

TRANSCRIPT

LEGISLATIVE COUNCIL ENVIRONMENT AND PLANNING COMMITTEE

Inquiry into the 2022 Flood Event in Victoria

Melbourne – Wednesday 11 October 2023

MEMBERS

Sonja Terpstra – Chair

David Ettershank – Deputy Chair

Ryan Batchelor

Melina Bath

Gaelle Broad

Wendy Lovell

Samantha Ratnam

Rikkie-Lee Tyrrell

Sheena Watt

PARTICIPATING MEMBERS

John Berger

Ann-Marie Hermans

Joe McCracken

Evan Mulholland

Rachel Payne

WITNESSES

Andrew McKeegan, Deputy Secretary, Planning and Land Services,

Stuart Menzies, Director, State Planning Services, and

Phil Burn, Acting Executive Director, Planning and Building Reform, Department of Transport and Planning.

The CHAIR: I declare open the committee's public hearing for the Inquiry into the 2022 Flood Event in Victoria. This public hearing is for the Environment and Planning Committee, an all-party committee of the Parliament looking into the October flood event. We will be providing a report to Parliament which will include recommendations to the government. Please ensure that mobile phones have been switched to silent and that background noise is minimised.

I would like to begin this hearing by respectfully acknowledging the Aboriginal peoples, the traditional custodians of the various lands we are gathered on today, and pay my respects to their ancestors, elders and families. I particularly welcome any elders or community members who are here today to impart their knowledge of this issue to the committee. I welcome any members of the public in the gallery, and I remind those in the room to please be respectful of proceedings and to remain silent at all times.

For those of you that are giving evidence today, all evidence taken is protected by parliamentary privilege as provided by the *Constitution Act 1975* and the provisions of the Legislative Council's standing orders. Therefore the information you provide during the hearing is protected by law. You are protected against any action for what you say during this hearing, but if you go elsewhere and repeat the same things, those comments may not be protected by this privilege. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

All evidence is being recorded, and you will be provided with a proof version of the transcript following the hearing. Transcripts will ultimately be made public and posted on the committee's website.

At this juncture I will take the opportunity to introduce myself, and committee members will also introduce themselves to you. My name is Sonja Terpstra, I am the Chair of the Environment and Planning Committee, and I am also a Member for North-Eastern Metropolitan Region.

David ETTERS HANK: David Ettershank, Deputy Chair, Western Metropolitan Region.

Samantha RATNAM: Samantha Ratnam, Member for Northern Metropolitan.

Melina BATH: Melina Bath, Member for Eastern Victoria Region. Hello.

Rikkie-Lee TYRRELL: Rikkie-Lee Tyrrell, Member for Northern Victoria Region.

Gaelle BROAD: Hi, I am Gaelle Broad, Member for Northern Victoria.

Wendy LOVELL: I am Wendy Lovell, the original Member for Northern Victoria – there are so many of us.

Ryan BATCHELOR: Ryan Batchelor, Member for the Southern Metropolitan Region.

The CHAIR: With that, we welcome your opening remarks; I think you have got 10 minutes between you. That will ensure that we then have time to ask you questions. And if you could also, for the Hansard record, please state your name and the organisation you are appearing on behalf of. With that, I will hand over to you for your opening remarks. Thank you.

Andrew McKEEGAN: Thank you for the invitation to attend today. I would like to begin by acknowledging the traditional owners as the original custodians of Victoria's land and waters and acknowledge the traditional owners throughout Victoria whose lands were affected by the October 2022 flood event. I would like to extend that acknowledgement and respect to the traditional owners of the land we are meeting on today, the Wurundjeri people, and pay my respects to elders past and present.

I would also like to acknowledge the complex matters that your inquiry is dealing with and the impacts of flood had and continue to have on many people's lives.

My name is Andrew McKeegan. I was this week appointed the Deputy Secretary of Planning and Land Services within the Department of Transport and Planning, a role that I have acted in in this capacity since August. Whilst I have significant government experience across a range of portfolios, I do not consider myself an expert in all matters that you may wish to examine and would like to foreshadow that my colleagues with me here on the panel today may answer a number of those questions. The colleagues who have joined me are Stuart Menzies and Phil Burn.

Stuart is the Director of State Planning Services in the department, a role he started in 2018. Stuart is responsible for leading four metropolitan and five regional planning teams which administer many of the Minister for Planning's responsibilities relating to planning scheme amendments. This includes the authorisation and approval process under the *Planning and Environment Act 1987* and assisting local councils on the form and content of planning scheme amendments. Stuart is a qualified planner with 30 years experience and has held a range of senior roles in Victoria and local government, as well as overseas volunteer work, planning consultancy in regional Victoria and the Tasmanian state government.

Phil is the Acting Executive Director, Planning and Building Reform, in the department. He has been acting in this role since 11 September 2023. Phil is responsible for planning reform, planning systems and building regulation and reform, and ensuring consolidated oversight of the coordination and delivery of planning and building reform. Prior to this Phil was the Director of Planning Systems Reform, a position he held since July 2019 when he joined the then Department of Environment, Land, Water and Planning. Phil has also had roles in the consulting, renewable energy, extractive industry and local government sectors. Phil's skills and experience are supported by formal qualifications in business environment and land use planning.

I would like to note that we have reviewed a selection of the public submissions made to the inquiry which relate to the Department of Transport and Planning, reviewed a selection of media articles arising from the 2022 flood event that relate to the department and received a broad summary of the matters raised during inquiry hearings that pertain to Rochester, Seymour and Shepparton. The Department of Transport and Planning has contributed to the Victorian government's submission in the content addressing the Flemington Racecourse flood wall and the implications for future planning decisions.

I will now provide an overview of what I understand to be the key matters under consideration by the committee that relate to statutory planning and the planning systems. Victoria's planning system provides for the management of land use and development across the state. Under the *Planning and Environment Act 1987* this is principally done via local planning schemes, which set out a vision for a municipal area and apply zones and overlays against which planning permit applications are assessed and determined by local councils. State planning policy and the Victoria planning provisions guide the system and provide a consistent format for local planning schemes.

The planning system coordinates a wide variety of land uses and development policies from across state government. This includes everything from housing to heritage and from industry to infrastructure. The planning scheme can be thought of as the repository of all policy and regulation about land use and development in the state. The Minister for Planning and the Department of Transport and Planning do not singularly determine land use and development outcomes but play a key role in managing the system and seek to lead and coordinate the input of other areas of government where particular policies require land use or development controls. To this extent, when it comes to flooding and the management of flood risk, the planning system provides a basis for state flood plain management policy to be outlined and for various agencies, including flood plain management authorities and local councils, to include planning controls to address flood risk and referral of development proposals to agencies for specialist advice and individual development proposals to be determined.

I will now step through the key planning points on the Flemington Racecourse flood wall. The technical detail is outlined more fully in the Victorian government's submission. The Minister for Planning granted the planning permit for the construction of the flood wall around Flemington Racecourse and other works in 2004. Neither Phil, Stuart nor I were employed by the Department of Transport and Planning or its predecessor, the Department of Sustainability and Environment, at the time that the planning permit was granted. Our

understanding of the process of the application and the grant of the planning permit is based on a review of the available file information.

The Victoria Racing Club submitted a planning permit to the Department of Sustainability and Environment on 24 March 2003 seeking approval for a 2.4-metre-high flood wall along the racecourse's river boundary. At the time of the application in 2003, the land was zoned 'special use zone 1 – Flemington Racecourse' and was covered by a 'land subject to inundation' overlay.

The minister was the responsible authority for the consideration of the planning permit application under the provisions of the then Melbourne planning scheme. Melbourne Water was the relevant flood plain management authority and referral authority under section 55 of the Act for the planning permit application. In its referral response Melbourne Water advised it had no objection to the issue of a planning permit subject to 39 conditions and footnotes, including certain mitigation works. As the flood plain management authority, Melbourne Water provided the technical expert referral advice to the planning permit application to the minister as the responsible authority. The minister determined the application and issued a notice of decision to grant a planning permit. A number of parties sought a review of the minister's decision at VCAT. The minister then exercised the power under the *Victorian Civil and Administrative Tribunal Act* to call in the application for review from the tribunal. All parties to the review were requested by the minister to provide additional submissions. Melbourne Water provided additional information that the permit conditions relating to compensatory works elsewhere in the catchment were sufficient at the time of the decision. On the minister's recommendation, the Governor in Council determined the review by dismissing the review and by directing the Minister for Planning to issue a planning permit for the land to be used and developed for racehorse track upgrade and flood protection works in accordance with the conditions contained in the schedule, which went on to form part of the permit. The minister issued the planning permit as ordered by the Governor in Council.

In relation to consideration of climate changes in planning, the Victoria planning provisions and planning schemes are reviewed on an ongoing basis to ensure they continue to respond to state requirements for the mitigation, management and adaptation to climate change hazard and risk. Planning controls and new policy initiatives are always evolving, and it is a government priority, most recently through the *Built Environment Climate Change Adaptation Action Plan*, to update the planning provisions and planning schemes using the best available data and climate science to ensure the planning and building systems enable climate-resilient settlements and communities. Our state planning policy for natural hazards and climate change requires any decisions to minimise the impact of natural hazards and accommodate climate change through risk-based planning. Decision-makers are required to apply the best available climate data and science when identifying at-risk areas. Planning schemes have included a state policy requiring consideration of the impact of coastal climate change since December 2008. More recent changes in 2022 included adding supporting responses to climate change as a new purpose of planning schemes. Flood studies are prepared by flood plain management authorities and councils. They are translated into planning scheme zones and overlay controls through the planning scheme amendment process.

Since 2016 Victoria's flood plain management strategy requires that all new government-funded flood study maps must use the most recent edition of *Australian Rainfall and Runoff: A Guide to Flood Estimation* and consider the state's planning policy framework strategies, including those managing the impact of coastal climate change. The *Built Environment Climate Change Adaptation Action Plan* is one of seven plans made under the *Climate Change Act 2017*. It sets out the state government's commitment to ensure decisions, including those made under the planning and building system, consider and respond to climate change. This includes priority actions to implement up-to-date flood studies and planning provisions in planning schemes. The Department of Transport and Planning's flood-related amendments standing advisory committee will facilitate this timely implementation. Thank you for the opportunity of providing an opening statement.

The CHAIR: Thanks again for that opening statement. You provided a very comprehensive overview so I am sure it is going to be difficult for us to ask questions, but I will do my best. The last point you were mentioning about flood studies, how often, in your view – if you have a view – should those flood studies be updated and what is the best way to update them? What sort of data goes into them?

Stuart MENZIES: There is an ongoing program of flood studies being updated, principally by flood plain management authorities – the nine regional catchment management authorities and Melbourne Water as a flood plain management authority. The 2016 flood plain management strategy, when that was put in place there was

also funding provided to update flood studies. Around 60 of those have been completed. There are around another 23 in the program, which colleagues in the Department of Energy, Environment and Climate Action's water catchments area are progressing. Commensurate with that was funding for local councils then to prepare a planning scheme amendment. There is a practice note about implementing flood studies into planning schemes which provides some guidance about choice of provisions, and the Department of Transport and Planning – my team – then may provide assistance to councils about applying the practice note and the preparation of an amendment to a planning scheme. It is a regular program of updating the scheme when an updated flood study is available. At the moment there are seven live amendments that have been progressed. It sort of just shows, on an annual basis, how many are working through.

The CHAIR: Do you think that with the impacts of climate change – what we are hearing is that, for example, there might be less rainfall but more intense climate-related activity. So we might get more intense rainfalls as opposed to – there might be less water but it falls more intensely. Do you think that flood studies adequately update in a timely manner to provide the most updated information, or should there be a difference in timing? How often are these things updated? Should it be more often given the impacts of climate change?

Stuart MENZIES: We characterise it as a three-step process: the first being the technical assessment of a flood study, which is by the flood plain management authority, and the second step is then the implementation of that into the planning scheme. Certainly the planning system has objectives around climate change and for strategic planning to take that into account. I think it also sits with then the consideration of climate change in the preparation of this first step of the flood study where those technical experts and the authorities have that competency to do that. We do see that planning scheme amendments can be run after the flood study is done, and I think the view would be if there is newly available information that is spatially mapped and can be provided into planning scheme provisions, then a planning scheme amendment can be run at any time.

The CHAIR: And how long does it take for modelling, for example, to be done? Is it done in a timely way? Could it be quicker? Is there a use of technology that perhaps could speed these processes up?

Stuart MENZIES: In the State Planning Services area, or the Planning and Land Services Group, of the Department of Transport and Planning, we are not directly involved in the flood study itself or the modelling – we do not have the expertise around that, so there is a reliance on the flood plain management authorities or the entity that is preparing the plan to make those considerations. But yes, we have regard to an amendment based on that having been prepared by experts in that field.

The CHAIR: Okay. Look, the insurance council, in its submission to the inquiry, made a number of recommendations. They noted some policy objectives and they called on the Victorian government to adopt the national cabinet first ministers agreement to end development of flood plains. Do you have a view about developments in flood plains, like new developments going forward?

Stuart MENZIES: At a strategic planning level, in terms of settlement planning or consideration of zoning of land, there is a high-level consideration about the environmental hazards, so that would be flooding but also bushfire, landslip, also consideration of biodiversity values and infrastructure provision. So there is a broad objective around that of essentially avoiding areas of special value or risk. The state standard provisions for identifying areas subject to flood risk – there are four standard provisions, and they kind of reflect the degree of flood risk and the intensity of flood that might take place. The first is an urban flood zone. In that zone residential development and other things are prohibited. In a flood overlay there are limitations; that is often used in regional areas where it might be a farming area or bushland but there is still flood risk. The land subject to inundation overlay is the third one, which recognises areas that might be inundated. And the fourth is a special building overlay, which is where the built stormwater system may not be able to manage a certain flow.

In terms of where areas should be developed, the flood provisions in the planning scheme have this sort of scale of provisions to deal with those. Certainly there is a prohibition and limitation in those areas where there would be high flow and risk to life versus where it is around inundation, which might be areas that act as a flood plain where it is retarding water. In some instances some development may be suitable where it is built to a certain standard, and the planning provisions provide for that. Similarly in the special building overlay, which is essentially used in urban areas where older, pre-75 drainage systems were designed and do not handle certain rain events.

The CHAIR: Okay. Obviously we are going to be making recommendations to government as part of this review. Are there any international best practice standards that you are aware of that could provide insights or that we could look at to make improvements? No?

Stuart MENZIES: No. The current planning framework is that sort of second step, following the first around the flood study authentication of those. I would anticipate that there would be certain inputs to the best practice in that area, but it is not our direct role in those flood studies. In terms of planning provisions, the planning scheme will apply Australian standards and other regulations into the planning scheme. But no, in preparation for this I have used essentially the existing workings of the Victorian system and have not looked at the international practice.

The CHAIR: Okay, no worries. Obviously, like I said, we are going to be making recommendations to government. If there were three things that sort of stood out in terms of what you would see that we could make improvements to, what would your top three things be that we could take away from this to make recommendations on? Even one. One will do.

David ETTERS HANK: Two and a half?

Melina BATH: Yes, they have got to self-evaluate, give themselves a big tick.

Andrew McKEEGAN: Well, as I said at the outset, this is an incredibly complex thing to try and balance. I think the planning system has that challenge. There are always going to be elements of conflict that it needs to balance and work through, and sometimes that does take time. I think timeliness within the planning system is probably one thing that a question is always asked around. As Stuart said, I do not think we are in a position to or would like to comment on the technical elements of the flood study side of it. That is an area you may look at, but I certainly do not want to comment on that and do not have the expertise.

But in the sense of the planning system, we need to constantly balance. There are always going to be conflicts between elements of the planning system, right. There are conflicts between urban use and farming uses. There is conflict between biodiversity and residential. And so we always need to work out ways in which we can have a system that in an efficient and effective way assesses all of those things but still allows time for people to be consulted. People often say the schemes should be quicker, so once we get that information we should get it through, but the reality is you still also need to consult with those landowners on the impact of that, and that takes time. And so whilst timeliness is something that we should always look at, continuous improvement absolutely we should always look at – I am not trying to be tricky, but I do not see one obvious thing in the system.

I think the system has a really good framework where it allows strategic intent to be put in at the front end of the strategic part of the system. It allows that to be translated into clear rules. I think the biggest change in the last few years is this ability to map state interests – so this ability to map things like flood and bushfire and others – so that landowners and people have a real visibility of that. Obviously the sooner you can get those mappings up to date and in the system the better for everybody, but that does take time. So I think it is timeliness but just couched in that context that it is important that you still allow time to engage with people to make sure the system is getting the right information, that it is getting done in an appropriate way and that it is done as efficiently as it can be. So I apologise; that is not three.

Phil BURN: I might just add –

The CHAIR: Yes, by all means.

Phil BURN: the system relies on those technical inputs at that strategic level of where you direct growth, how you respond to individual development applications on our legacy towns that are sort of at risk and all throughout the system. So anything in that sense that can improve timeliness and quality of inputs can only benefit the planning system.

The CHAIR: Great. All right. No worries. Thank you very much. And that concludes my questions that I have, so, Mr Ettershank, I will pass to you for questions. Thank you. Thanks for those answers. I appreciate it.

David ETTERS HANK: Thank you, Chair. That is appreciated. I have got quite a few questions. Can I start out just by a couple of simple ones: can you tell me what the extent of DTP involvement was in the approval process for the Rivervue retirement village site? I am going back to 2016.

Stuart MENZIES: There was not direct involvement in the planning permit process for the development. So the City of Moonee Valley is the responsible authority for that site and land within the *Moonee Valley Planning Scheme*. When a planning permit application is made, it is made to the council as the responsible authority, and it makes an assessment of that application and determines the planning permit. Through that process for that site, it made a referral to Melbourne Water. I understand there have been a number of permit applications and amendments to existing planning permits, but there is not a direct involvement by the department in that application process. I am aware of an amendment, C151, which changed an overlay – land subject to inundation overlay – to the site, and our department was involved in that process.

David ETTERS HANK: What was the extent of that involvement with C151 on that site?

Stuart MENZIES: So with each municipal area, there is a planning scheme and it sets out zones and overlays which control the use and development of land. Every council has one. That planning scheme can be changed through an amendment process which has two key steps where the Minister for Planning at first authorises the council to prepare and exhibit that amendment, that change. The council then runs that amendment process. I can go into more detail if that is of interest.

David ETTERS HANK: No, keep going, I am keen to hear about DTP's role.

Stuart MENZIES: And then at the end, the minister makes a decision – if the council submits that amendment and has adopted it for approval. So the department has a role in advising the minister on those two points – the authorisation and the final approval. Those steps can also be undertaken under delegated authority, and I understand that amendment, the approval, was an approval by an authorised officer.

David ETTERS HANK: So in a sense you have got a quality assurance role. Would that be a reasonable way to describe it?

Stuart MENZIES: Yes. For planning scheme amendments, the department looks at the sort of strategic justification for it and the form and content of it.

David ETTERS HANK: Okay, so I do not want to get too bogged in the minutiae, but we had a situation there where clearly there was a water study done for that site by GHD. That study actually suggested that the peak flood for that area would be less than the 1974 flood levels. I am sort of wondering why that did not ring alarm bells in DTP. At the time, it was obviously a manifestly bizarre decision and of course in hindsight a terrible decision for the people that were on that site. I am just wondering: how does DTP rationalise that? How do you explain that failure?

Stuart MENZIES: So that amendment was an update to the land subject to inundation overlay across areas in Moonee Valley – not just that site but it included that site. It went on public exhibition and submissions were made, and the submission from the landowner was that the area should be – sorry, I go back. The amendment was initiated by the council at the request of Melbourne Water, and that is a regular occurrence, where flood studies or updates are done via a flood plain management authority and then an amendment commenced. So that was the situation.

David ETTERS HANK: Sorry, can I just stop you there a second? That was not initiated initially by an application from the owners of the land in question?

Stuart MENZIES: No, it was part of an amendment for an update to the land subject to inundation overlay.

David ETTERS HANK: So it was actually commenced on the initiative of Melbourne Water without any outside requests or otherwise for that change to occur?

Stuart MENZIES: Well, on reviewing the explanatory report for the amendment, it states that it was at the request of Melbourne Water.

David ETTERS HANK: Okay.

Stuart MENZIES: It changed arrangements for around 1500 properties, and that site in Canning Street was one of those. So a submission was made to the council along with a number of submissions made. It considered those. That submission was around that the overlay should be varied based on mitigation works that had been taking place on the site. And a plan of a new alignment of the overlay, which is referenced in the panel report for the amendment, was a plan prepared – I am not sure if it was prepared or endorsed; I can check that detail by Melbourne Water. So that in the end was the form in which the council adopted the amendment and as it was submitted to the minister for approval. In that process – I can only talk generally about how we manage amendments – if it is based on technical advice from a referral authority, that would be accepted as sufficient for the proposed change.

David ETTERS HANK: Does that sort of then open the prospect of – if the flood modelling is of dubious quality, that we are ending up with a garbage in, garbage out scenario?

Stuart MENZIES: The planning scheme provisions and the overlays reflect what is in a flood study or flood mapping. It does not ordinarily vary from that. When I talked before about three steps in the process, the planning process is dealing with that step two. It relies on, yes, the information and mapping in that first step.

David ETTERS HANK: Okay. I am not trying to go you here; I just want to understand how the system actually works. Who is responsible for ensuring the quality of the flood modelling that is received from the CMAs, or in this case specifically Melbourne Water?

Stuart MENZIES: From the flood plain management authority, and then from time to time there may be peer review of that work. I understand, particularly if it is the first study of its type or there are particular contested or technical issues, there may be a peer review process, but in terms of the state planning services we do not further interrogate that or have the expertise to review what a flood plain management authority with technical experts has prepared.

David ETTERS HANK: So is that something that should be on your wish list that our Chair asked for, in terms of possible changes? I mean, we are dealing with in terms of the mid-Maribyrnong flood plan, which covers the Maribyrnong township through Rivervue and to Flemington Racecourse. I think it fair to say that was a catastrophic failure of both warning and prediction. Would you agree with that description?

Stuart MENZIES: I have not reviewed or have expertise on that, so I will not be able to comment around that attribute.

David ETTERS HANK: Right. Would you like to have a punt? Anyone from the department? I am just – I think clearly the community is looking for some understanding of how we ended up in this situation, and we are trying to work out how could it go so hopelessly wrong.

Stuart MENZIES: From reviewing the independent review panel's report, which was released on Friday, it made findings around two things around the accuracy of the mid-Maribyrnong mapping and changes that were made to full levels on the site.

Andrew McKEEGAN: And I guess in the sense of responding to, 'Is that something that we would recommend in relation to our team,' I do not think us having duplicative skills in our group – the planning system, as I was trying to point out in my opening, is a bit of a conduit for a whole range of technical inputs from other areas. Our team is skilled at making those assessments and planning and bringing all those elements together and playing very much a coordination role. I do not think us duplicating the efforts of those technical experts in other areas would necessarily be the answer. I think getting all those technical inputs, as Phil mentioned, as accurate and timely as possible, absolutely is the best for the planning system. I do not think replicating that in our team or having that expertise is necessarily by extension –

David ETTERS HANK: So you would say that QA role for flood modelling and plans is in the first instance with the management authority?

Andrew McKEEGAN: That is correct.

David ETTERS HANK: Okay. Cool. Thank you. You talked about the Pagone report. Can I just pick up an issue there? Have I got a little bit of time?

The CHAIR: You have got about 2 minutes.

David ETTERSCHANK: A couple of minutes? Thank you. The Pagone report refers to the need for a suite of tools with regard to flood mitigation, and I am interested in the DTP view on specifically the removal of assets in areas that for whatever reason have been classified as subject to LSI, or in the case of Rivervue not, but are clearly in the front line. So in terms of Rivervue, in terms of the Maribyrnong township, what is the DTP's attitude or advice with regard to those assets that are destined to go under again? Is it mitigation or is it removal of those assets? What does that look like?

Andrew McKEEGAN: You may add detail, but I do not think there is a one size fits all, in the sense that I think the aim of the planning system is to mitigate risk depending on the data and evidence available.

Phil BURN: Yes, there is not a specific policy on, say, retreating from some of these areas. There is just the policy of ensuring that the best available data is factored into planning decisions and planning policy and then applied. So in terms of the legacy sites, over time with renewal of building stock and those sorts of things you would see things like finished floor levels rise and those sorts of things.

David ETTERSCHANK: Okay. I take your point; that is perfectly valid to say it is not one size fits all. So let us just take Maribyrnong township – 500 houses and it is a one-in-50-year flood, so there is still plenty of potential for it to get a lot worse and a lot more often. What would be DTP's sense as to how you resolve those legacy assets in the Maribyrnong township? What is the advice to deal with that in the future, because shit is going to happen, isn't it?

The CHAIR: I am sorry, Mr Etterschank, but your time has expired.

David ETTERSCHANK: Sorry, bad choice of words.

The CHAIR: Would you like to invite the witnesses perhaps to provide that question on notice?

David ETTERSCHANK: Sure.

The CHAIR: Right. Thank you. Ms Bath – question, please.

Melina BATH: Good morning, gentlemen, and thank you for being here today. I have got a number of questions in different pockets, so stick with me and I hopefully will articulate well what I am needing to ask you about. I will go to regional Victoria, as a Nationals MP. I am very interested to understand some aspects. Our regional roads are the most talked about issue in country Victoria. When roads, infrastructure and highways are blocked due to flooding and highways and road infrastructure are wrecked and smashed due to flooding, there is no greater topic. But information is key. I say that we had in the Echuca hearing on 24 August comments around the inability of either the VicTraffic app or the VicTraffic website to be updated. I will give you an example. It came from Rob Amos, who is the mayor in that space, and he said the VicTraffic app as well as their website:

... played a significant role in the confusion experienced by the public and council staff. In fact, Kerferd Street in Echuca is still listed as an SES sandbag site on the VicTraffic website today.

He also went on to talk about factual information. My first question is: what is the department of transport doing to provide planning for next time when it is going to happen so that there is better real, live information so that if a road closes, they are closed, and then when they are open the website information reflects that?

Andrew McKEEGAN: Incredibly good question. I would have to say that one of my transport colleagues would probably be able to respond to that. If you do not mind, I could take that on notice and speak to my colleagues and come back to you. I know there was a lot of work and energy and a real focus within our department in relation to these matters, but I will certainly take that on notice and come back to you.

Melina BATH: Thank you. And there might be a bit of that being the case, because I am going to specifically talk a lot about roads. Information provides that vitality, both for people to see if they can get to their homes and for the agricultural industry to get product to market. We heard very much that damaged roads meant that farmers could not actually get their milk off-farm et cetera et cetera. With that, I am interested in how our highways and roads can be both a positive aspect in terms of providing a natural levee but also they can be a trap for water in large flood events. I am going to use an example by someone who I think has

contacted everyone on this, so I will be the one to provide that. It relates to the town of Carisbrook, and it is the Pyrenees Highway. The issue, I believe, is that there is a levee bank in a section of that town, and the Pyrenees Highway has had two culverts put through. I am being very specific, so you may need to take it on notice. I think the feeling within the community is that they will not be sufficient over time, and there is a request for a review of increasing those culverts or providing additional infrastructure to be able to remove water when it comes in in an intense state. So that is potentially a question on notice. You may want to comment to that.

Andrew McKEEGAN: No, I am happy to take that on notice. I know there are a lot of engineering and technical details in relation to how roads are managed and culverts, and I do have a whole department of colleagues that would be able to answer that. I am happy to take it on notice.

Melina BATH: Thank you. I guess this goes to bringing the community along – sometimes community members and communities as a whole feel that they have had a good response and other times there needs to be a closer communication between the department of transport and that community. That might be a recommendation that I put forward for our committee, but I just want you to address that in terms of the policy that the department of transport has around communication with communities – and I am speaking at this point of rural communities.

Andrew McKEEGAN: Yes, absolutely. I know our secretary does take that really seriously, so I am happy to provide that feedback.

Melina BATH: Thank you. In relation to again levees – it has been a big topic – has the department investigated the advantages that rural levees have in protecting major arterial roads from flooding? So, bring about your comments around the importance of levees, the maintenance of levees and how they can support protecting our road infrastructure.

Andrew McKEEGAN: I apologise, I will need to take that on notice.

Melina BATH: Okay, that is fine. We heard yesterday and in all of the northern towns that we went to – Echuca, Rochester, Seymour and Shepparton – that the floods certainly have smashed their roads and that they have big bills to replace them. We heard yesterday, for example, that Buloke has \$32 million of road maintenance infrastructure upgrades now required – just from the floods, not their normal management – and they have only been able to do \$6 million of them so far with government grants. Buloke's whole budget is around \$32 million, so it is vast, and that is just one example. I want to understand how the department and planning can support these to be fast-tracked to help these communities, because if we do not get them help, if we do not get this road infrastructure back, then it is going to have a huge economic as well as social and emotional impact. So, what can you speak to for that?

Andrew McKEEGAN: Just at an overarching level I agree with the challenge and the amount of roads that were under water, both state and local roads, and I know there was a significant amount of work in partnership between both our department and individual councils in relation to addressing those matters. There was funding put forward and work being done in support of councils in relation to that as well. As for the exact detail of the amount and the process by which that has occurred, I can provide you more detail, but I know there has certainly been a lot of engagement and senior engagement in our department and focus on that exact challenge – the fact that we had a maintenance process that we needed to manage within our own road network, the local government road network, how did we ensure that maintenance was occurring but at the same time fix all of the flood implications as well. But, Phil, I do not know if you –

Phil BURN: Yes. I think, Andrew, in terms of planning as a portfolio, we do have our emergency recovery and rebuilding provisions. They originally did start off as bushfire emergency and recovery provisions, and we have built on them over time. But there are a couple of exemptions in there to ensure that the planning system is largely out of the way for recovery works being undertaken by any public authority and municipal councils. There is also a specific exemption from any planning permits that restrict the hours of operation for quarries so we can get road base and so forth out through a much longer period of time to be able to make those repairs.

Melina BATH: And again, if I could, in response for all of the country MPs and probably city as well, the quality of the road base is absolutely vital to protecting and fortifying against the rapid degradation of the surface and the quality of the structure. Anything that can be done in that capacity, I am sure you are mindful of it indeed, but we hear that roads just disintegrate far too easily. So how can that be addressed, and what work is

being done in relation to that? Sometimes people feel frustrated with the contractors, but they are meeting a contract. It is X quality of road aggregate that they are meeting. Noting funding constraints, how can we get the best long-term value out of our road infrastructure and our road rebuilds? I guess that is a rhetorical question potentially.

Phil BURN: I mean, certainly as well that exemption late last week was extended for another 12 months to make sure that it is available for the repair of roads, and through our colleagues in the earth resources area it has not been thrown open to every single available quarry. It has been targeted to the ones that provide that high-quality material at sufficient volumes for councils as well.

Melina BATH: I am not sure how much time, so I will start the question and then maybe my other colleagues might like to continue on with it. In relation to betterment, we heard about ‘betterment’ all across this inquiry, and the importance of looking at climate change and the long-term sustainability of our road networks. How can you assist us to provide recommendations to government about the importance of betterment, building it back not only to the standard that it was but to sandbagging, in a term, or futureproofing from further floods? How can you direct us that you feel confident that the department of transport is mindful of this and working in the positive for our communities?

Phil BURN: It is probably one that we would have to take on notice, because we have got the built environment climate adaptation plan that has a number of actions, some of which will touch on that issue around broader infrastructure for cities and towns, but there is a transport-specific climate adaptation plan as well that I am not across the detail of, so I would like to take that one on notice, if I could.

Melina BATH: Sure. That sounds great. In relation to planning and strategic planning about these, and again I am going back to country towns, we heard in Rochester how access of course was cut off, but the implementation of getting on-farm supplies, fodder to stock and milk et cetera off – I will use an example. It was between Shepparton and Mooroopna, and that road was cut off there.

Wendy LOVELL: Peter Ross-Edwards Causeway.

Melina BATH: That is right, the Peter Ross-Edwards Causeway, a very good causeway indeed, but it is the only one. What is the Department of Transport and Planning doing about those other linkages? We heard about a second route and in fact a bypass of Shepparton. I am just using that as an example. What planning is being done to put that higher up the food chain in terms of priorities?

Andrew McKEEGAN: My group do not actually look after transport planning per se. We do general land use planning, so I will have to take on notice any strategic transport network revisions being done as a result of the flooding work. Happy to take that one on notice.

The CHAIR: Apologies, but your time has expired.

Melina BATH: Thanks, Chair.

The CHAIR: Mr Batchelor, over to you.

Ryan BATCHELOR: Thanks, Chair, and thanks, everyone, for coming in today. I might just do a couple of follow-up questions on the mechanisms and processes that you use in making the assessments. Ms Terpstra spoke a little bit about the technical aspects of who is doing the assessments of the flood studies. It just was not clear in your evidence. So who is actually doing the flood studies that inform the planning frameworks that decisions are made on?

Stuart MENZIES: The nine flood plain management authorities, the regional seats’ catchment management authorities, and Melbourne Water for metropolitan Melbourne, or for Western Port and Port Phillip, as the flood plain management authority. The studies themselves might be prepared by consultants.

Ryan BATCHELOR: Right, so there might be some third parties involved?

Stuart MENZIES: Yes. Separately from time to time, more often on a smaller scale – say, a particular river or area – a council may initiate a flood study done by consultants like that, but we as the state planning services team do not prepare flood studies.

Ryan BATCHELOR: And when those studies are being conducted, or in the context of planning decisions that are being made either at a localised level or at a higher level by yourselves, you are obviously taking into account what is happening in the flood plain. Does the analysis extend to what is happening up in the catchments as well? Obviously we know, from the evidence we have received from a range of places, about the impact that catchment management and water flows are having effectively downstream. How much of the discussion and the study that are occurring in any particular local government area are thinking about what is happening all the way upstream?

Stuart MENZIES: Under the *Water Act* the flood plain management authorities have a role to identify areas that may be subject to flooding and flood risk, and they are worked through into flood studies into planning scheme provisions. Where there are then the provisions in place and an application is made that might trigger a referral to the flood plain management authority because it is located in land subject to an inundation overlay, for example, the authority would consider both cumulative effects and also what is happening in the catchment. So the provisions are a kind of point in time, and then day to day there are applications being made that go through a referral process. So that information may be considered in the advice back to the council as the responsible authority determined in the permit.

Ryan BATCHELOR: And if something was changing, would that then flow the other way? So if things are changing further up the catchment, would decision-makers and planning decision makers further downstream effectively be made aware of those? Is it a two-way information flow?

Stuart MENZIES: So a flood plain strategy – planning is one element of it. There might be other things that go in place with works, diversion arrangements, things like that, which may alter the dynamics of it, yes, and those things would be factored in. So from time to time the planning scheme is updated to take account of where there might have been works that mitigate flooding, and that would then be reflected in a new orientation of an overlay.

Andrew McKEEGAN: But the decision-maker at the time would only have the overlay that is in the system. There would not be real-time changes to that in the sense of the decision-making point.

Ryan BATCHELOR: Part of what I am trying to get to is: when things change, how do people know that there have been changes? Are decision-makers sitting there waiting for someone to come and initiate a process that then kicks off a check of what is happening upstream, or does the information flow the other way as well?

Andrew McKEEGAN: Well, the information of a planning assessment is done based on the planning framework at the time of that assessment, so it can only be as good as what is being mapped in the system and what you have in front of you. So it does not account for real-time change of things that are occurring in a sense from a planning perspective. So those changes that are occurring upstream in a sense have to be captured and understood by those flood management authorities, and they need to be captured and changed. And if that changes the modelling or the information that needs to go in the planning system, absolutely that change would be captured and would be two ways. I am not sure if you are talking about somebody assessing an application of a particular project at the point in time.

Ryan BATCHELOR: Both, really. I mean, I am interested to know, when decision-makers are making decisions, does the system overall ensure that they have got the most up-to-date information in front of them, or do they have to initiate a request and a process in order to get that to them? That is what I am trying to find out. I may be misunderstanding how things work, but it just seems to me that a two-way information flow would be better.

Stuart MENZIES: So if an overlay applies, there will be that referral based on how up to date the provisions are. More generally there is clause 65 of all planning schemes, which enables a responsible authority to consider write-in matters, and one of those is flood hazard. So even if an area is not within an overlay and requires a permit, there can be consideration of flood as well as bushfire and other things under clause 65.

Ryan BATCHELOR: The other topic I want to get to is people, who obviously are making decisions about where they are going to live and being confronted with what is often a bewildering amount of information about the condition of the place that they are trying to build on or buy. And you talked about four different levels of provisions about the intensity of where a particular site is subject to flooding. Have you ever done any studies about how much people understand about what they mean? Do people know, when they are purchasing

a property, what the terminology or the consequence is of a rating of subject to inundation, having a built overlay? Places where people can buy properties where it is acceptable in the planning scheme to say, yes, you can build and buy here – have you ever done any work to understand what the level of consumer awareness about these risks is?

Phil BURN: In terms of formal work and formal, say, studies of communities and those sorts of things, to my knowledge there is not. But I think it is fair to say that after any emergency event we do turn our minds to planning information, how it is portrayed, is it easy to digest and those sorts of things. If you looked at our list of statewide planning scheme amendments over the years, you would see a good example would be our bushfire controls slowly improving and becoming clearer over time as well. So in that vein, yes, that does happen, but not in the sense of, to my knowledge, the formal studies and approaches.

Ryan BATCHELOR: In another committee I spent a lot of time recently with the real estate industry, which has been a fascinating experience, and it strikes me that one of the tasks we have got to do is just improve consumer both awareness and empowerment about the issues that they are subject to when making one of the largest decisions of their lives.

Phil BURN: So through the section 32 notice of the sale of land, that would link to things such as the planning controls, and the overlays would be very clear in that sense. Things like our VicPlan layers are very clear and those sorts of things.

Ryan BATCHELOR: I suppose what I am interested in is that it is all there and it is good and it is available to people, and section 32 notices. You get a printout from your water authority, and it tells you something; I do not know how much people actually understand it. I am interested to know if anyone – it could be you, it could be someone else – has actually done some work with people, consumers, to understand how they interpret or respond to the information that they are being provided, or whether it just glosses over them and they do not really understand and it is not until there is an emergency that they suddenly go, ‘That’s what that meant.’ I think there is a bit of work we might need to think about doing there.

Stuart MENZIES: Planning is complex and a person can get a property report which will outline what the zone is and all the overlays, but then there is discretion within those provisions. From my local government experience, it is always having people have a discussion about what may or may not – but it is rarely definitive, because of the way there is discretion across a lot of provisions.

Andrew McKEEGAN: I think we try over time to always simplify the system, to explain it to people in a way, but it is so complex and there are so many different elements to particular areas. But I agree: anything that enables somebody to have good, plain English understanding of what it is that they are buying into or what that means for them. We have always got this challenge, right; people love being around lovely amenity, whether that is bushland, whether that is water – that will not change, in a sense. But there are risks inherently within that, and so people need to be aware of what that does look like and what decisions could they individually make in relation to that as well.

Ryan BATCHELOR: Even getting some understanding about whether people actually understand what a one-in-100-year risk is I think would be really interesting. My last point, just quickly, because my time is running out: obviously there is a lot of work being done in many parts of Victoria over the course of this inquiry. I just want to touch on a little bit about my electorate, Southern Metro, particularly residents in Elwood planning around there. There are going to be some big developments in Fishermans Bend coming up. How much of that planning work is going to take into account any issues that might be associated with underlying vulnerability to flooding, particularly in that part of Melbourne, where there has historically been quite a bit of water?

Phil BURN: It is probably best we take that on notice, because there is quite a bit of detail behind it. But certainly to my working knowledge and observations of the people that are invested in this space, a significant amount. But it is probably one we could take on notice.

Ryan BATCHELOR: That would be great. And my time is basically up, so I am happy to stop there.

The CHAIR: All right, thanks very much. Dr Ratnam.

Samantha RATNAM: Thank you very much for your submissions today. I have a number of questions, so I am happy for you to take some of them on notice if you do not have the information at hand. Firstly, regarding the decision about the Flemington Racecourse flood wall, are you aware of or do the records you have you referenced before document any direct representations from the Victoria Racing Club or their lobbyists, associates or executive board members and the like and the then Minister for Planning, her staff or the department?

Andrew McKEEGAN: Not that I am aware of.

Stuart MENZIES: No. There was a view that the planning permit application was made by a consulting firm on behalf of the Victoria Racing Club which outlined the purpose and reasons for their application.

Samantha RATNAM: So you do not have any direct records of direct representations from the VRC apart from the consultant representations?

Stuart MENZIES: That is right – on the documents of Rivervue.

Samantha RATNAM: Thank you. It seemed quite clear from both the racecourse flood wall example and the Rivervue case that Mr Ettershank raised prior that developers and the likes of the VRC are lobbying for planning scheme and permit changes that would benefit private interests substantially. What probity work is being done by the department to minimise the potential integrity and corruption risks that may exist in the planning system, especially when they involve the department and ministerial approvals, in the future?

Andrew McKEEGAN: There is a lot in that question.

Samantha RATNAM: So the probity work – are you all undertaking any probity work about how the system can be improved in future, given the likely indications that there has been some substantial effort to gain planning scheme changes and permit approvals that subsequently have proven to be to the detriment of a large part of the community?

Andrew McKEEGAN: Yes, I mean, I think there always needs to be a look in relation to questions that are raised about wanting to keep the planning system clean and the decision-making process very clean. We are very strong in relation to ensuring with any decision-making or processes within our group that conflicts are identified and managed and all of the processes are really sound in relation to that. When any question of integrity comes through, it is taken incredibly seriously by us in the department. I cannot talk to any specifics in relation to responses to things like that, but there are a number of reports that the department is looking at in relation to questions of who should be the decision-makers within the planning scheme and who should be providing the inputs and how you ensure that that is clean from any undue influence in relation to that process.

Samantha RATNAM: So in response to what has been revealed post the 2022 flood event, and particularly the Rivervue and the VRC example, there has not been any new work or probity work that you are aware of in response to what has been revealed through those examples?

Andrew McKEEGAN: Not specifically relating to that, no.

Samantha RATNAM: No problem. Given that Rivervue, because of its land subject to overlay status, was effectively off the radar for emergency services, are there other Rivervues out there waiting to happen, and what are they? Are you all doing any audit work to identify examples like that that because of planning scheme changes and the like are not on the radar of emergency services or the department?

Stuart MENZIES: So where post an event there are areas that have been flooded and that was different than what was modelled and anticipated, then the flood plain management authority may look at that and work through what changes might need to be made, which could then be reflected into the planning system. So again, it comes back to the first step around the flood plain management authority undertaking that work. I know for the Maribyrnong River example, Melbourne Water has indicated further work on particularly that mid-Maribyrnong area and the modelling for that. If that identified changes to planning provisions, they could then be worked through into changes to the local planning schemes.

Samantha RATNAM: So then my question is: has the department taken any role in speaking to those responsible authorities, whether it is Melbourne Water or the other CMAs, about doing some proactive work,

given the examples of last year, to identify any potential gaps or other Rivervues that might be sitting on their books that they may not realise? Have you all undertaken any proactive work with those CMAs?

Stuart MENZIES: Our work with the CMAs has been around both current flood studies and talking about processes for future ones.

Samantha RATNAM: Regarding the C151 planning scheme process, it is quite clear, and following on from Mr Ettershank's questioning, something has gone wrong. Is the department doing any work on how these approval processes can be improved in future – that is, the planning panel process – for example, appointing one planning panel member versus a group of planning panel members, the quality of modelling data to substantiate applications and the verification of that or the process for justifying a planning scheme change that the department and the minister are responsible for, and who should be held responsible or should be accountable, especially if ultimately with those changes there is an error or something goes wrong?

Stuart MENZIES: Yes. Certainly for any planning scheme amendment request that is made there is an assessment against state policy and about the form and content of those amendments. Our work is also to check that the justification for that amendment has been put forward, and ordinarily all that information is put out on public exhibition in conjunction with the amendment documents themselves. Our work is to ensure that there is the full documentation and that the technical reports are there. Whether it is flooding, environmental contamination or other matters, we do not necessarily reassess those technical aspects with reliance on, in this case, the flood plain management authority's competency to do that. We would check through that the amendment changes are coming from an informed basis.

Samantha RATNAM: My follow-up question, then, is: with C151, which identifies that there have been some process issues, is the department – and the minister ultimately – responsible as the issuing authority for a planning scheme change, either allowing it to begin and then the final approvals? Have you done any subsequent work using examples like C151 to look at how in the future those processes can be strengthened given the errors that have been made previously? If it is a no, that is fine, or you can take that on notice. It is fine.

Stuart MENZIES: Yes, I will take that on notice just to –

Samantha RATNAM: It is: what are you doing in the future based on examples that are now revealing that there might be some areas for improvement in the process?

Stuart MENZIES: Yes, I could probably provide a more substantial answer on notice.

Samantha RATNAM: No problem. That is totally fine. Just another question in reference to a previous comment you made I think in response to Mr Ettershank. If it takes time to get the plans right in these big planning scheme changes, as you say, how does this fit with the fast-tracked promises in, for example, the government's recent housing statement and the new planning processes that have been earmarked, which the department will be taking carriage of, I understand?

The CHAIR: I am not quite sure the housing statement is within the terms of reference. Perhaps you might like to rephrase that to be a question within the terms of reference.

Samantha RATNAM: Certainly. The department, in terms of planning approval processes, is going to be embarking on a new fast-tracked planning approval process given the issues that have been raised in the existing planning amendment approvals processes. It is linked to my previous question, which is: what work are you doing to ensure that a potential new fast-tracked system will not exacerbate the issues that we are currently experiencing in the existing system?

Phil BURN: I can probably talk to that. I think I am on the right path, so correct me if I am wrong. Some of the process changes and, I guess, the streamlining associated with the housing statement – certainly none of that work in any way overrules or removes the requirements of the consideration of natural hazards like flood and fire and those sorts of things. It does not in any way bypass those considerations that have to take place on those. The time savings are not made through skipping those important steps.

Samantha RATNAM: Okay. Thank you. I might come back to that question, because there seems to be a contradiction in that. I understand that there is an undertaking that it will not compromise those; however, you did mention that it does take time and now there is a new fast-track system. There is a potential inherent conflict in there, and it would be worth knowing how the department is going to approach that to maintain accuracy and ensure errors like, for example, C151, which occurred there, do not happen because we are starting to expedite approvals.

Andrew McKEEGAN: I guess what I would add is that the fast-tracking of an assessment of an application within a zone that has already been undertaken and approved is able to be done within that time because you are developing something within a zone that sees that use. What I was talking about earlier is when you are changing that land use or adding additional layers to that land use – when to amend the scheme, for example, does take time. That is different to maybe a fast assessment of an application of a dwelling or something within those areas, which has a slightly different time frame again. Setting the rules, making sure the schemes are right and working through all of those complex challenges of interface with land use and other elements of it take time. Once that has been resolved, then assessing a case against that particular zone and use is something that can be then sped through the system and done in a different way potentially.

Samantha RATNAM: I will end that line of questioning there. I do note, however, that C242, for example, says the minister can override an existing planning scheme; hence my concern and question. But I will move to another question. Many councils have called for statewide flooding overlays, like we have for bushfires, both for consistency and to help keep flooding mapping up to date. Does the department think this is a viable option?

Andrew McKEEGAN: Well, the current approach is, because there are 10 catchment authorities and that value of having the local input, the local knowledge, in relation to the flooding and the drainage – all of those things we talked about earlier around having that local knowledge – to work with and support local government in undertaking that work rather than to say, ‘The state has all the answers and we could do that as one central point.’ We share the planning system with local government – they have a key role and so do we. So the position has been: given the 10 catchment authorities and given that local knowledge and information, we are here to support and work with them in relation to bringing that into the scheme, but is that necessarily best done just in a central way versus with local government at this stage?

Samantha RATNAM: That has been the kind of consistent request. My time is expiring, but maybe on notice I will ask you if there are options for a more streamlined process, because it has been quite clear and consistent from the councils that it is not streamlined enough and it is not efficient enough to account for all the new flood mapping and modelling. We are going to have more climate disasters; we are going to have to change our systems. I am happy for that to be taken on notice if my time has expired. Thank you.

The CHAIR: Thank you. Ms Lovell.

Wendy LOVELL: Thank you. Given you have already said that local planning people look after local issues, I am just interested to know what your role is in population planning for the expansion of the state and also particularly what your role is in planning for statewide connectivity, particularly around transport routes.

Andrew McKEEGAN: Our department is responsible for putting out projections of population sort of data, which all agencies then use for their planning for how many people they think will be within particular regions and what our growth is going to be – so how you manage both populating people but also making sure there is enough education, health et cetera. That is a part of the work that we do. We work closely across government obviously and with local government around planning, and both state and local government have a key role in planning for the growth to meet those challenges within each of those areas, so that is often done in partnership between both our agency and local government. Part of the reason I think the recent machinery-of-government changes occurred to bring land use and planning together is exactly to your point: around saying, ‘How do we get the best out of planning for our infrastructure and our transport and connecting that to where people live so that we are able to join those two things up?’

Wendy LOVELL: The statewide connectivity for freight routes – we were hearing from local government that large freight operators had to find their way around closed major transport routes and then use local government roads, which have now suffered severe damage. So what is the role that the department is doing in

actually identifying future transport routes and flood-proofing those so that we do not have the damage done to the minor roads?

Andrew McKEEGAN: I am sure there is work going on in relation to that, but I would have to take that on notice for my freight colleagues to come back to me, and I could provide that response to you.

Wendy LOVELL: Shepparton was divided – the town was divided: Greater Shepparton, with the causeway being cut, which is our only major river crossing. It also cut off the town of Mooroopna and people in Tatura, Undera et cetera from hospitals and other services that are all located in Shepparton. The second river crossing would have given us an above-flood-level crossing to a certain point, but then it comes back into Wanganui Road, which was also flooded. So is the department looking at updating plans around that bypass route for Shepparton so that when we do have another event – and we will have another event – we do have a viable crossing that is above flood level and will get people into Shepparton?

Andrew McKEEGAN: I know that our network and regional planning groups are always working with local government network planning as well in relation to these matters. I do not know the specifics of that. I would have to come back and provide you that.

Wendy LOVELL: After each flood event there is always a review of the planning done in flood areas. Do you have time lines for the reviews of the flood planning for Rochester and Seymour, Shepparton, those towns – because people are trying to rebuild now. We had requirements to build post the 1994 flood, but what is being done to update those imposts on landholders for when they are rebuilding post 2022?

Andrew McKEEGAN: So do you mean in a sense of the planning application process for them to be able to rebuild?

Wendy LOVELL: Levels planning – floor levels et cetera.

Stuart MENZIES: There are specific provisions around that provide some exemptions around rebuilds for new development. If it may require a planning or building permit, that would be worked through with the council. On broader growth planning, for the example in Shepparton, working through, say, the south-east Shepparton precinct structure plan, that is taking into account flooding and inundation matters. So for straight rebuilds the scheme provides some exemptions where there has been flooding or bushfire and other things, but if there is new development other than that, then it would go through the ordinary planning permit or building permit process.

Wendy LOVELL: So what advice are you giving to people for rebuilding in these towns where the levels have obviously changed – Rochester, for instance?

Stuart MENZIES: It would potentially come down to the building surveyor working that through in terms of considerations and if there is a need for a report and consent with the municipal building surveyor around what floor levels should be on a new building.

Wendy LOVELL: And what about the flood plan updates? What are the time lines for these?

Stuart MENZIES: They are being worked through as a series of flood studies that flood plain management authorities are undertaking. At the moment there are seven planning scheme amendments underway implementing studies and there are around 22 in preparation. So it is not a single change, it is a continued program of the completion of flood studies and their implementation into the planning scheme.

Wendy LOVELL: Do you have a time line of expectation for people to get these in and for them to be approved?

Stuart MENZIES: Well, it is very much a rolling program. But the government announced funding in May this year around further assistance to implement studies into planning scheme provisions, and that program is over two years to complete the planning scheme amendments.

Wendy LOVELL: Thank you. So on the roads, our roads were bad before the floods, which has allowed the floods to severely erode the road bases on many of the roads. And the repairs of those by the department have not been adequate – you see people out there just pouring some hot mix into a hole without repairing the road

base. More rain this year is again seeing those roads in a terrible state – in fact some of them are just downright dangerous. So if you could, take back to your transport colleagues that there needs to be a lot more work done in regional Victoria on betterment of roads, not just patching, because the hot mix is breaking out of those potholes within a couple of days, and there are transports over the top of them as well.

I would just like to ask you about the C151 amendment. I think you said that that changed the overlay for around 1500 properties – not just the Rivervue but about 1500 properties. Was that the number?

Stuart MENZIES: There were around 1500 for what is called the special building overlay, and there were around just over 400 for the land subject to inundation overlay.

Wendy LOVELL: Okay.

Stuart MENZIES: Some properties were having overlay applied, and some were removed.

Wendy LOVELL: So those 400 that had the ‘Subject to inundation’ removed – of those 400, are you aware how many of those suffered flooding last year?

Stuart MENZIES: No, I am not aware of that detail.

Wendy LOVELL: Can you get that detail for us?

Stuart MENZIES: I know there is information on the number of places inundated, but that has not been cross-referenced with those from that amendment.

Wendy LOVELL: Is it possible to do that? Because I think it is quite important given the removal of that overlay.

Stuart MENZIES: Yes, I understand that Melbourne Water may have made that analysis. We would be relying on information from them to provide that.

Wendy LOVELL: If you can try and get that and give it to us, that would be great. Is there any review being undertaken of the technical advice that you received from Melbourne Water when you removed that overlay? Is there any review being done, or was there any review at the time?

Stuart MENZIES: At the time, no; it was based on that the amendment had been prepared at the request of Melbourne Water. The council ran that amendment, submissions were made and there was input from Melbourne Water through that process. That is an ordinary process for a planning scheme amendment of that type. That information is relied on in the decision, both in consideration by council in adopting the amendment and by the minister’s delegate in approving the adopted amendment.

Wendy LOVELL: Is there any work being done on considering whether there are any changes to what is a one-in-50-year flood and what is a one-in-100-year flood, given that we are now in a period of climate change and seeing more significant rainfall events?

Stuart MENZIES: Certainly the current practice node around the planning scheme provisions is about the annual exceedance in all of one-in-100. I think also current flood modelling is factoring in climate change to it, both for flood plain areas and for coastal inundation. But I think just from a professional point of view I would see that we are working through the adequacy of the provisions to reflect changing climate and what that might mean for flood hazard and risk.

Wendy LOVELL: Okay. Mr Ettershank asked many questions about that mid-Maribyrnong mapping and the floods in that area. Obviously there would be assets that have been built in that area that are restricting the natural flow of the river. Is there any scope to have assets removed if they are deemed to have restricted the flow where overflow could have flowed into areas rather than through people’s homes?

Stuart MENZIES: In terms of planning and land services, we do not make those determinations about that kind of management within a flood plain area. Ours are in terms of the planning scheme provisions that may apply but not in terms of assets or works within those areas.

Wendy LOVELL: Even where you may have approved the works?

The CHAIR: I am sorry. Your time has expired. Ms Tyrrell, over to you for a question, please.

Rikkie-Lee TYRRELL: Thank you. In your opening statement you were talking about the flood studies and the funding that is needed to have them done. Do you know roughly how much funding is required to ensure a thorough flood study is conducted? I know this is going to vary, considering the size, but just a rough amount.

Stuart MENZIES: I could probably on notice provide the detail. At the time of the Victorian flood plain management strategy I understand it was in the order of around \$20 million to \$22 million, but in terms of the planning process, in May this year the Minister for Water and Minister for Planning announced \$3.9 million over two years for the implementation of those studies into planning schemes.

Rikkie-Lee TYRRELL: Thank you. You actually gave me more than I was expecting in that. Also, in regard to studies but on the side of roads now, after a flood event do you conduct any studies to have a look at how you could better roads in the future?

Andrew McKEEGAN: The department certainly would look at the condition of the assets on a regular basis from a whole range of events, be they heat, flooding and otherwise. Depending on whether they are local or state roads, that would be the local authority versus being our department's role. Again, my group is not responsible for roads, so as for the actual detail of how and when that occurs, I can provide you some more detail.

Rikkie-Lee TYRRELL: Thank you very much. Then there is – I am really quick, so I am going to cede my time soon – one more question: are there any infrastructure or tools that may be missing within our flood-prone zones that you feel could improve our future flood planning and responses and that could help in the future?

Andrew McKEEGAN: Not that I am aware of.

Stuart MENZIES: The planning scheme provisions – the broad outline – do provide for control of all types of land use and different types of development, so a lot of the tools are there. It is around a coordinated approach across agencies to have the planning system playing its role in that continuum of having up-to-date information of studies, reflecting that into planning provisions and then administering that through individual applications.

Rikkie-Lee TYRRELL: Okay. So you feel that you have got everything you need to do a top-notch job?

Stuart MENZIES: The planning system is around improvement on policy changes and also about technical knowledge and information, so it is a continual process I think around trying to make sure it is meeting community and government priorities.

Rikkie-Lee TYRRELL: Gentlemen, do you feel happy with everything you have available?

Phil BURN: Well, I think the challenge is relying on the technical inputs of the experts. I think too, to the point about things that you might be able to do in the flood plain which might affect the flow of water or how long it stays in an environment and those sorts of things are really the role of the flood plain manager and beyond our expertise, in that sense. But it is critical that that is reflected in the planning system, that is for sure. Certainly in terms of coastal environments, where you might have areas that are subject to riverine and also coastal sea level rise and those sorts of things, there is a hierarchy of options around adaptation and those sorts of things, and the least favourable one is the direct protection of assets within that area. That is specific to coastal areas. But in terms of flood plains, that would be well outside the expertise of planning.

Rikkie-Lee TYRRELL: Okay. Thank you. I am done at the moment, thank you.

Melina BATH: Do you want to say who you –

The CHAIR: Hang on, before we go on, do you want to cede your remaining time to somebody else, or do you want to conclude your time for questions?

Rikkie-Lee TYRRELL: I will conclude my time. Thank you, Chair.

The CHAIR: Thank you. Mrs Broad, a question.

Gaelle BROAD: Thank you very much. Thank you for coming here today – I am sure you have been counting the sleeps; you have been so excited. But look, I do want to talk to you from a regional perspective. I am based in Bendigo and this flood had a huge impact: I mean, 63 local government areas, and we have got a river system that connects right across the state. But I have had concerns raised with me that local councils are actually approving developments in areas that are subject to flooding, and that there have been some cases where flood storages have been removed with nothing replacing them, in approving those developments. I just want your thoughts on: should the planning scheme be enforced, and who is responsible for enforcing that planning scheme?

Phil BURN: There are probably a couple of parts to that, but when it gets to the end point around issuing of a planning permit, you have the local government responsible for administering and enforcing the conditions and endorsed plans and so forth of that planning permit. Now, that generally happens on a complaint-based or very obvious non-compliance rather than necessarily across all councils a routine check of every single permit that gets issued. It is also open for anyone – agencies and the public – to seek an enforcement order at VCAT on particular matters as well. So that would be the general approach with issued planning permits. Then as to things such as other things that might happen in the catchments around, say, the removal of something or filling something in – well, we would need to know the details – it could potentially be a breach of a planning scheme. It may have required a permit to do those works, and it could potentially be a breach of the *Water Act* or something if there were impacts to a declared waterway or something like that, which would then be an issue for the catchment management authority. So it would just depend on the circumstances there.

Gaelle BROAD: Okay. I guess you do agree, though, that the planning scheme should be enforced, because I guess we have these requirements to maintain flood storages in certain places and not build in flood areas. But what is the consequence, I guess, when councils make that decision?

Phil BURN: There are probably a couple of parts to that. As Stuart outlined before, in terms of some of the controls that relate to risk like the urban floodway zone and the floodway overlay, generally the idea is that dwellings and vulnerable uses and sensitive land uses are not within those areas for flood, and then likewise you have got your land subject to inundation and special building overlays, where you may be able to manage that flood risk somehow through floor level heights and so forth. Then of course obviously you have got potentially the challenge of legacy buildings and even legacy townships that were developed well in advance of any planning controls, and obviously it is something which needs to be managed all the way through. As to the specifics of a site where something has been built illegally, I am not across the detail there. But as a general approach as to how that process would unfold, that could be one way.

Gaelle BROAD: But at the end of the day the state government is responsible for the planning scheme, so if councils have made a wrong call, it is the state that would be responsible.

Phil BURN: No. I mean, the state provides the Victoria planning provisions and the tools that councils bring together to form their own planning schemes. Councils are required to review their planning schemes on – I think, Stuart – a four- or five-year basis.

Stuart MENZIES: Four years.

Phil BURN: A four-year basis. And in terms of taking that all the way down to decision-making in assessing applications, it is the reliance in the flood instance on the input of referral authorities – and in the metro area Melbourne Water. Then even in the absence of a specific planning control, the scheme still requires councils and responsible authorities to turn their minds to flood risk as well as other natural hazards. Then in the event that there may be something that is not covered by the planning scheme overlay or that does not require the consideration through a planning permit, there is the building system as well that again will rely on that flood plain advice for building surveyors to make decisions on individual building applications as well.

Gaelle BROAD: I would just like to pick up on what Samantha talked about earlier, because your bushfire overlay is something that has been talked about, and I guess when it comes to floods you can see that rivers right across the state are connected. There seems to be a lot of onus or expectation that local councils will

implement these plans. I guess the feedback I am getting is that they do not have a lot of planners – they have a lot of vacancies for planners. So are we expecting them to deliver something that is not possible for them to deliver, and I guess are you open to looking at a more statewide planned approach, with hydrologists giving that advice – because that expectation on councils with very small budgets in some of these regional towns seems unrealistic? What are your thoughts? Are you open to doing a more statewide approach to flood planning?

Andrew McKEEGAN: So as I said earlier, I think it is that balancing act between just our local content and the approach we were taking, but I am certainly hearing the feedback loud and clear that that is something that could be explored. The decision would not necessarily be ours, but we can certainly take that on notice and go away and have a look and see – irrespective of whether it becomes a central law it is still within local government – what is the best way that we can make that efficient and effective. Everybody wants the same outcome, right, and I am hearing that. It is just about trying to work out our role versus the local government role and then how can we do that effectively. Now, I am not sure that is necessarily a central role taken by the state or by local government but am certainly happy to explore what are the opportunities to continue to work with and partner and try and make that as effective as we can.

Gaelle BROAD: I think that would be very well received, because just at the moment an amendment to the planning scheme – what is the time frame? I guess you talked about time frames too, but when a council puts in a submission, how long does it take? Is it a matter of weeks? Is it months? Is it years? Like, how long does it take to actually implement changes?

Stuart MENZIES: They do vary. In terms of the department’s decision-making times, which is sort of one stage in the process, last financial year that was at 39 days. But an amendment has a fuller life cycle, from the council preparing and initiating it, submitting it for authorisation, going out through a public exhibition, so if there are submissions after exhibition, which is the statutory period of 30 days, that may lengthen the time – hearings, council’s consideration of it and then submission back for approval. So I was talking about the 39 days in terms of the department’s consideration of those approvals, but I would say for a standard flood amendment with submissions, going through the process may take six to 12 months.

Gaelle BROAD: Okay. So I guess when you are talking floods – and we are now 12 months on from the floods – with a lot of rain recently that has made people very anxious. But this is a slow process, so I guess anything you can do to make recommendations to streamline that within the department would be helpful. I do want your thoughts on levees, because I know certainly in Bendigo there are broken levee banks, and we have seen this across different parts – huge subdivisions going in in places like Huntly and Epsom. Yet we have got levees where there is a lot of confusion about who maintains them, and it has been ‘beneficiary pays’. It does not work when you have got thousands of homes in the area. But what is the department’s view on levees, and should there be shared funding between local, state and federal governments? What are your thoughts?

Wendy LOVELL: Levees protect your assets as well.

Andrew McKEEGAN: I understand. I do not believe any of us on the panel here have a technical view in relation to the value or otherwise of levees in the sense of how the planning system can work with insuring them. I am not even sure they are assessable, are they, Stuart?

Stuart MENZIES: No. A levee may be constructed without the need for a planning permit. In other circumstances it may, depending what other works are going on, but we do not have a direct role in the determination of levees.

Gaelle BROAD: Are you able to I guess provide that advice on what your thoughts would be with levees? Certainly in places like Bendigo there are thousands of homes that at this point are not protected, because there are breaks in the levees, so I think it would be quite relevant.

Andrew McKEEGAN: I will have to take that on notice.

Gaelle BROAD: Also we have touched on betterment, but the councils are wanting the betterment to be right at the start. They have had to wait 10 months for betterment funding. Does your department support that need for betterment funding right at the start of the process?

Andrew McKEEGAN: In relation to roads?

Gaelle BROAD: Yes, in relation to roads and I guess building back infrastructure at a better standard rather than like for like, which it is under the current disaster recovery arrangements.

Andrew McKEEGAN: I would have to take that on notice. I do not have enough historical knowledge on that.

Gaelle BROAD: Okay. Just on the roads topic, the feedback I had was that roads were very quickly closed and very slow to reopen with the floods. Lots of different people seemed to be involved, and no-one took responsibility. Who is responsible for reopening roads after they have been closed in an emergency?

Andrew McKEEGAN: I will have to take that on notice and provide more detail in relation to that. I know obviously there would be input based on safety and risk analysis in relation to that access, but the actual detail of who makes the final call I can provide for you.

Gaelle BROAD: It would be very helpful if you could give some advice, because there seems to be a lot of confusion on the ground just immediately after floods – a very little amount of water, yet roads remain closed. I remember looking right across the state and roads were blocked everywhere, so I guess opening them in a faster, more streamlined approach would be certainly beneficial.

Andrew McKEEGAN: Absolutely, and clear information around who is making that process and who is involved in that decision-making I am happy to take on notice.

Gaelle BROAD: We have also seen Regional Roads Victoria have given \$165 million in an emergency road repair blitz program.

The CHAIR: Sorry, Mrs Broad. Your time has expired. I just want to thank you, gentlemen, for coming in and providing your information and evidence to us today. It has been very revealing. I am sure we have all got many, many more questions to ask, but time has beaten us today. Thank you again for coming in.

Witnesses withdrew.