

LAKES ENTRANCE, BUSINESS DISTRICT INTERIM USE AND DEVELOPMENT CONTROL Incorporated Document, December 2011

1.0 Introduction

This document is an incorporated document in the East Gippsland Planning Scheme pursuant to Section 6(2)(j) of the *Planning and Environment Act 1987*.

Pursuant to Clause 52.03 of the East Gippsland Planning Scheme, the land identified in the schedule to this clause may be used and developed in accordance with the specific controls contained in the incorporated document corresponding to that land.

2.0 Background

Lakes Entrance is a major regional town that has a well documented history of managing and dealing with flooding. While most of Lakes Entrance sits significantly above mean sea level, the Lakes Entrance Business District is low lying which makes it highly vulnerable to riverine flooding, rising sea levels and storm tides which in combination and overtime are projected to increase in frequency and severity into the foreseeable future.

To better plan for the future of Lakes Entrance and prepare for these changes consistent with the strategic objective of the need to plan for not less than 0.8 metre sea level rise by 2100 (*Victorian Coastal Strategy 2008*), the Victorian Government, East Gippsland Shire Council and the East Gippsland Catchment Management Authority are working in partnership to understand these risks and determine actions to manage local flooding through the *Gippsland Lakes Inundation Management Project*.

Planning for change and implementing actions will take time. The intent of this interim provision is to provide for the use and development of land, and ensure the safety of residents is maintained whilst the strategic adaptation investigations are undertaken and longer term planning controls to be prepared as part of the *Gippsland Lakes Inundation Management Project* and informed by final state-wide recommendations from the *Coastal Climate Change Advisory Committee* and information from the *Future Coasts* program where appropriate.

3.0 Purpose

To ensure that existing and future vulnerability to sea level rise is considered in decisions to use and develop land.

To minimise the potential flood risk to life, and ensure the health and safety of existing and future residents from projected combined river, storm tide and sea level rise inundation impacts.

To achieve a fair balance between landowner expectations and the need to plan for the long term impacts of sea level rise by providing interim controls pending the completion and implementation of long term controls from the *Gippsland Lakes Inundation Management Project*.

4.0 The land

The provisions outlined in this Incorporated Document apply to all land zoned Residential 1, Business 1 and Business 3 shown within the extent outlined on the attached map *Lakes Entrance Business District*.

5.0 Use and development of land

The provisions of this Incorporated Document apply in addition to the provisions of the zones and any other relevant provision of this scheme.

Any requirement in this Incorporated Document must be met.

If there is any inconsistency between the specific provisions in this Incorporated Document and the general provisions of the East Gippsland Planning Scheme, this document will prevail.

Despite the provisions of the East Gippsland Planning Scheme, any permit for the use and development of land within the *Lakes Entrance Business District* must comply with the following requirements:

Table 1: Assessment of combined sea level rise, storm tide and river flood impact to 2100.

Boarding house	▪ Should not be located in an area where inundation impacts are within an existing 1 in 100 year flood event.
Child care centre	
Emergency services facility	▪ Must provide safe access from inundation depths no greater than 0.8 metre in an estimated combined 1 in 100 year flood event in the year 2100.
Hospital	
Residential aged care facility	▪ Must not be located where the depth of inundation of more than 50% of the site is greater than 0.5 metre at the site in an estimated combined 1 in 100 year flood event in the year 2100.
Residential college	
Residential village	
Retirement village	
Service Station	

Table 2: Assessment of combined sea level rise, storm tide and river flood impact to 2040.

Dwelling (single, new and replacement)	▪ Must provide a minimum finished floor level including an appropriate freeboard level defined by the floodplain management authority above an estimated combined 1 in 100 year flood event in the year 2040.
Dependant persons unit (new and replacement)	
Alterations and extensions to an existing Dwelling.	▪ Must not negatively impact on the hydrodynamic nature and characteristic of the flood plain, flood flow and local drainage.
Dwelling (more than one)	▪ Must provide safe access from inundation depths no greater than 0.8 metre in an estimated combined 1 in 100 year flood event in the year 2040.
Group accommodation	
Backpackers lodge	▪ Must not be located where the depth of inundation of more than 50% of the site is greater than 0.5 metre at the site in an estimated combined 1 in 100 year flood event in the year 2040.
Hostel	
Residential hotel	▪ Must provide a minimum finished floor level including an appropriate freeboard level defined by the floodplain management authority above an estimated combined 1 in 100 year flood event in the year 2040.
Motel	
Hotel	
Any other section 1 and 2 uses	▪ Must be satisfactorily protected or meet a minimum finished floor level including an appropriate freeboard level defined by the floodplain management authority above an estimated combined 1 in 100 year flood event in the 2040.
Car Park (must be located above ground)	
Alterations to an existing commercial and industrial building.	▪ Must not negatively impact on the hydrodynamic nature and characteristic of the flood plain, flood flow and local drainage.
Development ancillary to an existing dwelling.	▪ Swimming pools, pergolas, decks and non-habitable outbuildings are exempt from these provisions.

6.0 Subdivision

The subdivision of land, where no application for the use and development of the land has been submitted, to create an increase in the number of lots or a lot that is smaller in area than the minimum area specified for the land within the Residential 1 zone with respect to each allotment must:

- provide safe access from inundation depths no greater than 0.8 metre in an estimated combined 1 in 100 year flood event in the year 2100.

- not be located where the depth of inundation of more than 50% of the site is greater than 0.5 metre at the site in an estimated combined 1 in 100 year flood event in the year 2100.

The subdivision of land to create an increase in the number of lots or a lot that is smaller in area than the minimum area specified for the land within the, Business 1 and Business 3 zone, with respect to each allotment must:

- provide safe access from inundation depths no greater than 0.8 metre in an estimated combined 1 in 100 year flood event in the year 2040.
- not be located where the depth of inundation of more than 50% of the site is greater than 0.5 metre at the site in an estimated combined 1 in 100 year flood event in the year 2040.

The subdivision of land is exempt from these provisions where:

- The subdivision is a subdivision of an existing building.
- The subdivision is the re-subdivision of existing lots, where the number of lots is not increased, and the number of dwellings that the land could be used for does not increase.
- The subdivision is by a public authority or utility service provider to create a lot for a utility installation.

7.0 Application requirements

An application for the use and development of land must be accompanied by the following:

- A site plan showing elevations relative to Australian Height Datum prepared by a licensed surveyor.
- The location and layout of existing and proposed buildings, access roads and other infrastructure that may be affected by flood risk.

A Flood Evacuation and Emergency Response Plan may be required as part of an application to use and develop land outlining how the proposal will affect broader emergency planning for the area and the resources required to manage short term floods. This may be sought at the discretion of the responsible authority and prepared to its satisfaction in consultation with the floodplain management authority as required and relevant emergency response agencies as appropriate.

8.0 Referral of applications

An application for the use and development of land must be referred to the relevant floodplain management authority under Section 55 of the Act unless in the opinion of the responsible authority, the proposal satisfies requirements or conditions previously agreed in writing between the responsible authority and the floodplain management authority.

9.0 Decision guidelines

Before deciding on an application to use or subdivide land, construct a building or carry out works, in addition to the decision guidelines in Clause 65, Clause 44.04-6 and having regard to any comments or directions of the relevant floodplain management authority, the responsible authority must consider as appropriate:

- The estimated combined 1 in 100 year flood assessment of sea level rise, storm tide and river flood impact as determined by the floodplain management authority.
- The appropriateness of increasing the intensity of use, the built form and scale of development and their impact on ability for safe access to be achieved to and from the site in times of emergency and overall impacts on the floodplain characteristics.
- Whether the development can be designed and sited so that the flood impact and associated risk can be appropriately mitigated and less sensitive uses proposed above an established flood level within a building.
- Whether any actions required beyond conditions reasonably applied to a permit can be appropriately addressed through an agreement under Section 173 of the Act. This may include:
 - The need to comply with any Municipal Flood Evacuation and Emergency Management Plan requirements or procedures.

- The need to prepare and periodically review a site specific Flood Evacuation and Emergency Response Plan.
- The need to implement any flood protection works to the building as directed to by the relevant Floodplain Management Authority.
- The need to remove existing buildings and the reinstatement of the land in the event that the site becomes permanently isolated by water or is otherwise uninhabitable.
- Acknowledgement of the future risks and the potential need to contribute to the future cost of the provision of adaptation infrastructure.

10.0 Expiry

This control will expire on 30 June 2012.

11.0 Map

