

IN THE MATTER OF THE INQUIRIES ACT 2014

**AND IN THE MATTER OF A BOARD OF INQUIRY
INTO THE MCCRAE LANDSLIDE**

**ENTITY: SOUTH EAST WATER
CORPORATION**

**SOUTH EAST WATER'S SUBMISSIONS ON THE ADEQUACY OF THE
REGULATORY FRAMEWORK FOR THE PREVENTION AND
MANAGEMENT OF LANDSLIDES AND LANDSLIPS**

EROSION MANAGEMENT OVERLAY

1. SEW supports an amendment to the Mornington Peninsula planning scheme to ensure an Erosion Management Overlay (**EMO**) applies to all land that is susceptible to landslide in Mornington Peninsula Shire (**Shire**). SEW expresses no view as to whether the amendment should be given effect by way of a single EMO or multiple EMOs.¹
2. In Victoria, an EMO is a key planning control in respect of landslides.² However, not all land susceptible to landslide in the Shire, including the McCrae Landslide Area,³ is covered by an EMO.
3. The application of an EMO to all landslide susceptible land would assist in the identification, assessment and control of landslide risk. This is because an applicant for a planning permit, would be required to demonstrate that their development meets the objectives of the overlay. For example, the applicant for a planning permit may be required to submit relevant geotechnical reports and/or provide information about earthworks, stabilisation methods and/or other protective measures to the Shire for review to ensure the proposed development is safe.⁴
4. Mr Darren Paul of WSP gave evidence that, in the absence of an EMO, whether such information is provided depends upon whether a different overlay or a building/engineering control, which requires such information, applies to the land, the experience and scope of work of any geotechnical practitioner engaged by the landowner, and the Shire's discretion.⁵ The consequences of a landslide, in terms of potential harm to life, property and infrastructure, are sufficiently serious to warrant the application of an EMO, in addition to building and planning controls, to all landslide prone areas.
5. Whilst an EMO necessarily imposes additional requirements on landowners and/or constraints on the development of land, such burdens are outweighed by the potentially catastrophic consequences of a landslide and the primary purpose of an

¹ See T64.L5-12 (7.5.25) and see further T65.L31 to T66.L15 (7.5.25)

² T67.L44 to T68.L1 (7.5.25).

³ As to the meaning of that expression, see exhibit 4 to the witness statement of Andrew Forster-Knight (Exhibit CA42).

⁴ See for example, T69.L10-26 (7.5.25).

⁵ T68.L1-23 (7.5.25).

EMO, namely, to minimise land disturbance and inappropriate development in the area having regard to its susceptibility to landslides.⁶

6. Notwithstanding that an EMO is a statutory planning instrument, SEW uses EMOs as an indication that the area to which the overlay applies is prone to erosion, landslide and/or other degradation. EMOs inform SEW of which of its assets are in - or in close proximity to - a landslide or erosion prone area. SEW utilises EMOs in this way to inform a wider range of matters such as its asset planning and renewal, monitoring, maintenance and management of SEW assets. For example, SEW is about to install sensor technology to strengthen leak detection in locations in the Yarra Ranges, such as Upwey, Belgrave, Belgrave Heights and Tecoma, which are the subject of EMOs recorded on VicPlan.
7. Given SEW's broader use of EMOs, it would be desirable if all local councils' planning overlays distinguished between landslides on the one hand, and other forms of erosion (such as riparian land erosion into waterways and/or coastal erosion etc) on the other hand. This would enable water corporations to more readily identify the nature of the risk and to consider and adopt controls to mitigate against that particular risk. It would also help SEW to work with municipal councils to assess any relevant technical information or reports that might be relevant to water asset planning and management.
8. SEW expresses no view as to whether the more precise identification of landslide risk should be achieved by 'carving out' landslides from the EMO and creating a separate overlay for landslide prone areas, or alternatively whether the EMO should better categorise and inform the reader of the nature of the risk (e.g. area A prone to coastal erosion, area B prone to landslide).
9. Moreover, it would assist SEW's planning and operations if the risk assessment undertaken as part of the creation or updating of EMOs considered (in so far as reasonably practicable) hydrogeology, groundwater and natural springs, drainage and flow paths, and that any such assessments were made available to SEW.

⁶ T53.L5-17 (7.5.25). See also T68.L4-23 (7.5.25).

AVAILABILITY AND DISCLOSURE OF INFORMATION

10. There is no central repository, readily available to water corporations, to access relevant information in relation to landslide prone areas. The application of the regulatory framework would be enhanced if relevant information were more readily available to water corporations and to other utilities.

11. Whilst EMOs are accessible from the VicPlan and DataVic portal, as illustrated in the present context, EMOs do not always accurately reflect specific areas of landslide susceptibility. Further, the nature and/or scope of landslide risk might change over time, and it is important that updated information is available to water corporations promptly. For example, Yarra Ranges Shire Council recently commissioned updated mapping of landslide susceptible areas, as a result of which it has newly identified 13,400 properties potentially in the path of a landslide or falling debris. The new mapping identified an extra 1987 properties as 'vulnerable', and 1185 which were identified in the former modelling, are no longer mapped as being 'at risk'. As a result, Yarra Ranges Shire is now undertaking steps towards updating EMOs in the Shire,⁷ although this may take some time to be implemented.⁸ Put another way, whilst EMOs are useful, SEW (and in all likelihood other water corporations), require more detailed information to be readily available to assist in properly identifying, managing and responding to landslide risk.

12. In his witness statement, Mr Christopher Smith, Network Performance Integrated Planning Manager of SEW, gave evidence about SEW's strategic asset management framework. In that context, he referred to obtaining information about landslides from the Shire pursuant to Freedom of Information legislation, and to making individual appointments with certain municipal councils (there are 17 local councils in SEW's service area) to seek and/or clarify information about landslide susceptibility in their municipality. The type of information, for which more centralised availability would assist SEW's asset planning and management in landslide prone areas, includes:

⁷ The statistics in this paragraph are sourced from "Likely and imminent: Thousands of Dandenongs homes at risk of landslides" by Adam Carey, the Age 12 June 2025. The article notes that the Yarra Ranges Shire Council has voted in favour of "rush[ing] through interim planning controls for building in landslide-prone areas" and that the report to the Yarra Ranges Council included that "there are no certainties about when the next significant rainfall event or landslide could occur. However, given recent weather patterns and high instance of emergencies in Yarra Ranges it is reasonable to consider this likely and imminent".

⁸ This recent information about Yarra Ranges Shire will inform SEW's asset planning and management activities for vulnerable properties within SEW's service area.

- a. landslide history in the municipality, including the specific location(s) of previous landslides, as well as their nature and impact;
 - b. information about any landslide susceptible areas in the municipality that are not covered by an EMO;
 - c. whether the municipal council is, as in the case of Yarra Ranges Shire Council, in the process of seeking an amendment to the planning scheme to vary or extend an EMO, and notifying when any such application has been finalised;
 - d. topographical information and flood/drainage assessments;⁹
 - e. supporting reports and information used in the preparation of an EMO (e.g. geotechnical and/or hydrogeological assessments);
 - f. information about groundwater / natural springs and other landscape features (where known).
13. This information about landslide risk is of critical importance and would assist water corporations, such as SEW, to locate, design, construct, operate and maintain infrastructure in such a way to better consider, amongst other matters:
- a. the risk of landslides causing damage to water / wastewater infrastructure;
 - b. the potential a leak or failure in water / wastewater infrastructure might exacerbate a pre-existing landslide risk and impact on persons, property or infrastructure in the area;
 - c. appropriate measures that could be implemented to mitigate or prevent landslides; and
 - d. the safety of the persons, including residents and persons undertaking infrastructure maintenance, in landslide susceptible areas.
14. SEW makes no submission as to whether the information referred to in paragraph 12 to 13 above should comprise a centralised database/repository compiled and maintained by each municipal council or, alternatively, whether it should be developed by a statewide authority or another third party with relevant expertise that contains information relevant to each municipality. However, SEW observes there is certain information, such as landslide history and details of areas susceptible to landslides, about which municipal councils are likely to have more extensive knowledge than water corporations.

⁹ Although this information is already available via VicData and Melbourne Water, SEW submits it would assist to have all this information available in the one location.

15. On its website, the Yarra Ranges Shire Council makes available useful information about landslides in its municipality.¹⁰ However, unfortunately this is not common practice across municipal councils in the SEW network.
16. SEW submits that the Yarra Ranges Shire Council website, including its IntraMaps service, provides a potential foundation or starting point for the development of a centralised landslide database/repository for all municipalities, with information more readily available to water corporations.

OTHER REGULATORY ISSUES AND RIGHT TO RESPOND

17. SEW does not propose changes to the regulatory arrangements for water supply services in respect of which it has been questioned in hearings of the Board of Inquiry, namely:
 - a. customer responsibilities for water and sewerage infrastructure (that is to say, private or customer-side leaks/failures). Water corporations are not well placed to assume responsibility for private water infrastructure on private property. SEW notes that in McCrae, near-real-time leak detection from digital meters can assist water customers to identify and respond to unexplained excess water use (including outdoor water use) and leaks on their properties;
 - b. privacy protection related to third party disclosure of customers' water use data. SEW cautions against any potential recommendations to remove customer privacy protections by requiring water corporations to disclose customers' water use data to third parties. SEW submits such disclosure would have adverse privacy and security implications for customers, and that other utilities are not required to report on lawful customer behaviour on their own property.
18. SEW seeks an opportunity to respond to any submissions or recommendations about the regulatory framework that might impact upon its provision of services, including on the planning and delivery of essential water and waste-water services.

¹⁰ Yarra Ranges Shire Council IntraMaps Link: Public > Landslide Assessment (<https://intramapspublic.yarraranges.vic.gov.au/intramaps90public/?project=Public&module=Landslide%20Assessment>): there is a layer relevant to landslides and the ability to access data about EMO coverage, historical landslides including their nature and classification (e.g. rotational), precise location, approximate slope angle, and other dimensions. Other layers in its database include aerial imagery from 1996 to current, hydrology, contours and terrain. This is in addition to general information about EMOs and landslide risks in the municipality on its website, yarraranges.vic.gov.au

CONCLUSION

19. The presence of water is inevitable, be it through, amongst others means, changed rainfall as a result of climate change, ground water, natural springs, private water leaks and excess usage, or the industry standard of approximately 10% loss per year. SEW now knows it can take very little water to trigger a landslide in landslide prone areas, like the site of the McCrae Landslide. As such, SEW submits the importance of regulatory planning controls over and access to information about Landslide prone areas cannot be overstated to ensure, insofar as is possible, these areas are resilient to the inevitable ingress of water.

29 July 2025