

Parliamentary Submission – Stanislaw Korkliniewski

Dear Commissioner

As a resident of one of the flood-affected areas at Rivervue, I am writing this submission to share my experiences and observations on the devastating impact of floods in our community.

First and foremost, let me express my gratitude to the government and its agencies for their timely response in providing immediate relief and assistance during the height of the flood. Their presence and support have brought As a resident of one of the flood-affected areas at Rivervue , I am writing this submission to share hope and comfort to many of us who have lost almost everything due to this disaster.

Furthermore, the emotional and mental toll of such natural disasters cannot be underestimated. We have witnessed firsthand the trauma that flood survivors have endured, from loss of property and mental wellbeing.

However, I do have some concerns about the handling of this disaster.

The floods of October 14, 2022, were devastating for me personally, and for my fellow residents and entire neighborhood as well. At around 7.00am on 14 October 2022, my wife received a phone call from our friends who live in Evergreen Ave, who asked if we could come over to their place and help them move furniture, as the flood waters were beginning to flow over the retarding basin. By around 8.05am, the flood waters had started to overflow over the roads and the drains. There wasn't any kind of mechanism in place to prevent the flood waters from overtopping the Maribyrnong River.

We waited out front of our house to see if the flood waters would run into Blueridge Close. Much to our surprise, the two drains in front of our house and one at the rear of our house also started to overflow. It appeared that there were no non-return valves to prevent river water backflow. At this stage, I decided to take the car to higher ground. As I was running back home afterwards, the flood waters in the street were slowly rising. My wife and I decided to knock on our neighbor's doors to alert them. That took some effort, as people were asleep and difficult to raise. There were no staff present on-site, which meant that consequently, no evacuation procedures took effect.

By around 8.20am, I told my wife, Cheryl, to start packing, as we were going to be flooded any time soon. She was in total disbelief. We salvaged whatever we could and started to prepare to evacuate our home. When we opened the front door, we were horrified by the volume of water that came into our home. I never dreamt there could be that much water coming through our house! I finally managed to get out, with a suitcase over my head and my wife clinging to me. At this stage, the water had reached approximately three feet. One of the other residents walked into the water to help my wife walk onto safe ground. The flood water was filthy, and we subsequently found out that this was categorized as category 3 black water.

Unfortunately, management did not have emergency procedures in place. . As the water continued to rise, chaos ensued. People were rushing around, grabbing whatever they could find and attempting to save their belongings.

As the water levels continued to rise, it became increasingly clear that there was no plan in place for this kind of emergency. Management had not prepared for a flood, and no one knew what to do.

In the aftermath of the flood, Rivervue Management has not implemented comprehensive emergency procedures to ensure that such disorganization would never happen again.

When we returned to our home after the flood, the stench of receding flood water dominated the airspace for days. We were not provided with any sturdy waterproof footwear or rubber gloves. Most of us went to Bunnings to buy some sort of safety equipment at our own expense. As days passed, mold started growing on the walls. Our insurance company organized RestorX to assess our contents damage and assess what was salvageable and what was not. RestorX provided boxes, but we had to pack what was salvageable ourselves in the stench without any concern for our health and wellbeing.

The other affected residents experienced the same issues, with no regard for people with weakened immune systems, allergies, severe asthma, lung diseases, or other conditions. Tigcorp's management did not implement any health and safety directions, despite concerns about hazardous pollution in the floodwater, as drains and sewers had become overwhelmed.

Following the flooding, I and many other residents made requests regarding warranties and guaranties for buildings that were damaged in the flood. However, Rivervue will not disclose whether the builder had builders' insurance and did not provide us with the opportunity to take advantage of any warranties that may exist. Residents are also being blamed for the damage. For example, toilet blockages are blamed on residents, though they are in fact blocked with building rubble or have been installed incorrectly. Shoddy workmanship has been an ongoing issue, with the shower recess smelling of sewerage, hot and cold-water piping being installed back to the front, water drainage issues, and water leaks from faulty construction of villas that are put on permanent hold with no intention of a fix. As a result, residents are being forced to rectify these matters without any compensation.

The flood had taken everything I held dear, but it was the impact on my personal life that was the most devastating. My home, my sanctuary, had been destroyed. My memories, my photos, and my mementos were gone. All that was left was the sound of rushing water, the stench of mud, and the overwhelming sense of loss.

No one in their right mind would be willing to buy a property that was now at high risk of future flooding.

The once serene and picturesque village was now in disarray, its beauty stripped away by the deluge.

Personal Impacts and My Story

Before moving onto some of the more technical aspects of this issue, I wanted to provide you with some background information about myself and expand on some of the personal impacts these issues have had on me in more detail.

As a child, I arrived in Australia from war-torn Europe, with only a few belongings in battered suitcases. Of course, each Displaced Person's or families' reasons for wanting to migrate differed, but reasons for coming to Australia included the desire to improve their economic and/or social standing, overpopulation in their home country, fear of political unrest, and restlessness, dislocation, and disruption to family life caused by the war.

My father was contracted to work on the Snowy Mountains Scheme, whilst my mother stayed at the camp with the other women and children. All displaced persons people had experienced trauma, and many had serious health conditions because of what they had endured. As displaced persons, we were often moved from camp to camp, looking for family, countrymen, or better food and accommodation. Of all the migrants who endured hardship, it was us – the children – who were most confused, and most likely to succumb to malnutrition and illness. I remember spending weeks in hospital.

Initially, we lived at Cowra. There was the initial shock of arriving at a camp in the middle of nowhere, at most times in the heat of summer when everything was brown. The accommodation was basic; huts had no lining, no heating in winter, and no internal doors to connect the rooms. Living in the camp was also not easy for most families. Mothers and children lived in the camp while their husbands and fathers worked away, like my father at the Snowy Mountains. Mostly people socialized, even though they came from different nationalities and different backgrounds. Despite the challenges they faced, they were happy.

But there were also times of great sadness and loss. I remember the pain of saying goodbye to families who were leaving the camp to start anew elsewhere. We shared their hopes for a better life, but we also felt the ache of separation and the uncertainty of our own futures.

As I grew older, I became more aware of the realities of our situation. I saw the discrimination and prejudice that my family and others faced in the wider community. But I also saw the resilience and strength of the people around me. We supported each other through the toughest times, and we celebrated each other's triumphs.

Finally, after just over six years in Cowra, we arrived in Sunshine, Victoria. My father built a house for us, but it was more than just a house – it was a home, which was ours and a safe haven.

Today, in my twilight years, I recall my parents' gratitude of coming to Australia. They laid a foundation for us children to have a home and education. Despite their efforts, I find myself homeless, discouraged, disappointed, and angry to have my life ruined by a unscrupulous organization like Tigcorp and Rivervue, who have repeatedly engaged in deceptive and unconscionable conduct, which needs to be investigated. This is not the life I created for my

family. The other residents who were affected feel the same way. On the day after the flood – 15 October 2022 – I saw eyes without dreams and faces without tears, the unhappiness beyond imagination as residents returned to see the catastrophe which had befallen them.

Since the flood, I have been diagnosed with post-traumatic stress disorder (PTSD) and Depression. I suffer from anxiety and fear, worrying about what will happen if there is another flood. My moods have also changed, which is having a negative impact on my family, as I tend to withdraw into myself. I have been seeing a psychologist to help with these issues.

PTSD is not just a memory, it's a lived experience that affects every aspect of my life. And while I may have survived the traumatic event, the fear and anxiety it brought will be with me forever. Its exhausting living with post-traumatic stress disorder

My wife is also traumatized by the flood event of 14 October 2022. As a result of the flooding, we had to move away from our area, meaning she now doesn't get to see her two grandchildren, who are aged seven and four. My wife's concern is her grandchildren will forget her and won't know who she is. This contributes to our worries and creates further anxiety. She also worries about her Japanese maple garden and elks.

My Wife worked so hard to make this house a home. She sometimes has difficulty shaking the feeling of despair.

As residents, our homes being destroyed has had a significant detrimental effect on our health and wellbeing. Regardless of individual circumstances (health, disability, financial status, family support), residents were evicted with no empathy for the circumstances, and were not provided with the necessary support to be resilient under such challenging circumstances. As a result, residents have experienced social isolation, financial stress, emotional trauma, and harm to their welfare, and will require ongoing support and advocacy for their recovery.

These worries and anxieties have been added to by a number of Flood Forums that have been held at Rivervue. The General Manger always arrives armed with the residents' contract, and preaches to the residents about their obligations. Management engages in lip service and avoid answering questions. If this was a Olympic sport the General Manager would have won several gold medals. It's nothing short of disgusting in the circumstances.

It is worth noting that all these issues are compounded by the contract we signed, in which there is a significant imbalance in favor of the owner. Furthermore, the wealth that we worked all our lives for has been destroyed, with no hope of recoupment at our age. The market value of all affected properties has plummeted due to the flooding, as the properties are not saleable. Insurance premiums are also rising, based on the most up-to-date available flood studies rather than planning scheme controls. All this leaves us stuck at Rivervue, hoping there isn't another flood.

The flood saga has taken over our lives. We have had to deal with misleading and deceptive contact by Tigcorp and Rivervue, whilst navigating our insurance and lives. Instead of enjoying our lives and retirement, we are being forced to cope with this very time-consuming and depressing situation.

Days turned into weeks, and weeks turned into months, as we tried to pick up the pieces of our lives and rebuild. Though the physical damage of the flood had been repaired, the emotional scars lingered

TigCorp And Rivervue Governance issues

A committee bus was also organized, though there was no mention of residents being involved, and no meeting reported, other than to advise the Residents Retirement Committee (RRC), who have decision making powers under the Retirement Village Act 1986. There was no mention of additional costs being agreed to, or even discussed. There was also no meeting convened to agree to additional GST costs. It certainly appears from the above that the bus was brought about by Tig/Rivervue, and decided on by Tig/Rivervue alone. The General Manager has made it perfectly clear that the bus had nothing to do with residents. There was an instance where money was taken out of a resident's bank account without permission for a phone which was incorrectly installed.

Misleading and Deceptive Conduct - . Mr. Lloyd (Village Manager) said the retirement village's emergency response procedures were put in place immediately and contributed to keeping everyone safe. However, this has been challenged, and we have found that no such procedures were in place. Also, as the 18th April 2023 meeting minutes state, "Angela (General Manager) explained how, as an independent living set up at Rivervue, residents had a responsibility to prepare and understand their own emergency plans. Similarly, management had its own private responsibilities. That said, management is working on some 'Redi-Plan' documentation to guide residents in preparing their plans. Kelvin to meet with Moonee Valley Council to discuss the roll out of plans.?" This is nothing short of scandalous. Work Safe needs to step in! Policies are made on the run

Initially, we were advised that Tigcorp would be supporting us and the other affected residents by providing us with temporary accommodation in a hotel. I asked the General Manager whether Tigcorp would be covering the cost of our accommodation, to which I was advised the answer was "yes". However, Tigcorp later backtracked on this promise by advising that they were underinsured, and that consequently there were insufficient funds to provide residents with financial assistance with accommodation. We were advised that therefore, from 2 November onwards, residents would need to take responsibility for securing their own accommodation at their own cost. We were reassured that the insurer would continue to assist residents who were currently in temporary accommodation and continue to cover the cost of this (excluding meals and incidentals) up to and including 1 November 2022.

The General Manger has continually stated that there is no requirement under the Retirement Villages Act 1986 for them to disclose such information to the Residents.

Consider:

- Approximate asset value of Rivervue is \$84m.
- The Owner/Operator had \$5m Flood insurance cover for the *entire* village.
- The Residents pay for the flood insurance (the Rivervue Residents Committee is a named co-insured) under their Service Fee but the Insurance Policy had *never* been disclosed *despite* numerous individual resident requests, by the Rivervue Residents' Committee (RRC).
- The amount of \$5m was *only* disclosed incidentally: The Residents suddenly had nowhere to live: Hence the Owner/Operator was forced to explain its exposure to pay for temporary accommodation was limited to \$1,260,000 and had to show the Certificate of Currency.
- **The Residents are now aware that flood insurance for Rivervue was refused by 13 insurers out of 15 which were approached. Concern This was never disclosed by Rivervue management.**
- The current insurance policy expired 30th April 2023 – but the Residents have been told that there has been an ‘extension’ grant. Again, no details provided. Concern is whether Tigcorp/ Rivervue will be able to secure Flood Insurance
- Numerous, longstanding requests about insurance over years prior, and since the Flood have been made to Rivervue’s local management, and to the owner of TigCorp Mr [REDACTED] directly . Even requests to the Insurer itself have gone unanswered. All requests have been either ignored or if replied to, failed to provide any reasonable, adequate explanation, or information.
- The Residents are very concerned at the reasonable prospect that their Villas at Rivervue will be uninsurable.

Insurance policies are essential in protecting one's assets and finances. However, failure to disclose such policies is a serious problem that should be taken seriously

It was evident that this was a significant problem, and the lack of transparency had caused considerable distress among the residents. People felt cheated, betrayed, and frustrated.

With this in mind, I'd like to highlight the following from the Retirement Villages Act 1986 and Retirement Villages Regulations 1999, which provide the regulatory framework for retirement villages in Victoria. The primary objective of the legislation is ***“to clarify and protect the rights of persons who live in, or wish to live in, retirement villages.”*** The Retirement Village Act 1986 of Victoria also states that, ***“S20(3) If asked by a resident, an owner or owner's agent of a retirement village must give to a resident information concerning the retirement village which the resident reasonably requires, and the owner or agent is able to give.”*** The Retirement Living Code of Conduct also states, ***“A1.2 We adhere to the following general principles in all our dealings with our current, potential and future residents, and relevant stakeholders: e) Strive for clarity; f) Be transparent and accountable.”*** There is nothing in the Retirement Villages Act 1986 and Retirement Villages Regulations 1999 that prevents Tigcorp and the Insurance company from disclosing information. Rather, it is Tigcorp and the Insurer that continue to not be transparent by hiding behind the Retirement Villages Act 1986 and Retirement Villages Regulations 1999.

Additionally, the non-disclosure of the insurance policy has eroded our trust and confidence in the management of the retirement village. It has made us question whether other vital information is being withheld from us, and whether our needs and interests are being adequately considered and protected.

When we purchased the year lease of [REDACTED], the sales staff explained what we were purchasing as part of the contract – one item of which was fittings. It was explained to us then that the carpet was part of the fittings. This is further backed up by Schedule Eight in the details of the contract, which lists that fittings are supplied by the owner, with carpet specifically listed as one of these fittings. Despite this, when our home was flooded, Tigcorp and Rivervue advised that carpets were part of the contents, and therefore the resident's responsibility.

Any work completed by Rivervue, invoices from Rivervue are not issued in the resident's name, despite the residents paying for these works to be done. If residents pay, no doubt Rivervue is recouping the GST. Where equipment failure occurs, to keep the building compliant, Rivervue inflicts a 12.5% whack for doing absolutely nothing.

I am extremely concerned and frustrated by Rivervue's Management. The Rivervue Manager has emailed me stating, "***It doesn't matter what the salespeople say, it's what the contract states.***" As an example, the salespeople promised community vegetable gardens, hot meals, and a caravan park (some residents even have this on their plans) – none of which are true. Again, this is in contravention of the Retirement Living Code of Conduct (RLCC), which is an industry initiative developed with reference to the Australian Competition and Consumer Commission's Guidelines for developing effective voluntary industry codes of conduct for best practice in retirement living. The Retirement Living Code of Conduct (RLCC) also states in its Background section that "***It is intended to co-exist with relevant state and federal legislation, including various state retirement village acts and Australian Consumer Law. The existing regulatory and legal obligations of Signatories and residents are not replaced by this Code.***" RiverVue, which is developed, owned, and managed by TigCorp, voluntarily subscribed to the Retirement Living Code of Conduct in March 2020. Despite this, both companies operate on misleading and deceptive conduct without fear of any consequences. There have also been instances bullying of single women by management. Most people are fearful of management, as a result of the consequences they worry they will face if they rock the boat.

The impact of the flooding river, overflowing sewage and septic systems, and other freshwater flooding had an immediate and dramatic effect on the lives of the area's residents, which has only been compounded by the issues outlined above. **I invite the Parliamentary Committee to view the [complaints register](#) to get a sense of what is happening.**

Technical Aspects of the Flood – What We Know

- Rivervue has wetlands, which separate the Maribyrnong River from the Village. The wetlands are designated and zoned as a Public Park and Recreation Zone (flood plain). More information on this zoning can be found at <https://www.land.vic.gov.au/maps-and-spatial/spatial-data/vicmap-catalogue/vicmap-planning>

- Melbourne Water is a referral authority in the planning system under Section 55 of the Planning and Environment Act 1987. This means that Melbourne Water would comment on development and subdivision applications and, if necessary, place conditions on planning permits. This ensures that new developments are adequately designed to protect occupants from flood.
- There were changes in company name from Riverwood to Rivervue for whatever reason. Riverwood Residential Development Pty Ltd was a Submitter to change the LSIO.
- Two applications for building permits were lodged to MVCC, but were rejected as non-compliant to building flood plain codes to Melbourne Water (MW) in terms of the Australian Height Datum (AHD).

Despite these concerns, Tigcorp's developer adopted a flood level of 5.85 m AHD – a full meter below the upstream boundary 100-year flood level.

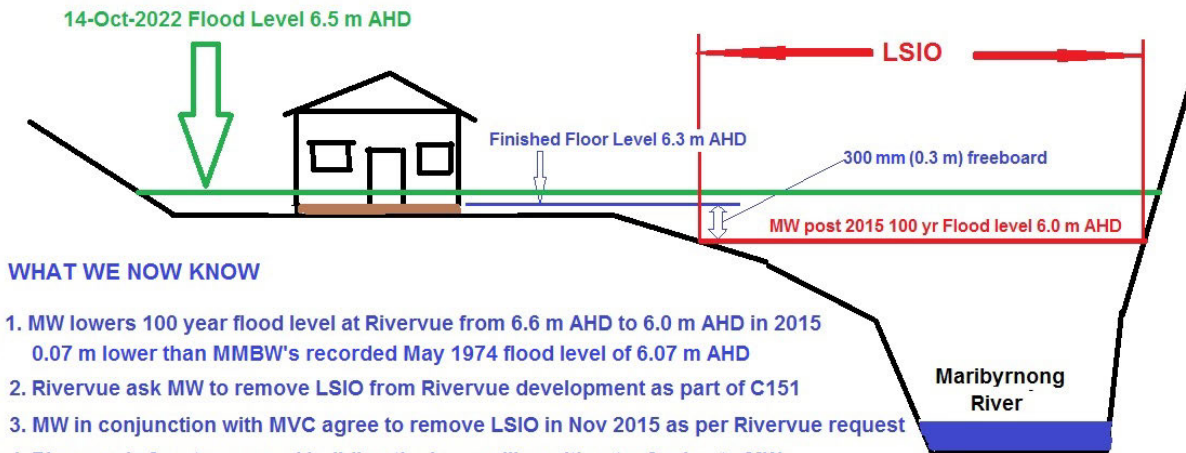
- Tigcorp (Retirement Services Australia) decided to go through VCAT to support their building case in 2006. On June 21 2006, VCAT voted in favor of the submission with specific building height guidelines:

The Land Subject to Inundation Overlay is a mapping tool used by environmental and government agencies to identify areas of land that are at high risk of flooding and inundation during extreme weather events. This overlay takes into account topographic data, historical flood data, and climate projections to identify the areas most susceptible to flooding, as well as the expected severity of these events. Once these areas are identified, planners and decision-makers can take steps to mitigate risks by designing and implementing flood management and protection measures, such as building flood levees or elevating buildings. The Land Subject to Inundation Overlay is a valuable tool in helping to protect communities and infrastructure from the potentially devastating effects of flooding

The May 1974 flood was only a 40-50 year flood and yet it is 7 cm higher than MW's updated 100 year flood of 6.0 m AHD in 2015 that drove the relocation of the LSIO off the Rivervue development footprint. (The flood of 14th October 2022 was measured as approximately 2cm higher than the 1:50-year flood of 1974). Rivervue ask MW to remove LSIO from Rivervue Development as part C151 Melbourne water in conjunction with Moonee valley Council agree to remove LSIO in November 2015 as per Rivervue request Rivervue is free to proceed building the lower villas without referring to MW.

Had MW's required minimum floor level of 7.2 M AHD back in 2006 have been 7.00AHD. Tigcorp made their submission opposing to the form of the LSIO, which resulted in the LSIO being removed from the Rivervue Village development footprint. Consequently, Rivervue was allowed to design and build villas with 5.85AHD, which outrages me. This should have raised a red flag for MVCC.

WHY 47-48 VILLAS AT RIVERVUE FLOODED ON 14-OCT-2022



WHAT WE NOW KNOW

1. MW lowers 100 year flood level at Rivervue from 6.6 m AHD to 6.0 m AHD in 2015
0.07 m lower than MMBW's recorded May 1974 flood level of 6.07 m AHD
2. Rivervue ask MW to remove LSIO from Rivervue development as part of C151
3. MW in conjunction with MVC agree to remove LSIO in Nov 2015 as per Rivervue request
4. Rivervue is free to proceed building the lower villas without referring to MW
5. The lower villas in Evergreen and Blueridge are built in 2017 with 300 mm freeboard above MW's new 100 year flood level of 6.0 m AHD in accordance with Victorian Building Regulations Clause 153.6 (b)#
6. Maribyrnong River flood on 14-Oct-2022 reaches 6.5 to 6.66 m AHD at Rivervue flooding 47-48 villas with floor levels built at 6.3 m AHD or higher.*

VBR 2018 (but earlier edition had similar clause).

* Six (6) villas at Rivervue had floor levels built at 6.28 to 6.29 m AHD ie 1-2 cm lower than 300 mm freeboard

- Freeboard is the height difference between the 100 year flood level and the floor level of the building. Allowing adequate freeboard helps to protect people and property from flood damage.



If property is affected by flooding development, it must be designed so that new buildings are protected from a 1 in 100 year flood. In addition, development must not increase flood risk or hazards to people and property.

This issue is of sensitivity to residents in the Maribyrnong River corridor, particularly given the number of properties that are below the 1:100 year flood level, and experience inundation. Per the above, ***“risk to people would be minimised by habitable buildings being 600mm above the flood level”, and “the grading of the site would mean some adjustment to levels shown on the plans at the south-east corner of the site (increase from 6.6m AHD to 6.85m AHD for habitable buildings”.***

- The flood zone and overlays are specifically designed to identify land with particular flood characteristics.

In November 2015, Wimbush was the sole person on a panel, after Melbourne Water

requested that Moonee Valley Council change flood planning rules covering a portion of the Rivervue Retirement Village site next to the Maribyrnong River.

Melbourne Water's amendment meant the one-in-100-year flood risk area moved closer to the river, leaving only a sliver of designated flood-prone land between the retirement village and the river.

It was extraordinary for Moonee Valley Council to rezone the land that much of Rivervue Retirement Village is built on from Public Park & Recreation to Residential 1, but then to relocate the land subject to inundation overland 70-80 metres closer to the Maribyrnong River.

Changing flood plain

Its clear that changing a flood plain can have a profound impact on individuals, communities, and the natural world. As we continue to shape our world, it's important that we consider the long-term consequences of our actions and take steps to mitigate any negative effects. After all, we only have one planet - let's take care of it.

The 100-year flood line over the Rivervue site, prior to extinguishing the LSIO. (courtesy of MWFR#44 submission)



WFR#44 submission
MWFR#44 submission

Tigcorp was a **submitter** to the panel in support of the realignment of the 100-year flood line, and reclamation of some of the flood plain capacity. Mr Nick Wimbush is ultimately accountable as chairman for signing off the Amendment Report C151 that authorized the one-in-100-year flood risk area, which is the root cause, in my opinion, of the flooding event at Rivervue.

- The Rivervue Contract (RMC) contains a representation that our unit was not subject to flood risk. Clause 36.2 of the RMC says that "flood levels have been designated along the Maribyrnong River by the relevant water authority as noted on the Site Plan", but the

Site Plan (Schedule 8 to the RMC) does not identify the unit as being within any flood level. Rivervue's representations were misleading and deceptive, because the unit was evidently subject to flood risk

- Fig 1 and Fig 2, are an image of a map from a TIGcorp document showing the flood plain upon which our houses have been built. The designs for the villas in Blueridge and Evergreen were at hand as early as 2015 when the C151 report was released.

During the 14 October 2022 flood, 47 properties at this site were flooded, despite no indication from Melbourne Water that this would occur. VCAT approved the development application based on advice from Melbourne Water, and the Planning Minister approved the adjustment of the overlay based on the findings within the panel report. The Villas located on Evergreen Avenue and Blueridge Close were built on land that was covered by a previous LSIO that was updated and removed from the overlay in 2016.

FIG 1



FIG 2



- As part of this current review, the Panel should analyze development approvals, existing site levels prior to the development, approved levels, and site modification during the construction and as-constructed building levels. The Panel should also consider future facing modelling that factors into planning schemes.

The planning scheme determines the circumstances in which a planning permit is required. Just because a person can apply for a permit does not imply that a permit should or will be granted. The planning scheme lists the matters that councils must consider. They include the state and local planning policies, and the purpose of the zone, overlay and any other provision.

FIG 3 and Fig 4 below Reference is the AGE newspaper -November 2022 of the 1:100-year flood lines before the 2015.

- Tigcorp, which owns the Avondale Heights retirement village Rivervue, made a submission to Melbourne Water's flood inquiry revealing that [a controversial 2016 amendment resulting in the removal of the one-in-100-year flood risk area](#) from most of the property was originally meant to be dramatically stricter.

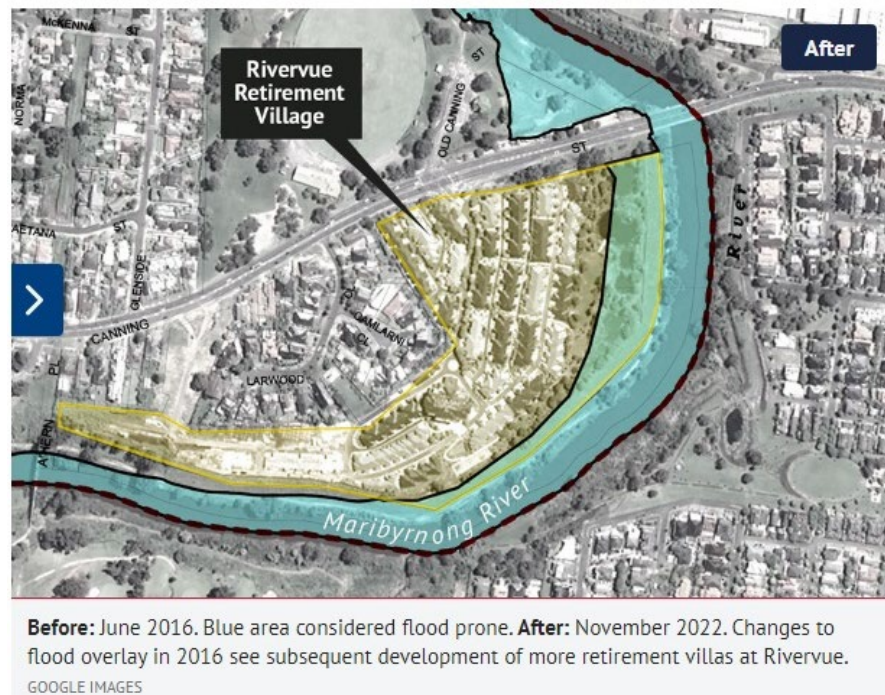
While zoning changes were implemented in 2016, which Rivervue has claimed pushed the flood risk boundary away from the dwellings, an analysis conducted by Mr Karl Mellon of Climate Valuation suggests that the location is still considered a flood zone. ABC reported

The Land subject to inundation overlay is not just a passive tool . It is a call to action ,urging everyone to be stewards of the land

FIG 3



FIG 4



- Climate change is an ongoing and escalating risk that is facing the community. The LSIO must incorporate climate change modelling and draw upon the most up-to-date data.
- In regard to modelling, streamflow data biases and errors can arise from site selection, instrumentation, sampling/measurement procedures, postprocessing, or inadequate rating curves. Rating curves are particularly uncertain in unstable river channels that adjust their form due to erosion or sediment deposits, vegetation growth, and blocked

wood debris, or after major floods. These biases and errors have been shown to be particularly pronounced for floods and low flows, because these extreme events may occur rarely and are difficult to measure with a high precision. Upon closer examination of the VCAT ruling, shows Melbourne Water didn't do any modeling and did not object to the data that was modelled.

- Another issue with flood modelling is the complexity of predicting flood risk. There are many factors that can impact the likelihood of a flood, including terrain, rainfall, soil types, and vegetation. When creating models, scientists and engineers must account for all of these variables, making it a daunting task. This complexity also means that it can be difficult to understand the results of flood modelling, making it harder for local communities to prepare for potential flooding.

- **The MW submission is #53.**

The question arises: how the building permits granted to Rivervue as there are so many contradictions.

Reference is also made to page 24 of 36

MW quoted AHD declared for Rivervue was only 2cm. higher than the 1974 flood which was a 1:50-year event at the time.

Quote "The report goes on to state "the extent of the flooding experienced in the 2022 flood event was close to what was modelled." how did MW ever be able to be the proponent in the MVCC C 151

- The below image shows the current sewage works which have commenced at Medway Golf Club. Advertising placards produced by MW depict villas in Evergreen Ave and Blueridge Close as having been built in a PP&R zone, not a RZ1 zone.



- The Melbourne Water (MW) Sewerage project was announced in early 2022. Rivervue management announced the project 8 months after it was announced.

Melbourne Water indicated that there was initial communication with Rivervue. The Owners of Rivervue had not placed any submissions.

- MW placards for the sewer upgrades show the Rivervue site being built on the original 1:100 flood plain.
- A request was made to Moonee Valley council requesting a plan of the stormwater and drainage system. The response from MVCC was “Storm water and drainage of this Development is managed.” The concern is, have the drains been built to specification, and are there return valves in place? Why was my rear property flooded by the drains?
- Rivervue refers to the earth works, and mentions the swales being engineered. The swales are only shallow ponds and are used to return runoff back into the water. It must be said the pond had zero effect on the flood event. There were no earth works undertaken that is why as shown on VicMaps its zoned PPRZ
- The PPRZ zone has never been extinguished by any authority which is interesting in itself
- The image below shows fellow Maribyrnong flood victim Be Hoang, the professional surveyor who attempted to survey the floor level in Evergreen Ave and Blueridge Close on 5 November 2022. Mr Be Hoang was asked to leave by the Rivervue Management, and threatened with police action if he did not comply.



ORDER

I wish to close by drawing attention to some key information in the order and conditions relevant to this case. I have highlighted in yellow some of the passages of most importance.

In permit application no. MV/16866/2004, a permit must be granted:

9 CANNING STREET, AVONDALE HEIGHTS - USE AND DEVELOPMENT OF THE LAND AS A RETIREMENT VILLAGE AND NURSING HOME AND ASSOCIATED SERVICES, CREATION OF ACCESS TO LAND IN A CATEGORY 1 ROAD ZONE, A REDUCTION IN CAR PARKING, REMOVAL OF NATIVE VEGETATION

VCAT had in-built safety margins to safeguard against flooding of the villas. However, the villas were built too low due to the removal of the LISO to suit Tigcorp.

There appears to be some confusion regarding ground level. Natural ground level is the natural level of the site before any excavation or filling has been carried out on the site.

All residential zones detail a maximum building height. However there has been a number of VCAT decisions which question the lowest measuring point of this calculation.

Under clause 73.01 in the Victorian Planning Provisions, “building height” is defined as *“the vertical distance from natural ground level to the roof or parapet at any point.”*

What can be established from the VCAT decisions to date is that the NGL depends on whether the site has been subject to significant past earthworks, and an ability to tender evidence which sufficiently establishes the predevelopment levels at a particular point in time.

Retirement Services Australia v Moonee Valley CC [2006] VCAT 1172 (21 June 2006)

Melbourne Water conditions

37 Freeboard. Finished floor levels must be a minimum of 600mm above the applicable flood level. Unless otherwise agreed in writing by Melbourne Water, finished floor levels of any outbuildings, storage sheds, and so on must be a minimum of 300mm above the applicable flood level.

58 “This issue is of sensitivity to residents in the Maribyrnong River corridor, particularly given the number of properties that are below the 1:100 year flood level and experience inundation”; “risk to people would be minimised by habitable buildings being 600mm above the flood level”; and “the grading of the site would mean some adjustment to levels shown on the plans at the south-east corner of the site (increase from 6.6m AHD to 6.85m AHD for habitable buildings”.

58 “This issue is of sensitivity to residents in the Maribyrnong River corridor, particularly given the number of properties that are below the 1:100 year flood level and experience inundation.” The proposal involves re-alignment of the 1:100 year flood level. Based on a plan submitted as part of the report by Neil Craigie Pty Ltd (MWC Information request dated 5 October 2005), Melbourne Water has not objected to the proposal subject to a number of conditions.

Dr McCowan presented evidence reviewing the material prepared by Mr Craigie, and concluded that the proposal would maintain or exceed the existing floodplain storage, and that any increase in flood level would be minimised or negated by the additional capacity provided by the proposed wetlands. He also concluded that risk to people would be minimised by habitable buildings being 600mm above the flood level, and

outbuildings/garages being 300mm above the same level. He noted that the grading of the site would mean some adjustment to levels shown on the plans at the south-east corner of the site (increase from 6.6m AHD to 6.85m AHD for habitable buildings and from 6.3m AHD to 6.55m AHD for outbuildings). This can be confirmed through permit conditions.

Dr McCowan also reviewed material tendered through submissions by Mr Provis and Mr McNish that questioned the applicable flood level, and suggested that it should be higher than modelled by Mr Craigie. Dr McCowan explained why he did not consider the calculations to be correct, and why Melbourne Water's designated flood level was felt to be conservative based on modelling undertaken by Mr Craigie. Dr McCowan noted that in a flood, there may be some scouring near to the Cordite Avenue Bridge, but nothing more than would be expected in a flood event without development on the review site.

In conclusion the duty of care describes the level of competence that is expected of a board member and shadow directors, and is commonly expressed as the duty of 'care that an ordinary prudent person would exercise in a like position and under similar circumstances'. This means that board members and Shadow Directors owe the residents and should have exercised reasonable care making decisions as stewards of the organization. The directors have a responsibility to discharge their obligations as follows;

- Act honestly and carefully;
- Know what the company is doing.
- Take care when handling other people's money.
- Ensure that proper financial records are kept.
- Act in the company's best interests.

It is worth noting here that entitled remedies in the form of compensation should be paid under sections 236 and 237 of the Australian Consumer Law, including The Retirement Village Act 1986. Also, under these laws, proposed regulations have to be released for the protection of residents, insurance issues need to be addressed to protect residents, and residents pay for insurance via their service fees.

What has transpired is Misleading and Despicable Conduct and the matter should be referred to ASIC to investigate the behavior of Directors and Shadow Directors

The Residents also believe their situation is made far worse by alarming regulatory loopholes in legislation covering retirement villages. As such, the Residents wish the Minister to consider law reform to better protect retirement village residents.

The Residents believe they have sufficient evidence- both before and since the Flood - to support numerous actionable breaches of contract and consumer legislation by the Owner/Operator of Rivervue.

The Resident's key issues are insurance & consumer protection.

The pillar of a decent society is respect for a human person. People matter even if they are not wanted. That includes the poor and the marginalized, the elderly the disabled. The freedom of religion and the freedom of conscience are fundamental to the dignity of the

human person. For example, one Christmas Management wrote to residents saying'' Christmas decorations could only be put up from a certain date and pulled down by a certain date because Villas had to be sold. That statement prohibited me and my family from exercising our religious beliefs.

The AGE newspaper published reports on the 6th, 7th, 8th, and 12th February 2023, A damning reports on Rivervue was published on the 15th of April 2023. The general manager of Rivervue Ms. Angela Buckley responded on 17th See below: -

Dear Stan & Cheryl,

17 April 2023

The Age article on 15 April 2023

Over the weekend you may have seen an article in The Age about the Maribyrnong flood event including Rivervue and, although we will not be commenting on every newspaper article, **we want to reaffirm with you that we had all required approvals in place for all our building.**

The original 2006 planning permit included future flood mitigation earth works and the amendment in 2015 recognised that flood mitigation earth works had been completed.

Comment: C151 2015 report had acknowledged that the earth works had been completed in accordance with the VCAT 2006 ruling.

We understand this story may cause concern for residents, particularly those who have been impacted directly, and we express our sympathies for any undue stress during this period.

Comment : Another example of Platitudes. Trust and confidence has eroded in the management of Rivervue Retirement Village

Our team continues to push forward with restoration works and welcoming back residents remains our number one priority. **Comment : 8 months would have elapsed before we move back in**

Following the return of residents, our next steps will be determined by the outcome of the flood review by Melbourne Water. **Comment : It is worth noting here that entitled remedies in the form of compensation should be paid under sections 236 and 237 of the Australian Consumer Law, including The Retirement Village Act 1986**

We look forward to restoring your community as soon as possible.

Regards,

Angela Buckley

General Manager, Retirement

Despite the government's swift response, it is evident that the flood mitigation strategies in our region are insufficient. The frequency and intensity of the flooding incidents are increasing, and we are concerned about our safety and security in the future.

Therefore, we urge you to consider the following recommendations to improve the flood mitigation measures in our area:

1. Strengthen the river and dam management policies to ensure the safety and security of community that live near the river. It is crucial to monitor and maintain the water flow in this areas to avoid massive flooding incidents.

2. Retirement Village Act 1986

THE ACT HAS BEEN COMPLETELY INEFFECTIVE IN “PROTECTING” US from the misinterpretation by the operator,

- the effectiveness of the Act
- how the retirement village industry is regulated.
 - The Act in its present form does not provide sufficient obligations to developers and operators to protect the interest of residents and the community in general.
 - Accreditation needs to be carried by an independent organisation. As villages age such accreditation will ensure that the village will be kept to a reasonable standard.

3. Enhance the communication systems, especially in disseminating flood warnings and alerts. Provide the residents with real-time information and access to necessary assistance.

4. Affected residents should be paid compensation by Melbourne Water and or Rivervue for non – disclosure about building on a flood plain

- Relevant loss or damage would include the cost of alternative accommodation.

5. Insurance Issue –Management and Owner refusing to disclose insurance policy to Residents which is nothing short of criminal. There is fear that Rivervue may not secure Insure in the future. Insurers may not have the appetite to take on the risk due to Rivervue being on a Flood Plain

6 Refer the directors and shadow directors to ASIC or ACCC

- The Residents consider they are systematically being denied their legal and consumer Rights. We believe there has been routine and systemic failures by the Owner /operator
For Example
- Maintaining the Sinking Fund with ambiguous, oversimplified project /proposals which deny any proper accountability

7 To safeguard the Rivervue site the 2006 VCAT regulations should be re-instated.

8. A Royal Commission should be established into the behaviour and running of Retirement Villages.

9. Review Section 18 – Retirement Village Act provides that the Australian Consumer Law apply to services provided under our contract. Is there a Breach of Contract??

10, Review of the Sinking Fund --- This is particularly relevant given the Flood Insurance Issues .

- **Exactly how the Owner/Operator will administer its own funds or will the Owner/Operator draw from the Residents Sinking Fund. This is a mystery**

11. Review Senior Managements Role as Shadow Directors :

- **Aa shadow directors did they ensure that all of the company operations were carried out in accordance with applicable laws, regulations, and ethical standards..**
- **The first duty of a shadow director is to ensure that all company operations are carried out in accordance with applicable laws, regulations, and ethical standards.**
- **Older Australians who live in privately owned and managed community style living have serious barriers to accessing legal services. Barriers have been created because of costs, intimidation, legal capacity and the complexity of the legal framework governing community style living.**

In conclusion, it is my humble opinion that the impact of this disaster on the lives of people is beyond what we could have imagined. Therefore, it is essential that appropriate actions are taken by the Commission to alleviate their pain and support their recovery. The community also has a responsibility to act locally to minimize the effects of climate change that fuel these devastating floods.

While the situation is tragic, we must recognize that this flood is not an isolated event. It is a part of a larger trend of severe weather patterns and climate change, which we must address.

Stanislaw Korkliniewski



Parliamentary Inquiry into Flood

Submitter : Cheryl Korkliniewski

Dear Committee

I recognize the importance of the government's support and assistance in such a crisis as a Flood. The Government and its agencies' timely response and the availability of necessary resources have been vital in managing the situation. It is reassuring to know that we can rely on the government to stand by us during such challenging times.

The floods have been a challenging time for us, but with the support and aid provided by the government, we were able to weather this storm.

For four years I have lived in at Rivervue Retirement Village situated near the Maribyrnong River in a beautiful setting.

On the 14 October 2022 that all changed. I was up at 6.30 am having a coffee that morning when the phone rang. It was a friend of mine asking Stan (my husband) and I if we could come around to help them move some of their furniture as the water from the River was very close coming in their back door.

Never thinking it would happen to us a street away we ran to our friend's place to help move furniture which took us approximately a good half hour.

We then went outside to discover to our horror that flood waters started pouring over the road and all the drains started to overflow .We said OK we better go home and check out what is happening in our street only to discover water coming out of the drains in our street as well

My mind raced, wondering what we were going to do in such a dire situation. It was then that I noticed that no emergency flood procedures were activated by management. The lack of preparation by the management filled me with disappointment, but I knew I had to act fast to ensure my safety and that of my neighbors.

With the flood waters rising by the minute, my husband shifted our car to higher ground. My heart pounding with adrenaline as I began knocking on doors and ringing the bells of every house .My husband did the same whilst I also started ringing our neighbors

People emerged, bleary-eyed and confused, and we urged them to gather their things and evacuate as quickly as possible. Some were hesitant, worried about leaving behind precious belongings or their pets.

Not believing that a flood would happen, we started to pack our bags. We threw in our clothes, shoes, and toiletries, all the while joking about how we were probably overreacting. However, upon opening our front door we saw the flood water rising rapidly, engulfing our street and flooding our home. Our situation quickly turned to horror as we realized the severity of the situation.

As the flood waters crept up to my knees, I felt a sense of despair wash over me. The neighbor came towards me through the water and held out his hand whilst my husband carried our suitcase on his head wading through flood waters.

We finished up at the Rivervue community Centre with other effected flood residence. The non effected residence provided coffee and sandwiches. I realized that the flood had brought out the best in people. It had taken a disaster to remind us of the importance of helping one another, but I knew that we would never forget it again.

We were provided with temporary accommodation at the Quest Apartments for only two weeks thinking that we would be given accommodation by Rivervue until such time as repairs would be completed.

Then came the first flood meeting where we were told much to my horror that we would have to find our own accommodation at our own expense as Rivervue was under insured. Not only that but we had to pay for the replacement of our carpets, which was part of our purchase price.

The General Manager of Rivervue advised the forum that they only had \$5mill insurance and there was not enough money to cover the accommodation costs nor carpet costs. After years of struggling to get insurance disclosure, the residents had had enough. They were tired of feeling vulnerable and uncertain about their future, not knowing if their property would be covered in case of any further disasters. **To this date Rivervue refuses to disclose the insurance policy.**

Thankfully for us we have some kind friends who offered their holiday house on the Mornington Peninsula where we are still living away from our family

The aftermath of the tragedy it has been very hard. My husband was one of the many victims who experienced the traumatic effects of this natural disaster. For weeks, he suffered severe anxiety. He was constantly on edge, unable to sleep or concentrate, and struggling to come to terms with the traumatic events he had witnessed. It wasn't until we sought help from his doctor that he was diagnosed with post-traumatic stress disorder (PTSD). And so, began our journey towards healing and recovery.

My husband recalls living in displaced persons camps in Germany and Australia which has not helped. **Although my husband's PTSD will always be a part of our lives, we have learned to manage it better. He still has his bad days, but we face them together with renewed strength and hope**

It has been a long seven months since the flood a I just want to go home so I can see my children a grandchildren. I know even when we are back home it will not end there.

As the inquiry progresses, we know that the truth will be revealed, and justice will be served. Our faith in the justice system has been strengthened, and we hope that this will serve as a lesson to prevent future disasters.

There are many elderly people living in the Retirement Village who are very worried these floods could happen. **Rivervue again is underinsured.** We cannot go through this again

Thank you

Cheryl Korkliniewski

