

## Local Planning Policy No. 6 – Development in Flood Prone Land

### 1.0 Citation

This is a Local Planning Policy prepared under Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. This Policy may be cited as Local Planning Policy 6 – Development in Flood Prone Land.

### 2.0 Introduction

It is Council's policy to adopt a precautionary approach to flooding risks. To achieve this, the Shire will require proponents seeking development, subdivision, scheme amendment, structure plan, and local development plan approval and other works to take account of flooding risks.

The Shire has adopted the 1 in 100 (1%) Annual Exceedance Probability (AEP) flood as the design flood event for consideration in land use planning and development applications.

### 3.0 Objectives

The objectives of this Policy are to:

- a) Mitigate flood risk to life, human safety, property, and community infrastructure.
- b) Take a long-term strategic perspective relating to flood risks including ensuring that more intensive subdivision and development:
  - i. Has adequate flood protection now and into the future.
  - ii. maintains the free passage and temporary storage of floodwaters; and
  - iii. recognises the conservation significance of the floodplain and protect the water quality of waterways as a natural resource.
- c) Promote the sound use, management, and tenure of the floodplain.

### 4.0 Applications subject of this Policy

This Policy applies to the area within Special Control Area 1 (SCA1) in Local Planning Scheme 3 (LPS3). SCA1 has been defined based on flood modelling.

There are also flooding risks outside of SCA1 where land may be subject to overland flow and/or inundation but have not yet been modelled/mapped.

This Policy also applies to all land within one hundred metres of a watercourse, or a section of a watercourse that is not defined in SCA1.

### 5.0 Application Requirements

The Shire requires that applicants suitably demonstrate a site's suitability and capability for subdivision and associated development which includes addressing flood risk. For development within SCA1 this includes addressing matters set out in Part 5 Table 7 of LPS3.

### 6.0 Policy Statement

#### 6.1 General

- 6.1.1 The Shire will adopt a precautionary approach to flooding risk. The 'onus of proof' rests with the applicant to justify their proposal and associated management of flooding risks.



- 6.1.2 The Shire will seek advice from the Department of Water and Environmental Regulation (DWER) and/or other agencies as appropriate on proposals. The Shire shall have due regard to the advice and recommendations of agencies on any application for approval on flood prone land.
- 6.1.3 Proposed subdivision and development will be assessed on case-by-case basis. Some of the factors considered include the depth of flooding, velocity of flow, potential obstruction to flow, possible structural and flood damage, isolation risk and evacuation potential and any regional benefits. A proponent may be required to collect information and prepare technical studies to the satisfaction of the Shire that flood risk can be adequately managed in line with the objectives of this Policy.
- 6.1.4 Should development be considered acceptable, minimum habitable floor levels are to be at least of 0.5m above the appropriate 1 in 100 (1%) AEP flood level. Non-habitable floor level requirements will be assessed based on an assessment of the risk of each individual proposal. As a guide, the Shire will require a freeboard of 0.15m for non-habitable buildings.
- 6.1.5 The Shire may require the minimum finished floor level to be certified by a licensed surveyor. This will be required as a condition of development or subdivision approval.
- 6.1.6 No earthworks are permitted within SCA1 without the approval of the Shire.
- 6.1.7 The Shire seeks to ensure that essential services, which may include but are not limited to fire control panels, electrical switchboards, and telephone services, are located above the 1 in 100 (1%) AEP flood level with a freeboard of 0.5m.
- 6.1.8 Key community infrastructure such as power supplies, communication centres, hospitals, aged care facilities, emergency response headquarters and evacuation centres may also require additional protection to ensure that they are fit for purpose in emergency response and recovery.
- 6.1.9 If the proposal is located in a flood risk area, in the opinion of the Shire, where no hydrologic and hydraulic modelling data is available, the Shire may require the proponent to engage (at their cost) a suitably qualified professional to undertake an appropriate hydrologic and hydraulic assessment to the satisfaction of the Shire and/or DWER.
- 6.1.10 The Shire does not favour the use of levees to mitigate flood risk to proposed development/s. Levees will only be considered where there is no reasonable alternative or to protect existing developments.
- 6.1.11 Landowners and servicing authorities should take all practical steps to address flooding risks subject to gaining necessary approvals.

## **6.2 Land within the Floodway**

### **6.2.1 Development Applications**

The Shire does not support development application and new or additional development, buildings, and structures, in the floodway unless otherwise provided for in the Policy.

The Shire requires proponent's to suitably locate proposed new development.



Where the property subject to the Development Application includes land located outside of the floodway, the Shire will not approve a new building or structure on land within the floodway. This includes where the site is subject to a total redevelopment.

Consent for development in the floodway will not be granted unless:

- It is to replace an existing approved building or structure where the entire lot is located within the floodway and the existing building/structure is demolished or removed. Further, the proposed building/structure footprint is no greater compared to the former building/structure.
- The entire lot is located with the floodway and the proposed use is permitted by LPS3 (a “P” use).
- The change of use does not intensify the anticipated number of people on the site or increase risks in the opinion of the Shire; and
- The proponent demonstrates there is an over-riding public benefit.

Minor additions to existing dwellings that do not increase the habitable area at ground level, such as veranda or patio, will be considered on their merit.

Should the Shire issue development consent, it may include conditions addressing, but not limited to, the following:

- Building materials are flood compatible, including building foundations being designed to withstand scouring and undermining by moving floodwaters. This may require a certification that the building/structure can withstand fast-flowing waters to the standard set by the Shire.
- Vehicular access and/or evacuation routes are designed for two-wheel drive vehicles to the satisfaction of the Shire.
- A notification is included on the Certificate of Title advising landowners in perpetuity of the flooding risks, with costs to be met by the proponent; and
- The proponent enters into a flood/erosion indemnity agreement with the Shire, with costs to be met by the proponent.

Based on SCA1 of LPS3, a development application is required for ‘all development’. This Policy, based on Schedule 2, Part 7, Clause 61, varies the requirement when development approval is required for the following:

- Swimming pools.
- Air conditioning units.
- Satellite dishes.
- Rural style boundary fencing (which is not solid fencing); and
- Other minor development that presents limited flooding risk in the opinion of the Shire.

#### 6.2.2 Subdivision Applications

The Shire will not support subdivision applications proposing new lots that are entirely within the floodway.

The Shire will consider, on its merits, subdivision applications that suitably demonstrate that:

- Each lot contains an area, outside of the floodway, which is appropriately



sized and located for the anticipated use which includes appropriate setbacks to property boundaries; and

- Vehicular access, between the public road system and the identified development area for each lot, will not be cut off in a major flood event.

The Shire will support boundary adjustments provided that:

- Each lot contains an area, outside of the floodway, which is appropriately sized and located for the anticipated uses; and
- Vehicular access, between the public road system and the identified development area for each lot, will not be cut off in a major flood event.

The Shire will seek the inclusion of a condition, for any lot within the floodway, requiring that a notification be included on the Certificate of Title advising landowners in perpetuity of the flooding risks.

#### 6.2.3 Scheme Amendments (Rezoning)

The Shire will not support a scheme amendment request that proposes to increase the intensification of land use and/or increase risks for areas within the floodway.

#### 6.2.4 Other Works

The Shire will seek to minimise locating infrastructure in the floodway. Where new or replacement infrastructure is proposed to be in a floodway, the Shire will ensure its design takes account of the flooding to ensure the risk to adjoining and nearby properties are not adversely affected.

### 6.3 Land outside the Floodway (includes Flood Fringe)

#### 6.3.1 Development Applications

The Shire will favourably consider Development Applications outside the floodway, provided they meet minimum floor levels of 0.5m above the 1 in 100 (1%) AEP flood level (unless otherwise provided for in this Policy). This is subject to other planning, servicing, environmental and landscape considerations being appropriately addressed to the satisfaction of the Shire.

The Shire will only consider variations to minimum floor level requirement where the proponent suitably justifies, to the satisfaction of the Shire, the following:

- It is an extension to an existing building where there are genuine constraints of integrating the proposed extension to the existing building.
- The recommended levels will result in a significant impact on the landscape, amenity, and aesthetics of the locality.
- The proposed structure is a Class 10 building/structure as set out in the National Construction Code of Australia, not involving human habitation, where the Shire will support a freeboard of 0.15m above the 1 in 100 (1%) AEP flood level; and
- The proponent demonstrates there is an over-riding public benefit.

#### 6.3.2 Subdivision Applications



The Shire will consider, on its merits, subdivision applications outside the floodway that suitably demonstrate that:

- Each lot contains an area, outside of the floodway, which is appropriately sized and located for the anticipated use; and
- Vehicular access, between the public road system and the identified development area for each lot, will not be cut off in a major flood event.

The above is subject to the proponent suitably addressing other planning, servicing, environmental and landscape considerations to the satisfaction of the Shire.

#### 6.3.3 Scheme Amendments (Rezoning)

The Shire will consider, on its merits, scheme amendment requests outside the floodway provided the proponent can demonstrate that each proposed lot:

- Contains an area, outside of the floodway, which is appropriately fixed and located for the anticipated use; and
- Has vehicular access, between the public road system and the identified development area for each lot, will not be cut off in a major flood event.

The above is subject to the proponent suitably addressing other planning, servicing, environmental and landscape considerations to the satisfaction of the Shire.

#### 6.3.4 Other Works

Where new or replacement infrastructure on land outside the floodway, the Shire will ensure its design considers the flooding and ensures flood risk to adjoining and nearby properties is not detrimentally impacted.

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## 7.0 Definitions

In this Policy, the following definitions apply:

**Annual Exceedance Probability (AEP)** – The likelihood of the occurrence of a flood (or rainfall event) of a given or larger size occurring in any one year, usually expressed as a percentage.

**Department of Water and Environmental Regulation (DWER)** – Means the State Government's lead agency that is responsible for floodplain management strategies and floodplain advice and includes any other agency should it be renamed.

**Floodplain** - the area inundated in a flood event on a waterway, which may include the floodway and flood fringe areas.

**Floodway** - an area of land within the floodplain where generally there is a high flood risk and floodwaters are flowing fast and deep.

**1 in 100 (or 1 %) AEP Flood Level** – The peak water level for a particular location in the 1 in 100 AEP flood event. This flood event has been adopted as the design flood event for planning and is used as a basis for determining minimum habitable building floor levels.

**Freeboard** – The height above a defined flood level which is used to provide a factor of safety in the



setting of floor levels which, in this Policy, is typically 0.5 metres unless otherwise indicated.

Throughout the Policy, 'proponent' can refer to 'developer' or 'subdivider,' while 'proposal' can refer to development application, subdivision application, scheme amendment request, structure plan request and local development plan request or other works were considered appropriate by the Shire.

<b>Policy Number / Name</b>	No.6 Development in Flood Prone Land
<b>Adopted by Council</b>	24 February 2009
<b>Amended</b>	23 July 2025

