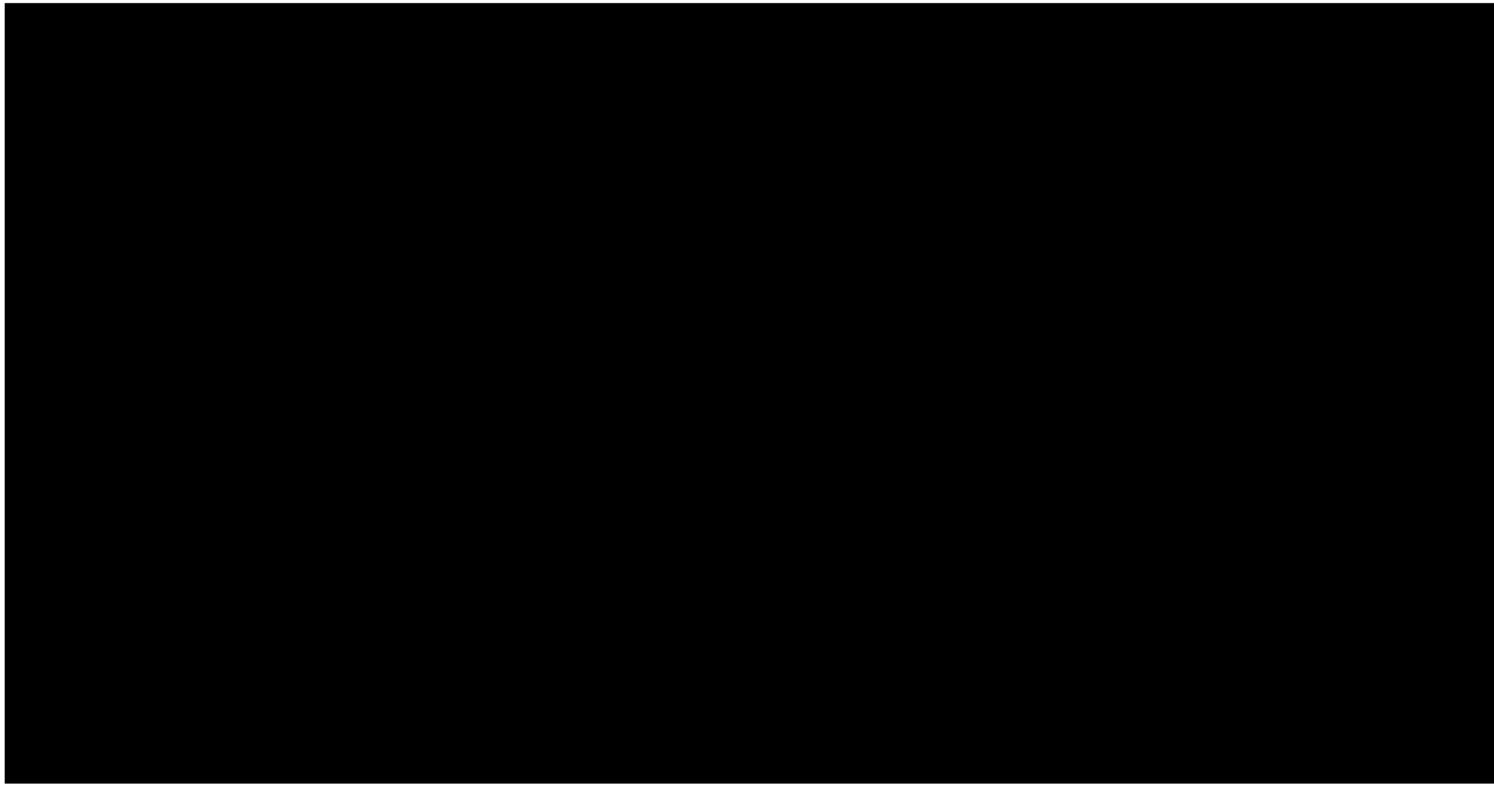
I have reviewed the proposed C196 amendment map related to my property at [REDACTED] as per letter dated 10 May 2024.

Believe that there may be an error with the letter as the map shows the property is not affected.



Your property is not identified as being affected by a stormwater overland flow path in a local drainage catchment. The proposed SBO2 will not app

Furthermore, I have a retaining wall on the north boundary of the property with driveway rising from street level to the garage door – hence any stormwater should not directly impact my property.



Can you please clarify?

Regards

[Redacted signature]

From: [REDACTED]
Sent: Thursday, 6 June 2024 3:13 PM
To: Strategic Planning
Subject: Amendment C196

Merri-bek City Council

To whom it may concern:

Thank you, I received notification of amendment C196 and the proposed changes to the planning schemes in Merri-bek earlier this year.

I have a property that will be affected by these new proposals. The address is [REDACTED].

I have had the opportunity to look at the mapping for these, and I understand that many areas that currently have no flood controls in relation to council drains really would benefit from the proposed changes.

However, I feel that, for my property, a proposed planning control with a Special Building Overlay - schedule 2 is an excessive action for the following reasons:

1- The address historically has not been identified as having this flood risk and never had such planning controls placed. As there has not been any reports of the nature, I don't presume that there has been any new work to Council drains that would increase the flood risk. There has been however, a noticeable increase in construction of high density dwellings, and if these are contributing to the change in the flood risk models, surrounding property owners should not be penalized or inconvenienced for building projects around us that may have misused the land. This is why some of us are not supportive of over-enthusiastic excessive builds in our area, apart from the fact that it detracts the area in other numerous ways.

A predominant reason I purchased this property 11 years ago was that the land was unencumbered and hence had a highly flexible outlook. After performing due diligence, flooding was not a risk I could foresee. I observed also that it isn't low-lying land and relatively flat, without visible waterways nearby, and most of all, it did not have any planning overlay suggesting this. There were properties I lost interest in at the time because of an SBO/LSIO.

2- According to the Interactive Ma[REDACTED], only a very small area on the front northern boundary of the property is affected. Although without formal expertise in the field, I can see the affected area would be within or predominantly within the set-back required by the land zoning guidelines and therefore can not be built on anyway. But if it does cover where building is allowed, it is very small. A few square metres at most.

3- It does not seem fair that most other affected properties have a more significant portion at risk and will have the same overlay. As a result of this amendment, on a property report search, my address would be branded identically without acknowledgement of the comparatively small scale in terms of area at risk.

I am seeking that Council please review and reassess the necessity for a proposed Special Building Overlay - 2 at [REDACTED], whether the added overlay will fulfill any meaningful purpose over the currently enforced guidelines under the [REDACTED] requirements

Thank you for your attention.

[REDACTED]

Merri-bek property: [REDACTED]

Email - [REDACTED]

Mailing Address - [REDACTED]

Tel - [REDACTED]