

## **Submission to the DRAFT AMENDMENT, Shepparton Southeast Precinct Structure Plan**

**By Gordon Hamilton**



**Precinct Structure Plan**

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1. I generally support any new planning amendment that will assist to deliver much needed land for new homes, services and jobs and continue to strengthen Shepparton's place as a Centre for Regional growth.
2. I support any initiative that will provide more land for housing that will allow Victorians to have access to a wide range of affordable home options that suit different needs, budgets, and lifestyle choices.
3. The Shepparton Southeast Precinct SSE could be a worthwhile initiative for Shepparton if it had followed due process, BUT it is my opinion that that the PSPs flood management solutions have been based on information that has not followed proper and due process as legislated, and therefore must not be countenanced in this PSP process.
4. It is vital that accurate flood information is made available to the Shepparton community by the VPA in this process to ensure that any new development will not cause any further flooding harm downstream to the communities of Shepparton and Mooroopna and provide fair, transparent, and equitable development outcomes.

Contained within the information package prepared by the VPA are pronouncements that.

***'How have the PSPs flooding management solutions been determined***

***'Consultation with the GBCMA, Goulburn Murray Water and Council as the Drainage Authority'***

***All flood and stormwater drainage outcomes measures endorsed by GBCMA and Greater Shepparton City Council (drainage authority)***

***'The Shepparton Mooroopna 1% AEP Flood Maps and Flood Intelligence Project prepared by Council and GBCMA'.***

***'New technical analysis including flood modelling and stormwater analysis (available on the VPA project webpage)'***

***'Applications of best practice and policy guidelines to manage new developments in areas impacted by flooding events.'***

1. ***'Consultation with the GBCMA, Goulburn Murray Water and Council as the Drainage Authority'***

***At item 1.2 of the "alluvium final functional design report" on page 3***

***" Greater Shepparton City Council (GSCC) is the local drainage authority for all urban land in the region, while the Goulburn Broken Catchment Authority GBCMA is the floodplain manager. The GBCMA manages the catchments and waterways in the region GM Water is the drainage authority for rural areas of the municipality within the GMW Drainage district..."***

***The Council (GSCC) is not the Drainage Authority for the proposed amendment area as claimed by the VPA.***

***GM Water is the drainage authority for rural areas of the municipality within the GMW drainage district, the subject of the SSE.***

***The Council can be consulted, but not consulted in the capacity as the 'Drainage Authority' for the SSE, PSP process, as claimed by the VPA.***

***2. All flood and stormwater drainage outcomes measures endorsed by GBCMA and Greater Shepparton City Council (drainage authority)***

**The Shepparton council is not the “drainage authority” for the SSE and therefore cannot endorse all flood and stormwater outcome measures as the “drainage authority” as claimed by the VPA.**

**Can the GBCMA endorse all flood and stormwater drainage outcomes”?**

**In evidence put before the 2017 C199 Planning Panel by Guy Tierney Floodplain manager from GBCMA, the Panel reports that (page 39 para.6)**

**“Notwithstanding the poor choice of wording in the Master Plan suggesting that the planning scheme flood overlays and flood zone have been “superseded” it was made very clear by Mr. Tierney (GBCMA floodplain manager) that any future changes to the flood controls will flow from the Intelligence Study.**

***Until that study is finalized and any subsequent planning scheme amendment approved, the current LSIO, FO and Flood Zone remain in place and will continue to be applied in assessing development applications”.***

***Despite the passage of 7 years since 2017 there have been NO amendments approved or even proposed by Shepparton Council in line with recommendations from The Shepparton Mooroopna 1% AEP Flood Mapping and Flood Intelligence Project.***

**Since nothing has changed since the 2002 SKM flood study planning scheme amendments and the LSIO, Flood Overlays and Flood Zone remain unchanged, the position of GBCMA (as confirmed to the C199 Planning Panel) cannot change and thus the GBCMA has no power to “endorse any flood and stormwater drainage measures” that are inconsistent with the existing endorsed LSIO, Flood Overlays and Flood Zone as claimed by the VPA.**

**3. The Shepparton Mooroopna 1% AEP Flood Mapping and Flood Intelligence Project prepared by Council and GBCMA.**

**‘The Shepparton Mooroopna 1% AEP Flood Mapping and Flood Intelligence Project’ WAS NOT prepared by Council and GBCMA but prepared by Shepparton Council and the company Water Technology Pl.**

Shepparton Council Minutes of 19 June 2012 detail that General Manager Sustainable Development, Dean Rochford recommended that Council accept the tender of \$329,230.00 from Water Technology Pty Ltd for Contract 1370 to conduct The Shepparton Mooroopna 1% AEP Flood Mapping and Flood Intelligence Project.

The council voted to grant contract 1370 to Water Technology pl on the officer’s recommendation.

Whilst Shepparton Council is not the responsible authority for flood issues (that role is the responsibility of GBCMA) nor are they the responsible authority for Rural Drainage (that role is the responsibility of GM Water) Council can conduct a flood mapping and Intelligence project if they choose to do so for their own information.

The Goulburn Broken Regional Floodplain Management Strategy July 2002 details the process GBCMA (as the responsible authority) must follow when they conduct a flood study.

***“All studies and FPM plans will be steered by a committee with wide stakeholder representation. The GBCMA has overall responsibility for managing the program through the Floodplain Manager”.***

***“When undertaking a flood study or floodplain management plan or when implementing any associated works or measures, a steering committee will need to be formed with representation from Community groups, Implementing committees’ municipalities and State and Federal agencies where appropriate. The steering committee will provide information and direction to the relevant implementation Committee with technical support from the floodplain Manager.”***

**Following their decision to award the contract 1370 to Water Technology pl (at a figure 10% higher than the next tender) Council failed to ensure that the 'The Shepparton Mooroopna 1% AEP Flood Mapping and Flood Intelligence Project' contract was steered by a "steering committee with wide stakeholder representation" as required by GBCMA floodplain management strategy for their inclusion.**

Documents released under FOI (and documents that Council and GBCMA claimed did not exist), reveal that during the seven years period (2012 to 2019) that Water Technology pl took to complete The Shepparton Mooroopna 1% AEP Flood Mapping and Flood Intelligence Project

- ***No steering committee, (as required by the GBCMA for their participation) was ever formed.***
- ***No community consultation occurred during the 7-year study process.***
- ***No extension to the 18-month contract period was ever requested by Water Technology or granted by the Council.***
- ***No planning amendments were ever prepared, exhibited by Council to endorse the findings of the study.***
- ***No floor heights were ever surveyed contrary to performance criteria as advised by Council staff to the Council when granting the contract.***

However, documents released under FOI that during the 7-year period of The Shepparton Mooroopna 1% AEP Flood Maps and Flood Intelligence Project (2012 to 2019) further reveal procedural infelicities, inequitable processes, and outcomes, all of which were not based on sound legal basis.

**Some Examples are as follows:**

- ***Council officers instructed Water technology staff to increase levels on some properties in the study area with the effect of causing more favorable planning outcomes for some and disadvantage for other property owners.***
- ***Council officers discussed using GM water channels as levees with Water Technology. staff It appears that Water Technology then included into their flood modelling for the Shepparton Mooroopna 1% AEP Flood Maps and Flood Intelligence Project the use of a GM Water channel bank as a levee to 'protect' some properties to make suitable for development at the expense of***

*others. The use of GM Water channels as an unregistered levee bank to protect some properties from flooding appears contrary to Section 16 of the Water Act and made a significant change to the flood model outcome.*

- *Council staff instructed GBCMA floodplain manager contrary to any legislation, to object to 2 planning applications they had just received and requested GBCMA to “beef up their legal budget next year.”, “And take to VCAT”, “Because I think they will try it on with the new council and get them to issue a NOD **which will be against our recommendation.**”*
- *GBCMA complied with the Council’s instructions and subsequently issued objections to the 2 planning permit applications when they were later referred to them, contrary to their role under any legislation.*
- *In 2019, prior to The Shepparton Mooroopna 1% AEP Flood Mapping and Flood Intelligence Project being adopted by Council as a document and prior to any new amendments based on findings of the Shepparton Mooroopna 1% AEP Flood Maps and Flood Intelligence Project being proposed, Shepparton Council staff and GBCMA implemented a ‘Flood Portal’ onto their relevant websites **to portray flood levels** on all properties in Shepparton and Mooroopna based on levels from The Shepparton Mooroopna 1% AEP Flood Mapping and Flood Intelligence Project. These new levels were largely inconsistent for many properties with the endorsed LSIO, Flood overlay and Flood Zones.*
- *These new levels that were inconsistent with existing LSIO, Flood overlays and Flood zones provided a confusing, inconsistent, and potentially dangerous picture of flood levels within the municipality for the community and emergency services. The new levels advantaged some property owners and disadvantaged others.*

*Documents released under FOI detail that **The** Shepparton Mooroopna 1% AEP Flood Mapping and Flood Intelligence Project as first proposed by the City of Greater Shepparton Council in 2012 was, in my opinion, was not a flood study that had wide stakeholder representation.*



**The Shepparton Mooroopna 1% AEP Flood Mapping and Flood Intelligence Project** was also not a flood study that could be “endorsed” by the GBCMA as its procedure was inconsistent to the policy and strategies of the GBCMA and would be inconsistent with existing Flood Overlays endorsed by the Minister.,.

Despite clear procedural missteps, by-passing and ignoring proper and statutory considerations in the development of an independent flood study that complied with the policy and strategies of the relevant flood authority, GBCMA, Council’s lawyers Russell Kennedy, when they gave legal advice to Council on March 17, 2019, prior to Council considering the officer’s recommendation for Council to adopt The Shepparton Mooroopna 1% AEP Flood Mapping and Flood Intelligence Project advised that.

“The implementation of the Flood Plan in a practical way will reveal itself through the proposed planning scheme amendments. These amendments will be the subject of public exhibition, opportunities to submission and full testing before a panel hearing.”

**No planning scheme amendments to implement the changes to the planning scheme arising from The Shepparton Mooroopna 1% AEP Flood Mapping and Flood Intelligence Project have ever been proposed by Council.**

**Page 24 of the “alluvium Final Functional Design Report” July 2022 which is presented as the base document for the stormwater design for the SSE details that.**

“The Shepparton Mooroopna 1% AEP Flood Maps and Flood Intelligence Study provides a technical review and update to the previous study done by SKM 2002. Water Technology was commissioned by the Council to undertake the study.

The flood mapping data is publicly available online through a mapping portal. The study involved detailed hydraulic and hydraulic (TRUFLOW) modelling of the Goulburn River, Seven Creeks, and the Broken River.

Flood Frequency Analysis of available stream gauges used in hydraulic modelling.

The report defines flood timing.

The existing 1% AEP maximum flood depths relative to the PSP are shown below.

Figure 25. Existing conditions 1% AEP (source of flood levels Shepparton Mooroopna Flood Mapping and Flood Intelligence Study, Water Technology 2019)”.

**The Shepparton Mooroopna 1% AEP Flood Mapping and Flood Intelligence Project does not represent the existing 1% conditions, The existing conditions are the existing conditions represented by the LSIO, Flood overlays and Flood Zones based on the 2002 SKM study as signed by the Minister.**

***The current legislation remains in place and in the absence of any properly formed and legally legitimate alternative is the only endorsed 1% AEP flood level signed by the Minister and must by law and must continue to be applied by everyone in assessing development applications such as the SSE PSP.***

### ***Conclusion***

*In the 12 years since Council commissioned the Shepparton Mooroopna 1% AEP Flood Mapping and Flood Intelligence Project, property owners within Shepparton and Mooroopna have been shut out of any consultation concerning the flooding future of their community. by Council and the GBCMA*

*Residents have been denied access to a fair hearing of their existing flooding overlay concerns, some property owners have had the flood levels raised in the "flood portal "on their property by council officers' action that has had serious financial and insurance implications.*

*Some property owners have had Council planning officers solicit objections from the GBCMA Floodplain manager to predetermine and scuttle their legitimate planning applications.*

*There is. in my opinion. nothing "open and transparent" about the Shepparton Mooroopna 1% AEP Flood Mapping and Flood Intelligence Project process. I find it deeply disturbing that the VPA has seemingly chosen to ignore due process, ignore all the past wrongs and simply skip over the legislated process and promote the use of the unendorsed Shepparton Mooroopna 1% AEP Flood Mapping and Flood Intelligence Project as the existing 1% AEP for all flooding and drainage solutions in the SSE, PSP.*

***I request that the Panel consider the information I have provided and recommend that the Flood and Drainage designs provided by the VPA and Council for the SSE PSP be dismissed as unacceptable.***



