



**Victorian Parliament's Legislative Council  
Environment and Planning Committee**

**Inquiry into the 2022 flood event  
in Victoria**

**Submission**

**June 2023**

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*This submission has been prepared by the MAV to assist the Victorian Parliament's Legislative Council Planning and Environment Committee consider the State's preparedness for, and response to Victoria's major flooding event of October 2022.*

*The MAV is the statutory peak body for local government in Victoria. The MAV would also like to acknowledge the contribution of council staff who provided their comments and advice during the development of this submission.*

*While this paper aims to broadly reflect the views of local government in Victoria, it does not purport to reflect the exact views of individual councils.*

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## 1 Executive summary and recommendations

The Municipal Association of Victoria (MAV) welcomes the opportunity to provide a submission to the Legislative Council's Environment and Planning Committee inquiry into the state's preparedness for and response to Victoria's major flooding event of October 2022.

Priority issues for local government covered in this submission are:

### Implementation of the Victorian Floodplain Management Strategy (VFMS)

The MAV understands that councils were involved in the development of regional floodplain management strategies (RFMS), which sit under the VFMS. However, feedback from the sector indicates councils are not confident in their capacity to implement relevant parts of the strategies, including mapping, planning scheme amendments and flood mitigation infrastructure.

Action 17b in the VFMS is also yet to be completed to the sector's satisfaction. This action acknowledged the need for the Water Act 1989 to be amended to clarify and simplify the liability and assurance arrangements for councils that construct or maintain flood mitigation infrastructure through the implementation of Water Management Schemes. Despite subsequent analysis and review, the State Government has not proceeded with this much-needed amendment.

### Councils' financial sustainability

After seven years of rate capping, there are real financial sustainability concerns for local government. Councils are under pressure due to a range of factors, including increasing infrastructure maintenance demands, rising construction costs and the impacts of rate capping. They are also severely constrained by the current emergency management funding model. We cannot emphasise strongly enough that reform recommendations from this Inquiry must have regard to agencies having the resources, expertise and capacity to deliver them.

### Betterment

In Victoria, at least 63 of 79 councils have been recently flood-affected, and the damage to essential public infrastructure is significant. Under Victoria's application the Disaster Recovery and Funding Arrangements (DRFA), State and Federal funding is provided to councils to reinstate eligible infrastructure to their pre-disaster condition. Should councils wish to improve the infrastructure through more modern or disaster-resilient solutions, councils must fund the improvements in full. The MAV and councils have repeatedly called for betterment to be permitted under the DRFA and for this to be supported by a betterment fund, similar to the model applied in Queensland.

### Responding to flood and inundation risk in the planning scheme

The 2022 floods highlighted the urgent need to reform Victoria's planning system to direct development away from flood-prone areas. The current approach to implementing flood studies through the planning scheme amendment process on a town-by-town, council-by-council basis results in inconsistent and often substandard outcomes. There is already precedent for the State taking a data-driven, state-wide approach to hazard planning. The State Government applies bushfire risk to all Victorian planning schemes through an internal and streamlined mapping, planning control and policy update process. The same approach should be applied to planning for other hazards, including flooding and coastal inundation.

### Urban stormwater responsibilities

The review of the delineation of responsibilities between Melbourne Water and the 38 councils in the Port Phillip and Westernport service region has been undertaken (Action 14a in the VFMS) with details now being worked through to achieve new arrangements that will meet current and future needs for public urban stormwater and flood risk management. Known as the Melbourne Urban Stormwater Institutional Arrangements (MUSIA) review, an "improved 60 hectare catchment measure" has been identified as an appropriate delineator for most situations, subject to councils understanding the financial implications and exceptions to the rule being clarified. It is critical that any formalising or mandating of councils' role in managing urban stormwater includes providing them with relevant powers and access to funding so they can contribute to a more networked public urban stormwater system.

Too often, reforms initiated by the State are rolled out with the expectation that councils will simply absorb them alongside their routine operations. Failure to provide adequate powers and funding sources risks system-wide performance.

ToR	RECOMMENDATIONS
2	<p><b>Adequacy and effectiveness of early warning systems</b></p> <ul style="list-style-type: none"> <li>➤ That the Parliamentary Committee explore the way centrally managed data is informed by local knowledge to ensure warnings are accurate and support informed decision-making.</li> <li>➤ That the location of flood gauges and early warning systems be reviewed and extended as part of the transfer of responsibility to the BoM.</li> <li>➤ That early flood warning systems be expanded from the current township focus to include rural properties.</li> </ul>
3	<p><b>Resourcing of the State Emergency Service:</b></p> <ul style="list-style-type: none"> <li>➤ That the Victorian Government commit to greater funding of the VICSES to ensure it is sufficiently resourced to deliver its role.</li> </ul>
4	<p><b>Victorian Floodplain Management Strategy (VFMS) delivery and effectiveness:</b></p> <ul style="list-style-type: none"> <li>➤ Ensure councils are engaged in regional floodplain management committees and have adequate involvement in the development and review of regional floodplain management strategies</li> </ul>
5	<p><b>Flood mitigation infrastructure and preparedness:</b></p> <ul style="list-style-type: none"> <li>➤ That the State amend the Water Act 1989 to address council legal responsibilities, liabilities and powers when they construct or maintain flood mitigation infrastructure (Action 7b of the VFMS)</li> <li>➤ That the State adopt betterment as an eligible expense under the Disaster Recovery Funding Arrangements (DRFA) and establish a betterment fund, similar to the model applied in Queensland.</li> <li>➤ That the State and/ or Federal Government establish a centrally-funded or coordinated, pre-disaster mitigation assessment of infrastructure</li> </ul>
8	<p><b>Planning system issues:</b></p> <ul style="list-style-type: none"> <li>➤ That the State implements a consistent state-wide planning approach to flood</li> </ul>

	<p>and coastal inundation, similar to the current bushfire arrangements, with the Minister for Planning made responsible for implementing best-available flood and inundation data into planning schemes. This must be supported by ongoing review, the provision of clear policy direction, updating of state-wide flood, inundation and sea-level rise benchmarks and updating of overlays and planning provisions to ensure development is appropriate to current and future risk.</p> <ul style="list-style-type: none"> <li>➤ That the State reinstate Catchment Management Authorities (CMAs) as ‘determining referral authorities’ under Section 55 of the Planning and Environment Act and in all planning schemes</li> </ul>
9	<p><b>Funding for flood mitigation and preparedness:</b></p> <ul style="list-style-type: none"> <li>➤ That the Parliamentary Committee request a full report of the total annual funds raised by the Environmental Contribution Levy, the amount of funds allocated to specific projects, administrative overheads and staffing costs charged by relevant government departments, and the amount of funds residing in the Fund’s trust account.</li> <li>➤ That the Parliamentary Committee acknowledges that the current rate-capping regime limits local government’s investment in asset infrastructure and renewal, and that it recommends that the Environmental Contribution Levy be utilised to fund a local government asset assessment improvement program which has regard for future flood modelling projections.</li> <li>➤ That greater investment be made in community engagement to support storm and flood awareness and resilience building, including helping at-risk communities have clear expectations about what can happen under various scenarios.</li> </ul> <p><b>Urban stormwater reform:</b></p> <ul style="list-style-type: none"> <li>➤ That the State provide a funded program for councils for urban stormwater improvement, including assistance to undertake condition assessments to better understand potential flooding risks and guide asset renewal priorities</li> <li>➤ That the Parliamentary Committee investigate the adequacy of the current regulatory framework to ensure that stormwater infrastructure on private property is being properly maintained and whether new regulatory or other mechanisms might be required to be established outside the planning system</li> <li>➤ That the Parliamentary Committee note the MAV’s update about the MUSIA review and recommends that any new mandated roles for councils in the Port</li> </ul>

Phillip and Westernport region include powers and access to funding to enable all councils in the region to contribute to a more networked public urban stormwater system.

**Flood recovery and emergency management resourcing:**

- That the Municipal Emergency Resourcing Program be expanded to cover all 79 councils, with a formula based on risk and capacity and a quantum commensurate with councils' emergency management role.
- That the State undertakes a collaborative review of the Victorian administration of the DRFA program that invites direct council input.
- That training be provided for council emergency management statutory roles through the state emergency management training and development program.

## 2 Introduction

The Municipal Association of Victoria (MAV) is the peak representative and advocacy body for Victoria's 79 councils. The MAV was formed in 1879 and the Municipal Association Act 1907 appointed MAV the official voice of local government in Victoria.

The flood events of 2022 significantly impacted 63 of Victoria's 79 councils, with a preliminary estimate of more than \$350 million damage to local government infrastructure and complex community recovery needs.

At the time of writing this submission, the majority of affected councils were still focused on flood recovery and infrastructure repair. Councils are continuing to support their communities as they deal with the economic and social impacts of lost tourism, supply chain disruptions, failed crops and work disruption.

This submission focuses on the terms of reference with state-wide implications, namely terms of reference 2, 3, 4, 5 and 8. We have also taken the opportunity to raise other important issues under term of reference 9. In addition to providing input to this submission, we have encouraged councils to make their own submissions to ensure the Committee is informed of specific local challenges and opportunities.

## 3 Comments on specific terms of reference (ToR)

### **ToR 2 - adequacy and effectiveness of early warning systems**

Although the Victorian Floodplain Management Strategy (VFMS) states that councils are responsible for maintaining stream gauges as a component of a Total Flood Warning System (TFWS), councils are not statutorily responsible for flood early warning systems.

At the release of the Victorian Floodplain Management Strategy (VFMS), some councils raised concerns about their capacity to maintain gauges in a rate-capped environment. They also queried the appropriateness of councils having this role, as councils are not responsible for delivering warnings. The MAV welcomed the May 2023 Federal Budget commitment of \$236 million over 10 years for flood warning infrastructure, which will see the Bureau of Meteorology (BoM) take responsibility for state and local government-maintained gauges.

Feedback from some councils indicates that issues identified by Neil Comrie AO, in his 2011 Review of Flood Warnings & Response are still relevant – such as the need for local knowledge to ensure accurate and meaningful warnings are issued by the BoM. There are localised examples of flood gauge data being missed, or concerns that centralised analysis of data misses local context, so while it makes sense bringing all gauges into a single network, there will be continued need for good communication between local authorities, the BoM and VICSES to ensure

communities are receiving the warnings and advice they need to make informed decisions.

Councils have identified that there are a lack of flood and rain gauges in locations across the state. The location and operation of existing flood warning systems are also often township focussed and do not support rural properties and primary producers located in flood prone areas. There is also a lack of gauging infrastructure or warning systems in place for areas that experience significant overland flooding.

**Recommendations:**

- That the Parliamentary Committee explore the way centrally managed data is informed by local knowledge to ensure warnings are accurate and support informed decision-making.
- That the location of flood gauges and early warning systems be reviewed and extended as part of the transfer of responsibility to the BoM.
- That early flood warning systems be expanded from the current township focus to include rural properties.

**ToR 3 - resourcing of the State Emergency Service, the adequacy of its response to the Flood Event and the adequacy of its resourcing to deal with increasing floods and natural disasters in the future**

The Victoria State Emergency Service (VICSES) has several critical roles in Victoria's emergency management arrangements, including leading flood planning and response. Both the agency and its volunteer units are highly valued by Victorian councils.

As the control agency for flood, VICSES has appropriately led the development of local (municipal-level) flood plans and leads community engagement.

The VICSES facilitates Community Emergency Risk Assessments (CERA) at multi-agency Municipal Emergency Management Planning Committees (MEMPCs), which form the basis of planning priorities documented in Municipal Emergency Management Plans (MEMPs).

Feedback from councils over many years indicates there have been some delivery challenges in the risk assessment role, as well as the updating of local flood emergency plans in some parts of the state.

Councils have identified in recent years that due to resourcing challenges there has been a change in the level of service provided by VICSES to MEMPCs. This ranges from lack of attendance at MEMPC meetings through to inability to contribute to

completing actions in support of MEMPs. There is a concern that as a result, CERAs and Municipal Flood Emergency Plans are not adequately reflecting current risks.

Feedback relating to the 2022 floods indicates the agency was (at times) stretched to provide timely updates to the VicEmergency website. Councils also raised concerns that due to a lack of resourcing, SES was not able to provide sufficient incident management personnel. This lack of personnel impacted the number and location of Incident Control Centres that were established.

Concern has also been raised that debriefs were not held with relevant stakeholders to ensure lessons from the flood response could be captured and improvements made for future events. Councils have highlighted that no after action review process has been undertaken at either a municipal or regional level. This goes against long standing practice in the emergency management sector.

Unlike the fire services which are supported through the Fire Services Levy, the VICSES is dependent on State funding and localised support or fundraising. Community expectation is that emergency response agencies are appropriately resourced to undertake their role.

A current MoU is in place between the Victorian Government, VICSES and the MAV (on behalf of councils) outlining the support arrangements for VICSES volunteer units. Under the terms of this agreement, councils have leased facilities to units at peppercorn rates and no longer pay a direct subsidy to support operations. However, many councils still supplement the operating costs of volunteer units.

Greater investment from the Victorian Government is needed to ensure the VICSES central agency and units are properly resourced to undertake their broad and critical roles.

**Recommendation:**

- That the Victorian Government commit to greater funding of the VICSES to ensure it is sufficiently resourced to deliver its role.

**ToR 4 - implementation and effectiveness of the 2016 Victorian Floodplain Management Strategy in relation to the Flood Event**

The Victorian Floodplain Management Strategy (VFMS) adopted a shared responsibility principle for flood mitigation and preparedness, with specific statements about agency roles, responsibilities and accountabilities.

An underlying premise of the VFMS was that local communities needed to be more involved in considering risks, developing strategies for addressing these risks, and then funding the mitigation measures that they needed to protect life and property.

DELWP's 2022 six-year implementation update indicated that all 56 VFMS actions were completed or embedded as part of business-as-usual practice.

When the 2016 VFMS was introduced, the MAV and councils' key concerns were:

- the formal handover of decision-making around flood mitigation infrastructure (including levees) to councils and the associated liability, capital, maintenance and management costs, and the assumption that communities would be prepared to pay through higher rates or special charges
- the responsibility of councils to pay for the cost of maintenance for the flood warning component of flood gauges
- the need to address barriers to planning scheme amendments.

These continue to be concerns for the sector. The MAV understands that councils were involved – or at least consulted – in the development of regional floodplain management strategies (RFMS). However, feedback from the sector indicates councils are not confident in their capacity to implement relevant parts of RFMSs, including mapping, planning scheme amendments and flood mitigation infrastructure. There are also resourcing concerns for rural councils that are covered by two Catchment Management Authorities and the duplication of work required to plan and deliver actions from multiple floodplain management strategies.

We note that rate-capping was introduced for councils after the development of the VFMS, and that this has further entrenched the limitations on many councils' capacity to deliver above and beyond their existing infrastructure commitments. Pressure from reduced income through COVID-19 and higher infrastructure delivery and contractor costs have further reduced their capacity to build, upgrade or maintain flood mitigation infrastructure.

Continued failure to acknowledge and tackle local government's capacity to provide local public infrastructure while simultaneously putting ever-more responsibility on local communities will only exacerbate future risks. Future strategies need to have regard for the capacity of agencies responsible for delivery on the ground. More detailed comments regarding the impact of councils' financial sustainability and capacity are provided in ToR5.

**Recommendation:**

- Ensure councils are engaged in regional floodplain management committees and have adequate involvement in the development and review of regional floodplain management strategies

## **ToR 5 - location, funding, maintenance and effectiveness of engineered structures, such as floodwalls, rural levees and culverts, as a flood mitigation strategy**

Floodplain management strategies should not assign responsibilities to councils to provide more engineered structures as solutions to mitigate flooding without acknowledging and addressing councils' and communities' financial constraints and addressing the liability provisions in the Water Act.

After seven years of rate capping, there are real financial sustainability concerns for local government, which need to be acknowledged by the Parliamentary Committee. The most recent council rate rise was capped by the State Government at 3.5 per cent, despite the Essential Services Commission recommending 4 per cent and current CPI running at over 7 per cent.

Recent [analysis](#) undertaken by the MAV in partnership with FinPro confirms the asset renewal gap for local government is growing. A summary of the growing gap between asset depreciation and council spending on renewal is provided in Appendix 1. Prior to the recent floods, many councils were already struggling with labour shortages, inflation, and getting adequate responses to tenders.

### Council liability framework

Action 17b in the VFMS acknowledged the need for the Water Act to be amended to clarify and simplify the liability and assurance arrangements for councils that construct or maintain flood mitigation infrastructure through the implementation of Water Management Schemes. It recognised a different liability framework currently operates with respect to council versus water corporation works in a Water Management Scheme.

Despite subsequent analysis and review, the Victorian Government has not proceeded with this much-needed amendment to the Water Act 1989. The current legislative provisions create disincentives for councils to be more involved in supporting water management schemes and further formalising their roles in flood mitigation.

Currently MAV Insurance recommends against councils agreeing to take on responsibility for water management schemes. They also advise that councils need to give careful regard to their capacity to maintain on an ongoing basis any other flood mitigation infrastructure they choose to install.

### Betterment and investment in mitigation

In Victoria, at least 63 of 79 councils are or have been recently flood-affected, and the damage to essential public infrastructure is significant. The MAV and councils have repeatedly called for betterment to be permitted under Victoria's application of the Disaster Recovery and Funding Arrangements (DRFA) and for this to be supported by a betterment fund, similar to the model applied in Queensland.

Under the current model in Victoria, funds are provided to councils to reinstate the infrastructure to their pre-disaster condition. Should councils wish to improve the infrastructure by designing and developing more modern or disaster-resilient solutions, councils must fund the improvements in full. If there was a more flexible approach to betterment claims, councils would be incentivised to consider potential improvement in the early assessment phase.

Improvements to infrastructure, such as strengthening, realignment, or other modifications, can be expensive - particularly in the current financial climate. As these types of works are generally urgent in nature and the assets are required to be reinstated within a short period of time, councils, particularly rural shires with large asset bases, have limited opportunity to allocate the necessary finances to invest in these projects.

These improvements would prevent or reduce damage caused by future natural disasters, and would ultimately save money for State and Federal Governments. [Statistics](#) provided by the Queensland Government indicate significant savings from assets that have been rebuilt to a higher standard through the betterment fund and since been affected by subsequent disasters. Of the 480 betterment projects completed in Queensland between 2013 and August 2022, 375 projects have been subsequently impacted a total of 1016 times across 40 events. Eighty-one per cent of those impacted suffered no damage, or only minor superficial damage. From a \$137 million investment, there is \$391 million in avoided reconstruction costs.

To provide cost-effective solutions that improve the disaster resilience of infrastructure, it is strongly recommended that betterment is included as part of the funding models.

#### Asset assessment capability

Following natural disasters, a significant proportion of councils' labour and resources are focused on recovery operations. This often results in the loss of labour hours, and other important functions. As such, scheduled maintenance of road infrastructure can be neglected during this time. The combination of damaged infrastructure and reduction in general maintenance operations can lead to a reduced level of service being provided to local communities.

To increase the resilience of infrastructure, proactive assessments of assets in areas identified prone to climate-related disasters would allow councils to consider, plan and implement solutions prior to emergency events occurring.

Rural councils can often lack the funds or skilled professionals to undertake these assessment activities in conjunction with their usual asset maintenance operations.

Currently there are limited funding opportunities from State or Federal Governments that focus primarily on pre-disaster mitigation assessments of infrastructure. While a business case can be presented to other funding programs, most road infrastructure

improvements often do not meet the general criteria required of those funding programs, as the majority are reactive in nature and focus on crash history or vehicle safety and accessibility.

A dedicated fund for resilient asset assessments would allow eligible councils to have the resources and funding available to engage suitably qualified professionals to assess and provide recommendations to disaster prone infrastructure. This would put councils in a position to program works through their normal capital expenditure processes, or to prepare site-specific funding applications that would be better received by funding agencies.

### **Recommendations:**

- That the State amend the Water Act 1989 to address council legal responsibilities, liabilities and powers when they construct or maintain flood mitigation infrastructure (Action 7b of the VFMS)
- That the State adopt betterment as an eligible expense under the Disaster Recovery Funding Arrangements (DRFA) and establish a betterment fund, similar to the model applied in Queensland.
- That the State and/ or Federal Government establish a centrally-funded or coordinated, pre-disaster mitigation assessment of infrastructure

**ToR 8 - the implications for future planning decisions including (a) how the Victorian planning framework can ensure climate mitigation is a consideration in future planning decisions; (b) how corporate interests may influence decision-making at the expense of communities and climate change preparedness**

### **Responding to flood and inundation risk in the planning scheme**

The 2022 flood emergency highlighted the urgent need to reform Victoria's planning system to direct development away from flood-prone areas to protect lives, property and fragile environments. Unfortunately, the current approach to implementing flood studies through the planning scheme amendment process on a town-by-town, council-by-council basis results in inconsistent and often substandard outcomes.

Councils' ability to drive necessary changes to their planning schemes is hampered by a range of factors, including lack of resources and technical knowledge within councils, variable catchment management authority (CMA) capacity and cooperation, planning panels weakening planning controls proposed by councils, and the political pressure placed on councillors from their constituents when proposing new planning controls that may limit development or impact land value.

The current arrangements hamper appropriate strategic planning outcomes for communities vulnerable to flood and inundation risk. This risk also includes insurability risks for communities and land-owners and litigation risks for planning authorities

The Victorian government has recently announced \$22.2million dollars for councils to implement outstanding flood studies and to finish those already underway, including a community engagement program. While this investment is welcome, without reform the structural issues in the planning system outlined above will remain.

Leadership is required from the Victorian Government to ensure planning schemes reflect up-to-date flood and inundation data. The Planning Minister already has the power to unilaterally ensure climate risk is considered in planning decisions, including by amending planning schemes without notice or exhibition to reflect flood and other hazard studies.

There is already precedent for the State taking a data-driven, state-wide approach to hazard planning. In implementing the findings of the Black Saturday Bushfires Royal Commission, the State Government now applies bushfire risk to all Victorian planning schemes through an internal and streamlined mapping, planning control and policy update process. This approach ensures bushfire risk is clearly identified across the state and therefore considered in planning applications. The same approach should be applied to planning for other hazards, including flooding and coastal inundation.

Ensuring planning controls (such as the Flood Overlay, the Land Subject to Inundation Overlay and the Special Building Overlay) and related flood policy are fit for purpose will also be essential to the success of a State-led process.

The role and technical expertise of CMAs should be elevated in the planning system through assigning them determining powers under Section 55 of the *Planning and Environment Act 1987*. Currently regional CMA flood knowledge and expertise is only sought in a referral capacity under Section 52 of the Act, whereby the CMA may provide a recommendation but does not have the power to refuse an application in a flood prone area. A Section 55 determining power would enable the CMA to direct a council to refuse an application it believes presents an unacceptable risk to life and property. Melbourne Water already has Section 55 determination powers, while the CFA acts as a Section 55 determining referral authority on applications for development and subdivision in the Bushfire Management Overlay. Elevating the referral powers of CMAs will ensure applications in areas at risk to flooding are determined by those with the best flood hazard advice at hand.

#### Hard infrastructure versus strategic planning

There is often a strong desire across governments to invest in hard infrastructure to mitigate flood risk. Infrastructure such as coastal rock walls and levees along riverbanks and floodplains provide governments with the opportunity to point to highly visible measures as evidence of their commitment to taking action. While investment

in infrastructure will continue to be important to protect life and property in the short to medium term, investment in strategic planning for settlements that accounts for flood and other hazard risk will be essential for saving money and lives in the longer term. In the coming decades the cost of protecting vulnerable areas may well outweigh the social, economic and environmental benefits of doing so.

Difficult discussions and decisions with communities on retreat, land buybacks and not rebuilding in high-risk areas need to be considered. These decisions are already being made in other parts of Australia where existing development has been deemed no longer viable. The Queensland and New South Wales governments are implementing land buyback and land swap programs in suburban Brisbane and the Northern Rivers of NSW following the most recent flood events. We acknowledge that such programs are not without controversy or social and economic cost.

Some of the pain of relocating homes and businesses can be avoided with smart planning now rather than pushing hard decisions onto future generations. The importance of timely and strong State leadership on planning for hazards and climate change cannot be overstated. Planning decisions made today shape local communities for decades to come. It is essential that strategic long-term planning is elevated in discussion on hazard planning and that the entire planning system addresses climate change risks.

#### Climate change and the Victorian planning system

The MAV has advocated to the State for several years for it to reform the planning system to better integrate and elevate climate change considerations. Land use planning has a critical role to play in ensuring development is sustainable, low or zero emissions, and resilient to climate change impacts.

We commend to the Committee a recent report commissioned by the Council Alliance for a Sustainable Built Environment (CASBE) and the Victorian Greenhouse Alliances that reviewed how Victoria's planning system addresses climate change. The [\*Climate Change and Planning in Victoria: Ensuring Victoria's planning system effectively tackles climate change\*](#) report includes a number of recommendations directly relevant to this inquiry, including that the State should:

- Update planning schemes to include current hazard data
- Establish principles, processes and the most appropriate mechanisms (i.e. Public Acquisition Overlay, land swap) to ensure there is a sound basis for equitable and strategic relocation in areas of unmitigated risk, and allow this process to begin early
- Update relevant interim benchmarks for considering flood impacts, which are significantly out-of-date
- Ensure that forthcoming updates to the Regional Growth integrate more explicit and spatially based recognition of climate change impacts

- Update Victorian Planning Provisions to include land use triggers for sensitive uses in flood prone areas
- Undertake a statewide review and update of all relevant flood mapping to align with the most recent Rainfall & Runoff projections prepared by the CSIRO

### **Recommendations:**

- That the State implements a consistent state-wide planning approach to flood and coastal inundation, similar to the current bushfire arrangements, with the Minister for Planning made responsible for implementing best-available flood and inundation data into planning schemes. This must be supported by ongoing review, the provision of clear policy direction, updating of state-wide flood, inundation and sea-level rise benchmarks and updating of overlays and planning provisions to ensure development is appropriate to current and future risk.
- That the State reinstate Catchment Management Authorities (CMAs) as 'determining referral authorities' under Section 55 of the Planning and Environment Act and in all planning schemes

### **ToR 9 – any other related matters**

#### **Funding for flood prevention and mitigation projects**

The Victorian Government extracts considerable funding from water authorities through annual dividends paid by water corporations and Melbourne Water. In financial year 2023-24, \$112 million is budgeted to be returned in dividends to consolidated revenue, with \$463 million to be collected from water authorities over the forward estimates (*2023 Victorian Budget Paper No 5, p20*).

In addition, water corporations are also paying a percentage of their revenue (5% for urban, 2% for rural) as an [Environmental Contribution Levy](#), with \$173 million expected to be collected from this levy this financial year (*2023 Victorian Budget Paper No 5, p18*). This levy was established in 2004 to fund water reform initiatives to promote the sustainable management of water and address adverse water-related environmental impacts.

Concerningly, in its 2014 [report](#), the Victorian Auditor General found that this levy was being used to fund a disparate range of projects and other costs that might be perceived to be core business of government, such as public service salaries, rather than specific initiatives designed to achieve the objectives of the Act. Media reports from earlier this year also indicate that the Victorian Government has been seeking additional substantial payments from water authorities via capital repatriation to top-up its capital reserves, on top of the annual dividends remitted each year.

The Parliament has approved processes for funding to be allocated for water management and improvements – it's concerning if these are not being fully expended for the purposes for which they were raised.

**Recommendations:**

- That the Parliamentary Committee request a full report of the total annual funds raised by the fifth tranche of the Environmental Contribution Levy, the amount of funds allocated to specific projects, administrative overheads and staffing costs charged by relevant government departments, and the amount of funds residing in the Fund's trust account.
- That the Parliamentary Committee acknowledges that the current rate-capping regime limits local government's investment in asset infrastructure and renewal, and that it recommends that the Environmental Contribution Levy be utilised to fund a local government asset assessment improvement program which has regard for future flood modelling projections.
- That greater investment be made in community engagement to support storm and flood awareness and resilience building, including helping at-risk communities have clear expectations about what can happen under various scenarios.

**Urban stormwater reform**

Effective stormwater management is a key mechanism to manage and prevent adverse impacts arising from heavy rainfall in urban areas. Local government is a key player in this regard, with councils across the state involved in provision of public urban stormwater infrastructure in cities and towns through enabling authorisations contained in clauses retained in the Local Government Act 1989. For the information of the Parliamentary Committee, the drainage provisions in the 'old' Act continue to operate alongside the Local Government Act 2020.

Capacity to deliver public urban stormwater infrastructure and services varies across the state however, depending on the capacity and expertise within individual councils, and the extent to which flood risks pose threats in particular locations.

Given that water authorities such as the CMAs, Melbourne Water in the Port Phillip and Westernport region and water corporations have defined legislative mandates, with funding sources derived from water user charges and other mechanisms, it makes sense for their specialist knowledge and expertise to be fully utilised to lead and assist other agencies such as councils.

This is particularly the case in more clearly defining the delineation of responsibilities for Melbourne Water and the 38 councils in the Port Phillip and Westernport region. A summary overview of the Melbourne Urban Stormwater Institutional Arrangements (MUSIA) reform is outlined in Appendix 2.

State Government agencies such as DEECA can also do more to provide grant programs to enable councils to renew assets with the potential to significantly mitigate flood risks. This would also enable faster delivery of Infrastructure Victoria's recommendations for more housing in established areas.

Consideration needs to be given to whether the planning system is sufficient to regulate urban stormwater infrastructure on private property. Although planning permits can include conditions for how stormwater will be managed in new developments, councils do not have the capacity or expertise to continue to monitor and enforce conditions on many thousands of properties over extended periods of time.

### **Recommendations:**

- That the State provide more funded programs for councils for urban stormwater initiatives, including assistance to undertake condition assessments to better understand potential flooding risks and guide asset renewal priorities
- That the Parliamentary Committee investigate the adequacy of the current regulatory framework to ensure that stormwater infrastructure on private property is being properly maintained and whether new regulatory or other mechanisms might be required to be established outside the planning system
- That the Parliamentary Committee note the MAV's update about the MUSIA review, and recommends that any new mandated roles for councils in the Port Phillip and Westernport region include powers and access to funding to enable all councils in the region to contribute to a more networked public urban stormwater system.

### **Flood recovery and emergency management resourcing for local government**

In 2019, a state-facilitated assessment through the State Government's Councils & Emergencies project found sector-wide capability and capacity gaps in several of councils' critical emergency management roles, including relief and recovery. Despite this, there has been no investment in sector training and development, nor an increase in funding commensurate with their expanding role.

Disappointingly, we have seen the capability and capacity constraints play out following these floods. Councils in flood-affected areas are stretched and fatigued. This has been compounded by the slow release of recovery funding in some critical areas such as funding council flood recovery officers. While significant state expenditure - such as at least \$7 million to fund consultants to support council secondary impact assessments - could be reduced or avoided if councils were provided with sufficient up-front funding, training and support systems.

Emergency management is complex and the stakes are high. It is critical that councils are empowered and adequately funded to lead local resilience building, support local planning and effectively coordinate local-level relief and recovery.

The MAV has regularly raised the following priority issues relating to councils' capacity to play their assigned role of municipal-level recovery coordinator under Victoria's emergency management arrangements:

- The Municipal Emergency Resourcing Program (MERP) is currently the main funding source for the 64 eligible rural, regional and interface councils. This program provides an annual share of \$4.9 million to eligible councils and is based on a formula devised in 2012, responding to the Victorian Bushfires Royal Commission. It has not been indexed or reviewed since (although an additional \$1 million was shared between the 64 councils for two years to assist with responding to the pandemic). For the last few years in our pre-budget submission and other submissions, the MAV has requested an expansion of the MERP to cover all 79 councils, with a new formula based on risk and capacity.
- The Federal-State DRFA is the primary recovery funding source for Victorian councils. The MAV has written to successive Ministers and the Treasurer about the challenges Victorian councils have making eligible claims under the program. The Victorian local government experience of the DRFA is that it is inconsistent from one event to the next. It doesn't provide councils with the necessary confidence to make successful claims. The rigid timing built into the program can affect long-term planning, staffing and program continuity. The inability to claim betterment funding for asset restoration as part of recovery has been covered in a previous section of this submission. For the program to operate efficiently and meet the ultimate objective of supporting community recovery, there must be a review of the Victorian administration of the program.
- In 2020, a requirement for councils to appoint Municipal Emergency Management Officers (MEMOs) and Municipal Recovery Managers (MRMs) was included in the Emergency Management Act (2013). Despite this, there is no training provided for these statutory roles through the state emergency management training and development program.

### **Recommendations:**

- That the Municipal Emergency Resourcing Program be expanded to cover all 79 councils, with a formula based on risk and capacity and a quantum commensurate with councils' emergency management role.
- That the State undertakes a collaborative review of the Victorian administration of the DRFA program that invites direct council input.

- That training be provided for council emergency management statutory roles through the state emergency management training and development program.

## Appendix 1

### Financial Sustainability of Victorian Councils

The MAV – in partnership with Local Government Finance Professionals (FinPro) – has undertaken analysis regarding the financial sustainability of Victorian councils. The report identifies four immediate risks to the financial sustainability of Victorian councils:

- The compounding effect of a rate cap that has been consistently set below the level of cost increases experienced by local government
- A significant asset renewal gap
- Deteriorating underlying surplus
- A deteriorating unrestricted cash position across most councils

The cost of delivering infrastructure has increased rapidly over 2021-22, with over 80 per cent of councils experiencing weaker responses to tenders from industry, and services, materials, and skill shortages being leading challenges. Infrastructure pipelines in Victoria and Australia are exceeding the capacity of industry to deliver

Local government’s asset to revenue ratio is substantially different to other levels of government. Councils have large assets to manage, yet significant constraints on revenue (including imposed limits on own-sourced revenue such as the rate-cap and statutory fees). There is a growing gap between asset depreciation and council spending on renewal. The below chart indicates there is about a \$500m gap for Victorian councils that is widening:

### Financial pressures– asset renewal gap



## Appendix 2

### Melbourne Urban Stormwater Institutional Arrangements (MUSIA)

Initiated by Action 14a of the VFMS, this long-term reform is working through the many complexities governing the intricate and interconnected drainage and urban stormwater management assets and services managed by Melbourne Water and the 38 councils in the greater Melbourne and the Port Phillip/Westernport region. Action 3-13 in the 2022 [Central and Gippsland Region Sustainable Water Strategy](#) confirms that the Victorian Government will support Melbourne Water and the MAV (on behalf of local government) to implement an improved 60-hectare option and embed the confirmed approach into policy or legislation by 2028.

Currently councils manage approximately 25,000 kilometres of drainage across greater Melbourne, and many thousands of above-ground stormwater treatment assets, retarding areas and wetlands. Melbourne Water manages approximately 1,500 kilometres of drainage assets and 24,000 kilometres of waterways (including their drainage function). Both Melbourne Water and councils manage a multitude of stormwater/water-sensitive urban design (WSUD) assets and harvesting systems.

At its core, this reform is determining what public sphere urban stormwater drainage assets and services are best delivered at a region-wide level (state), versus those delivered more effectively locally (municipal-level). The vision arising from the review is to have a “clear, flexible, adaptable and holistic catchment-based approach where stormwater is managed as part of the complete water cycle to achieve greatest community value”.

Following a consultation process with councils, the steering committee comprising senior managers from DELWP (now DEECA), Melbourne Water and MAV agreed in-principle that an “improved 60 hectare catchment measure” would be an appropriate delineator of responsibilities, subject to councils understanding the financial implications. This decision is still to be confirmed by the agencies, pending outstanding issues being resolved.

This reform is ongoing, with detailed work being undertaken to define the catchments. Transfers of assets between agencies would also be required if a 60 hectare catchment measure were to be strictly applied, with significant budget implications for both Melbourne Water and a number of councils.

Other details to be confirmed before the new arrangements would be ready to formalise include defining the process for exceptions to the rule to be established to prevent perverse outcomes; clarifying what the specific responsibilities for councils would be if their responsibilities were to be mandated in legislation, and the supporting governance arrangements which would enable collaboration and achieve the network approach necessary to target public sector effort where it can be most effective.

Examples of the complexities continuing to be worked through include:

- The governance and resource sharing arrangements which will be necessary to support equitable service levels being delivered across the diverse socio-economic community profiles of the 38 councils within the Port Phillip and Westernport region
- Identifying funding sources for councils for asset renewals and maintenance in catchments less than 60 hectares but which are beyond municipal-level scale and scope
- Determining best-fit responsibility for state-led urban renewal projects involving sophisticated stormwater recycling and pumping services to withstand intense storm events
- The impact of stranded assets being assumed to be the responsibility of Melbourne Water and councils where there is currently unclear ownership. For example, wetlands are complex installations to manage, requiring cleansing and vegetation management on a regular basis
- Rural councils on the outskirts of greater Melbourne not having the staff or technical expertise to manage urban stormwater to the extent of their metropolitan counterparts.

MAV's position is:

- That Melbourne Water is confirmed as the lead agency for water and floodplain management in the Port Phillip and Westernport region, and is mandated to support councils for specific activities where scale is beyond the capacity of an individual municipality
- That, alongside an area-based delineation, an effective and accessible alternative decision-making process is established to support whole of network outcomes, with necessary adjudication mechanisms where agreement cannot be reached between Melbourne Water and councils about exceptions to a standard 60-hectare delineation of asset responsibilities
- That any new mandated roles for councils include adequate powers and funding sources to enable them to manage any new assets which might be transferred to them and that they can provide urban stormwater infrastructure to necessary service levels
- That the liabilities of councils for urban stormwater and flood-risk mitigation infrastructure need be aligned to those similar to water authorities

- That there are appropriate governance structures in place to enable adaptable responses over time, and a network approach enables a system- or sub-catchment- wide response to urban stormwater management
- That DEECA supports Melbourne Water, the MAV and councils to continue to progress this reform.