

**Draft Bass Coast Planning Scheme Amendment C152bas
Referral 3 - Wonthaggi North East Precinct Structure Plan**

VPA Projects Standing Advisory Committee Final Report

Planning and Environment Act 1987

22 August 2022

Planning and Environment Act 1987

VPA Projects Standing Advisory Committee Final Report pursuant to section 151 of the PE Act
Draft Bass Coast Draft Bass Coast Planning Scheme Amendment C152basc

Members of the VPA Projects Standing Advisory Committee who considered this referral:



Tim Hellsten, Chair



John Hartigan, Member



Nicola Ward, Member

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Glossary and abbreviations

Act	<i>Planning and Environment Act 1987</i>
Amendment	draft Bass Coast Planning Scheme Amendment C152basc
BEW	BEW Family Investments Pty Ltd
Birdwood	Birdwood Pty Ltd
BLCAC	Bunurong Land Council Aboriginal Corporation
BPEMG	<i>Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO, 1999 as amended)</i>
C2Z	Commercial 2 Zone
Carbora	Carbora Nominees Pty Ltd
CFA	Country Fire Authority
CHMP	Cultural Heritage Management Plan
CIL	Community Infrastructure Levy
Committee	VPA Projects Standing Advisory Committee
Council	Bass Coast Shire Council
DAL	Bass Coast Distinctive Areas and Landscapes Project

DCP2020	Wonthaggi North East Development Contributions Plan, November 2020
DCP	<i>Wonthaggi North East Development Contributions Plan, November 2021</i>
DCPO1	Development Contributions Plan Overlay Schedule 1
DELWP	Department of Environment, Land, Water and Planning
DET	Department of Education and Training
Development Contributions Guidelines	<i>Development Contributions Guidelines</i> (Department of Sustainability and Environment, June 2003 – as amended March 2007)
DIL	Development Infrastructure Levy
DoT	Department of Transport
DPO21	Development Plan Overlay Schedule 21
EAO	Environmental Audit Overlay
EPA	Environment Protection Authority
EP Act	<i>Environment Protection Act 2017</i>
GRZ1	General Residential Zone Schedule 1
IN1Z	Industrial 1 Zone
IN3Z	Industrial 3 Zone
IPO1	Incorporated Plan Overlay Schedule 2
MUZ	Mixed Use Zone
NVPP2020	Wonthaggi North East Native Vegetation Precinct Plan, November 2020
NVPP	<i>Wonthaggi North East Native Vegetation Precinct Plan, November 2021</i>
PAO5	Public Acquisition Overlay Schedule 5
Parcel #	PSP and DCP property parcel numbers
Parklea/Krastoy	Parklea Developments Pty Ltd and Krastoy Pty Ltd
Paterno & Clifford	Giovani & Cheryl Paterno and Leigh & Gemma Clifford
PE Act	<i>Planning and Environment Act 1987</i>
PIP	Precinct Infrastructure Plan
PPF	Planning Policy Framework
PSP2000	Wonthaggi North East Precinct Structure Plan, November 2020
PSP	<i>Wonthaggi North East Precinct Structure Plan, November 2021</i>
PSP Guidelines	<i>Precinct Structure Planning Guidelines: New Communities in Victoria</i> , October 2021, Victorian Planning Authority
s173 Agreement	an agreement prepared under section 173 of the PE Act
SPP	Statement of Planning Policy

UGZ1	Urban Growth Zone Schedule 1
VPA	Victorian Planning Authority
Wallis Watson	Wallis Watson Industrial Pty Ltd
Wentworth	Wentworth Pty Ltd
WGCMA	West Gippsland Catchment Management Authority

1 Overview

(i) Referral summary

Referral summary	
The Amendment	Draft Bass Coast Planning Scheme Amendment C152basc
Common name	Wonthaggi North East Precinct Structure Plan
Brief description	Draft Bass Coast Planning Scheme Amendment C152basc proposes to implement the Wonthaggi North East Precinct Structure Plan, Development Contributions Plan and Native Vegetation Precinct Plan by incorporating those documents, rezoning land to the Urban Growth Zone, General Residential Zone and Industrial 3 Zone, amending the Schedule to the Commercial 1 Zone, applying the Development Contributions Plan Overlay, Public Acquisition Overlay, Environmental Audit Overlay, Incorporated Plan Overlay, amending Schedule 21 to the Development Plan Overlay, amending Clause 21.07-4 and amending the schedules to clauses 52.16, 53.01, 66.06, 72.04 and 72.08
Subject land	Land within the Wonthaggi North East Precinct Structure Plan - Future Urban Structure Plan area as shown in Figure 1
Planning Authority	Victorian Planning Authority
Council	Bass Coast Shire
Targeted consultation on draft Amendment	2 - 30 November 2020 and 22 November – 20 December 2021
Date of referrals	<p>Tranche 1 - Strategic planning, road network planning and vegetation issues</p> <p>31 January 2021</p> <p>Tranche 2 – Drainage, Wonthaggi North East Precinct Structure Plan, Development Contributions Plan and Native Vegetation Precinct Plan and bushfire issues</p> <p>4 April 2022</p>
Standing Advisory Committee members	Tim Hellsten (Chair), John Hartigan, Nicola Ward
Site inspection	31 March 2021
Consultation	<p>Video conference Directions Hearing, 11 March 2021</p> <p>Video conference Hearing (Tranche 1 Hearing), 12, 13, 14, 15 and 16 April 2021</p> <p>Video conference Directions Hearing (Tranche 2), 2 May 2022</p> <p>Video conference Hearing (Tranche 2 Hearing), 30 and 31 May, 1, 2, 3, 6, 7, 8, 9, 10, 14, 16, 20, 21 and 23 June, 2022</p>
Interim Tranche 1 Report submitted	2 June 2021
Submissions	Refer Appendix C

Referral summary

Parties to the Hearing	Refer Appendix D
Citation	Draft Bass Coast PSA C152basc [2022] VPA Projects Standing Advisory Committee Referral 3
Date of this Report	22 August 2022

(ii) Final report and findings

This report should be read in conjunction with the Committee's 2021 Interim Report which identified findings following the Tranche 1 Hearing. All findings from the Interim Report have been captured in this Final report.

The Committee finds:

- The draft Amendment (based on the VPA's Day 1 version) is generally appropriate. It is well founded and strategically justified and will deliver net community benefit and sustainable development, as required by Clause 71.02-3.
- The proposed Drainage Strategy (Engeny 2021) underpinning the Wonthaggi North East Precinct Structure Plan (PSP) is an appropriate response to the existing conditions and topography of the PSP area and no material change to the strategy is required. The Additional information list (Appendix H) will expand and clarify the description and explanation of the design assumptions and parameters used in the Drainage Strategy and the Functional Design Report (Alluvium 2022). The design and costings of drainage assets are appropriate for inclusion in the PSP and Wonthaggi North East Development Contributions Plan (DCP).
- Acknowledgement of and guidance for the progressive implementation of the drainage strategy should be included in the PSP and DCP.
- The proposed VPA changes to the PSP and DCP will provide appropriate flexibility for the design and delivery of drainage, and road and intersection assets.
- The application of the Development Contributions Plan Overlay (DCPO) across the PSP area supports orderly planning and delivery of infrastructure essential to the development of the PSP and benefits all properties, including those properties with existing agreements.
- The PSP and DCP should be amended generally consistent with the VPA's proposed Day 1 and Final proposed changes as set out in the Committee's Report, Recommendations and Appendices I and J to appropriately respond to issues associated with drainage strategy delivery, costing rates and allowances, existing s173 Agreements, particular infrastructure project design, specific local park and tree reserve arrangement provision, bushfire, contamination and housing affordability.
- The NVPP is generally appropriate and is underpinned by an appropriate level of assessment. It should be amended consistent with the VPA's proposed Day 1 and Final proposed changes as set out in the Committee's Report.
- The supporting statutory planning framework (proposed zones, overlays and particular provisions) is generally appropriate subject to the VPA's proposed Day 1 and Final proposed changes and the Committee's recommended changes.

(iii) Recommendations

The Committee recommends that draft Bass Coast Planning Scheme Amendment C152basc be amended consistent with its recommendations as set out in Chapter 10.

2 Introduction

2.1 Terms of Reference and referrals

The VPA Projects Standing Advisory Committee (Committee) was appointed by the Minister for Planning on 22 July 2020 pursuant to section 151 of the *Planning and Environment Act 1987* (PE Act). The purpose of the Committee as set out in its Terms of Reference dated 17 July 2020 (Appendix A) is to:

... provide timely advice to the Minister for Planning and the VPA on specific matters referred to it related to various proposals, including but not limited to structure plans, infrastructure and development contribution plans, framework plans, development plans and any associated draft planning scheme amendment and planning permits.

The Terms of Reference set out that the Committee is to consider unresolved issues. In doing so it must consider:

- a. The relevant components of the referred plan and associated draft planning scheme amendment and any associated planning permit (if relevant) that relate to the submissions or issues referred to it
- b. The referred submissions
- c. *Plan Melbourne*
- d. Any relevant Regional Growth Plan or Growth Corridor Plan
- e. The applicable Planning Scheme
- f. Relevant State and local policy
- g. Any other material referred to it.

Draft Bass Coast Planning Scheme Amendment C152basc (the Amendment) seeks to implement the PSP and an associated DCP and Native Vegetation Precinct Plan (NVPP). It was prepared by the Victorian Planning Authority (VPA) in consultation with the Bass Coast Shire Council (Council).

This is Referral 3 to the Committee.

The members of the Committee dealing with Referral 3 were:

- Tim Hellsten, Chair
- John Hartigan, Member
- Nicola Ward, Member.

Kimberly Martin, Senior Project Officer at Planning Panels Victoria, assisted the Committee.

The draft Amendment (including November 2020 versions of the PSP, DCP and NVPP) and unresolved submissions were first referred to the Committee on 31 January 2021 by the Minister for Planning (refer Appendix B1) along with a Public Consultation Report and Submissions Summary prepared by the VPA.

A subsequent drainage expert conclave identified several issues relating to the proposed drainage strategy and DCP. In addition, the VPA identified that a high-pressure gas transmission pipeline was located close to the PSP area along with other pipeline assets which required the preparation of a Safety Management Strategy. As a result, the VPA requested the Hearing be conducted in two parts, with the second Tranche to focus on drainage, the DCP, consideration of gas pipeline issues, the NVPP and bushfire issues to be conducted following the preparation of further technical

documents, revised PSP, DCP and NVPP documents and planning scheme amendment changes and land owner notification.

The Committee submitted its Interim Report on 2 June 2021 which dealt with submission issues considered during the Tranche 1 Hearing conducted in April 2021. It contained detailed background of the earlier version of the PSP and planning scheme changes and Tranche 1 submission issues and associated findings. The Interim Report should be read in conjunction with the Committee's Final Report.

The Committee and original Tranche 1 Hearing parties were provided with a link to the amended PSP, DCP and NVPP (November 2021 versions) along with other technical reports and planning scheme amendment documents on 22 November 2021. The revised Amendment was exhibited between 22 November – 20 December 2021.

Submissions of the re-exhibited draft Amendment were referred to the Committee on 4 April 2022 by the Minister for Planning (Appendix B2).

2.2 Background to the draft Amendment and revised draft Amendment documents

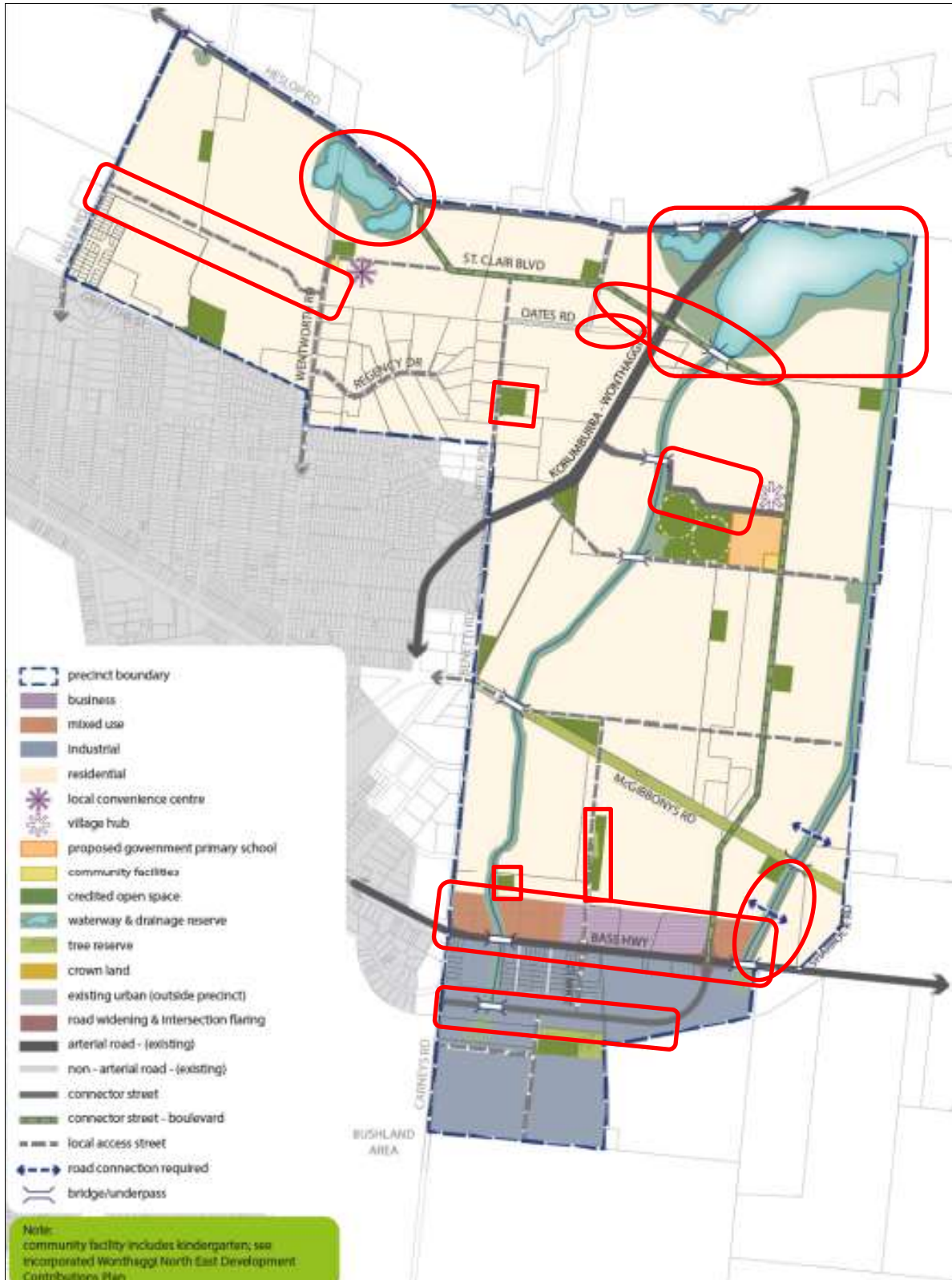
(i) Wonthaggi and subject land

The Committee's Interim Report set out the context for Wonthaggi and the Wonthaggi North East growth area.

The draft Amendment applies to land identified in 'Plan 3 – Future Urban Structure' (Figure 1) included in the November 2021 version of the PSP. This plan also sets out the key land use and infrastructure directions. The Committee has highlighted in Figure 1 (red outlined shapes) the key changes to this plan from the 2020 exhibited version. These changes are identified below and in other chapters of the Report.

The PSP identifies property parcel numbers (Parcel #) on Plan 4 Land Use Budget which are referred to in this report and identified in Appendix F.

Figure 1 Wonthaggi North East Precinct Structure Plan 2021, Plan 3 - Future Urban Structure



(ii) Revised PSP, DCP and NVPP

Amendment documents

The Committee's Interim Report set out the technical and background reports that informed the development of the November 2020 versions of PSP, DCP and NVPP. Amended or additional documents provided by the VPA with the re-exhibited draft Amendment included: (refer Appendix E):¹

- *Wonthaggi North East Precinct Structure Plan, November 2021*
- *Wonthaggi North East Development Contributions Plan, November 2021*
- *Wonthaggi North East Native Vegetation Precinct Plan, November 2021*
- draft Planning Scheme Amendment documents including amended policy changes, Zone and Overlay schedules and Maps, clause schedules, instruction sheet and Explanatory Report
- *Wonthaggi North East Precinct Structure Plan Background Report, November 2021*
- *Wonthaggi North East DCP – Options Report (Mesh, October 2021)(DCP Options Report)*
- *Addendum to the Bushfire Development Report for the Wonthaggi North East Precinct Structure Plan (Terramatrix, August 2021)(Bushfire Report)*
- *Land Use Change & Encroachment Safety Management Study Report (PDA, October 2021) (Safety Management Study)*
- *Proof of Concept Report, Alluvium, September 2021*
- Revised Drainage Strategy for Wonthaggi North East PSP (Engeny, November 2021)(Drainage Strategy)
- *Wonthaggi North East Precinct Structure Plan Functional Design Report and Appendices (Alluvium, November 2021)*
- *Wonthaggi North East Precinct Structure Plan – Main Outfall Connection – Functional Design (Alluvium 30 November 2021)²*
- *Functional Design Report, Addendum to Main Outfall Design (Alluvium, 2022)*
- *Functional Design Drawings, Addendum to Main Outfall Design (Alluvium, 2022)*
- *Wonthaggi North East Precinct Structure Plan Transport Impact Assessment (Stantec, November 2021)(Transport Impact Assessment)*
- *Bridge Concept and High-Level Cost Estimate, Wonthaggi North East PSP (Cardno, November 2021)(Bridge Concept and Cost Estimate)*
- *Wonthaggi NE PSP Outfall Connection to Powlett River, Addendum: Main Outfall Functional Design (Alluvium, December 2021)*
- *Wonthaggi North East PSP Korumburra-Wonthaggi Rd/St Clair Blvd Intersection 4 – Option 2 Concept Design (Stantec, 4 February 2022)*
- *Wonthaggi North East PSP Korumburra-Wonthaggi Rd/St Clair Blvd Cost Estimate (GTA Consultants, 11 March 2022)*
- *Wonthaggi North East PSP Korumburra-Wonthaggi Rd/Connector Street Intersection 9 Concept Design (Stantec, 4 March 2022).*

The following further documents were provided to submitters and parties on the 8 April 2022:

¹ Documents 173-194 (PSP - 174, DCP - 175 and NVPP – 196)

² Document superseded and no longer forms part of the Amendment

- *Preliminary Drainage Review* (Neil Craigie & Graham Daff, December 2021), an independent review of the 2021 Functional Design Report³
- Analysis of transport infrastructure usage (Stantec).⁴

A final *Functional Design Report*, Alluvium Consulting, 29 April 2022 (Functional Design Report) was provided in response to the Preliminary Drainage Review and further modelling.⁵

Precinct Structure Plan

The Committee’s Interim Report set out the land area, land uses, broader objectives and vision for the PSP. They have not substantially changed and have not been repeated here. The key differences between the November 2020 version of the PSP and November 2021 version are set out in the VPA’s Changes Report (Document 179) and summarised in Table 1 below (*note: The PSP includes numbered requirements (R#) and guidelines (G#)*).

Table 1 Summary of changes to November 2020 PSP included in the November 2021 PSP

Section	Change
Various	<p>Range of changes made by VPA in response to November 2020 submissions and included in VPA’s Tranche 1 ‘Day 1 Amendment changes’ and ‘VPA Final Tranche 1 changes’ and supported by the Committee’s Interim Report findings:</p> <ul style="list-style-type: none"> • addition of notes and revised guidelines relating to schools in response to Department of Education and Training submission • changes to ‘Plan 3 Future Urban Structure Map’ (Plan 3) including: <ul style="list-style-type: none"> - corrections to Oats Road designation (submission 11) - realignment of St Clair Boulevard through 35 Carneys Road and adjoining property to east (response to submissions 28 and 23 and consistent with Committee’s Interim Report finding) - realignment of local access street through Summerfields Estate (response to submission 22 consistent with Committee’s Interim Report finding) - realignment of eastern waterway to align with Crown Land (submission 10) – <i>Discussed at Tranche 1 Hearing but held over for Committee’s consideration for Tranche 2 Hearing</i> - provision of MUZ area on Bass Highway (submission 10) - relocation of local park LP-05 consistent with Committee’s Interim Report finding in response to submission 13 (same changes to Plan 6 Open Space)
Bushfire provisions	<p>Updated to reflect Bushfire Report:</p> <ul style="list-style-type: none"> • updated to Bushfire Plan 8 to reflect amended Bushfire Attack Level (BAL)-12.5 setback from waterways and include further requirements (R34-R36) and guidelines (G42-G50) • in relation to street tree planting and plantings in road reserves or open space to amend G37, R1, R62 and R63
Drainage and gas pipeline	<p>Changes made in response to Safety Management Strategy and updated Drainage Strategy:</p> <ul style="list-style-type: none"> • changes to layout, designs and land area for Wetlands 1, 2, 3 and 4 with original 16 sediment basis reduced to 5 by inclusion into wetlands, deletion or

³ Document 197

⁴ Document 198

⁵ Document 222

Section	Change
	<ul style="list-style-type: none"> replacement with Gross Pollutant Traps (GPTs) • ‘Plan 2 Precinct Features’ and ‘Plan 12 Utilities’ updated to depict transmission pressure gas pipeline and identified 143 metre buffer distance • Related changes to Plan 3
Roads	<ul style="list-style-type: none"> • New Section 15 added for ‘Korumburra-Wonthaggi Road’ with service road interface in response to DoT submission and Committee’s Interim Report finding • ‘Figure 1 McGibbonys Road Interface Concept Plan’ updated to show correct street typologies • In response to updated Drainage Strategy and Traffic Impact Assessment: <ul style="list-style-type: none"> - realignment of boulevard connector adjacent to wetland WL-02 to accommodate altered wetland footprint (shown on Plan 3) - realignment of connector street and recreation reserve (adjacent to Village Hub) to accommodate a sedimentation basin (shown on Plan 3) - note included in concept drawing for IN-01 to allow for further detailed investigations of Fuller Road carriageway to determine if realignment required to avoid a water main - inclusion of RD-02 providing for upgrade of 245 metre section of McGibbonys Road between Korumburra Road and PSP area to cater for future traffic demand - updated design for intersection IN-04 (St Clair Boulevard/Korumburra-Wonthaggi Road) to meet Regional Roads Victoria requirements to accommodate a north-east approach 80 km/h design speed - identified need for T intersection at Korumburra- Wonthaggi Road and proposed connector street with increase in land take and costs (concept drawing and cost estimate provided before Hearing) • Plan 3 updated
Objectives (O#), Requirements (R#) and Guidelines (G#)	<ul style="list-style-type: none"> • In response to the Safety Management Strategy and the management of safety risks: <ul style="list-style-type: none"> - an additional Objective (O14) providing guidance for sensitive uses and potential land use conflict within pipeline safety buffer areas - amend G13 to reference buffer distances - an additional R59 to ensure DCP construction projects include design considerations to manage pipeline safety risks • Revised housing diversity guideline G13 included in response to submission 10 and Committee’s Interim Report • Deletion of R32 relating to development being ‘in accordance with’ the NVPP (following discussions with submitter 27) to avoid misinterpretation of role of NVPP • Amend G62 to support alternative water sources including rainwater tanks. Responds to drainage conclave • R65 relating to open space contributions under Clause 53.01 updated to reflect revised contribution rates
Other	<ul style="list-style-type: none"> • Redistribution of area of local park (LP-12) to LP-13 (located on Property 64-R) and relocation of LP-12 from Property 65 to Property 66-R to reflect approved subdivision permit (change made in response to Submission 31). Changes also made to other Plans including Plan 3 • PSP boundary amended to exclude Property 67 south of Bass Highway adjacent to Property 68 comprising a small slither of land forming part of an adjoining lot

Section	Change
	not included in the PSP land
	<ul style="list-style-type: none">• 'Plan 12 Utilities' updated to remove booster pump station LP-05 as no longer required by South Gippsland Water• Inclusion in Plan 4 a plan insert to enable smaller industrial estate lot Parcel numbers to be legible• Reclassify Property 51 in Land Budget to Crown land, reducing area of LP-07 and LP-08• 'Plan 6 Cultural heritage' added with removal of detail from Plan 2• 'Plan 10 Public Transport and Path Network' updated to clearly depict shared paths on either side of the western north-south waterway• Section 13 corrected to refer to 40 metre width including tree reserve areas• Minor formatting corrections to PSP Tables 2, 5, 6 and 7

Development Contributions Plan

The changes included in the 2021 DCP include:

- in response to the Functional Design Report:
 - an increase in drainage costs (land and construction) from \$53,377,194 to \$127,062,433 resulting from recosting of drainage projects for functional improvements, indexation and allowance for contingencies and the inclusion of new projects
 - increase in land area and costing for Wetland 1 (WL-01) and associated Retarding Basin (RB-01)
 - consolidation of sediment basins from 16 to 5 projects including land take (3.02 hectares)
 - removal of culvert project (CU-11)
 - inclusion of new projects (culverts: CU-13, CU14, CU-15, CU-16, and drainage reserve DR-03 for outfall channel to Powlett River)
- in response to the Traffic Impact Assessment:
 - an increase in transport infrastructure projects from \$18,161,000 to \$29,064,328 resulting from inclusion of new projects, recosting of projects, allowance for land take, and allowance for contingencies
 - inclusion of new road and intersection projects: RD-02 McGibbonys Road upgrade and IN-09 for Korumburra-Wonthaggi and Connector Road including land take
- in response to the Safety Management Study:
 - amended footprint of Wetland 1
 - revised approach to crossing gas and water mains at WL-01 and WL-02 and contingency costs for three culvert projects
- in response to the DCP Options Report and implementation of Option 2:
 - additional statements regarding the application of the DCP where existing Section 173 Agreements created under the PE Act (s173 Agreements) provide for infrastructure contributions
 - include an additional Table in Appendix A which outlines existing s173 Agreement numbers and associated permit status
- increase in the Community Infrastructure Levy (CIL) cap from \$1,116.50 to \$1,225 per dwelling and decrease in overall CIL by \$70,237 as a result of housing yield reducing to 4,800

- change in land budget to reflect exclusion of Property 67 from PSP and reclassification of Property 51 as Crown land
- removal of 'PS-01 Land for a proposed Government school' at the request of the Department of Education and Training
- indexation changes
- minor technical or grammatical corrections or enhancements.

Native Vegetation Precinct Plan

The 2021 version of the NVPP has been amended to:

- improve the quality of Plans as requested by DELWP (Environment)
- updated Plans to display corresponding habitat zone code of vegetation patches and numbering of scattered trees
- changes to Plans 4, 5 and 6 to identify vegetation to be retained in response to submission 16 and VPA/Council cross check of DCP projects. Corresponding changes made to Tables
- deletion of identified patch of trees from Plan 5 on Parcel 52 as the vegetation has been removed.

(iii) Draft Amendment ordinance changes

The draft Amendment (in both its original November 2020 and November 2021 form) proposes to implement the PSP, DCP and NVPP, apply zones (refer Figure 2) and overlays, partly remove and amend one overlay and amend other clauses of the Planning Scheme as summarised in Table 2 below, with changes between the 2020 and 2021 exhibited versions identified in *italics*.

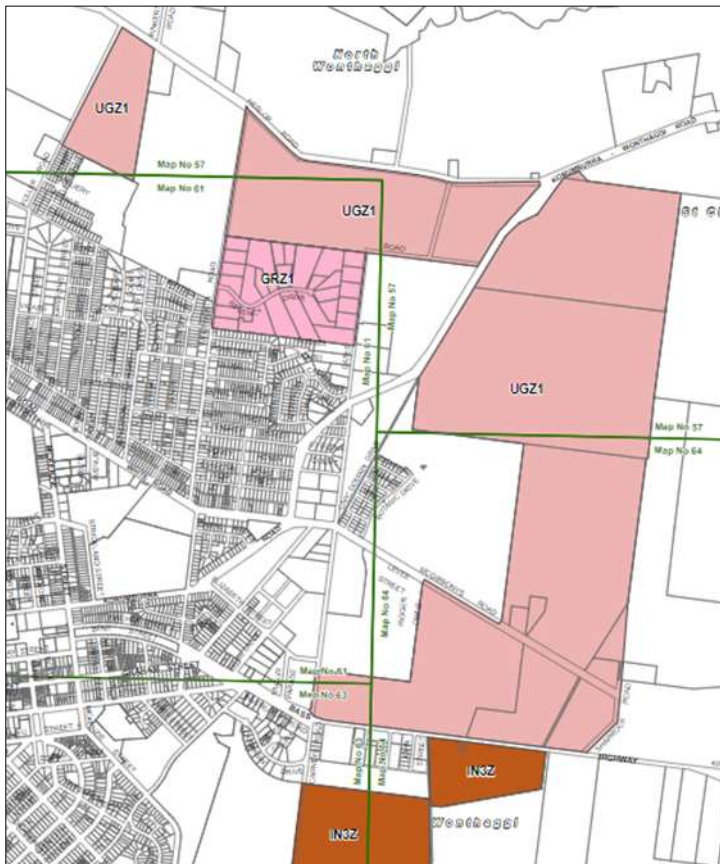
Table 2 Proposed changes to the Bass Coast Planning Scheme

Clause	Proposed change
Clause 21.07-2 Wonthaggi	Amend 'Wonthaggi North Growth Area' to 'Wonthaggi North <u>East</u> Growth Area' and amend the reference to applying Development Plans to growth areas to refer to the PSP and approved development plans (no change between 2020 and 2021 versions)
Clause 32.08	Apply the General Residential Zone Schedule 1 (GRZ1) to land adjoining Regency Drive and Westworth Road consistent with zoning applied to other parts of the growth area not in the Farming Zone (no change between 2020 and 2021 versions)
Clause 33.03	Apply the Industrial 3 Zone (IN3Z) south of Inverloch Road (Bass Highway) (no change between 2020 and 2021 versions)
Clause 34.01	Amend the Schedule to Commercial 1 Zone (C1Z) to identify Maximum Leasable Floor Area for shop (no change between 2020 and 2021 versions)
Clause 37.07	Apply the Urban Growth Zone and Schedule 1 (UGZ1) to residential areas in the north east growth area generally north of Inverloch Road (Bass Highway) and south of Hislop Road currently in the Farming Zone, with the following changes proposed in the 2021 version of the Schedule: <ul style="list-style-type: none"> • <i>updated reference to amended PSP and a final revised Map 1</i> • <i>insert a Table of Uses including conditions for 'Section 1 – Permit not required' for identified sensitive uses requiring 143 metre setback from gas pipeline as shown on</i>

Clause	Proposed change
	<p><i>Plan 12 of revised PSP</i></p> <ul style="list-style-type: none"> • <i>added application requirement for a Bushfire Management Plan in a Bushfire Hazard Area as shown in Plan 8 of PSP in response to submission of CFA</i> • <i>deletion of requirement for a Preliminary Site Investigation and related permit condition</i> <p><i>addition of new conditions for a gas pipeline Construction Management Plan (within 53.5 metres of pipeline) and a bushfire Site Management Plan in identified areas in response to submission of CFA</i></p>
Clause 43.03	Apply the Incorporated Plan Overlay Schedule 2 (IPO2) to land south of Inverloch Road (Bass Highway) to land in the Industrial 1 Zone and proposed IN3Z land – 2021 version amended to update IPO Overlay Map to refer to IPO2 rather than IPO1
Clause 43.04	<p>Delete the Development Plan Overlay Schedule 21 (DPO21) from identified sites adjoining Inverloch Road (Bass Highway) and amend Schedule 21 to reflect elements of the PSP and apply it to the area of Regency Drive to be GRZ1, with the following changes proposed in the 2021 version:</p> <ul style="list-style-type: none"> • <i>minor changes to objective wording relating to housing diversity</i> • <i>deletion of requirement for a Preliminary Site Investigation</i> • <i>update concept plans 1 and 2 with new versions</i> • <i>D-DPO Overlay Map amended to retain 5261 Bass Highway within DPO21</i>
Clause 45.01	Apply the Public Acquisition Overlay 5 (PAO5) to eight properties adjoining Inverloch Road (Bass Highway) and Korumburra-Wonthaggi Road (no change between 2020 and 2021 versions)
Clause 45.03	Apply the Environmental Audit Overlay (EAO) to four sites adjoining the Korumburra-Wonthaggi Road – EAO expanded in 2021 version to cover sites previously identified as medium risk and removed from Property 47
Clause 45.06	Apply the Development Contributions Plan Overlay Schedule 1 (DCPO1) to all land except declared roads – 2021 version updated to reflect updated costings in revised DCP
Clause 52.16	Amend the Schedule to refer to the NVPP – 2021 version amended to refer to amended NVPP
Clause 53.01	Amend the Schedule to introduce contributions for residential and employment land at subdivision – 2021 version amended to update percentage rates (3.82 per cent for Residential land and 1.45 per cent for Employment land) reflecting Net Development Area changes and PSP Requirement renumbering
Clause 66.06	<i>New provision in 2021 version of Amendment to include a referral requirement to the South Gippsland Pipeline transmission pressure gas pipeline licensee to use or subdivide land or construct a building or carry out works for identified sensitive uses located within 143 metres of pipeline as shown on Plan 12 of revised PSP</i>
Clause 72.04	Amend Schedule to include the PSP, DCP and NVPP as Incorporated documents – 2021 amended version updated to refer to revised PSP, DCP and NVPP dates

Clause	Proposed change
Clause 72.08	Amend Schedule to include a range of technical documents as Background documents - 2021 amended version updated to refer to new documents - Functional Design report and Traffic Impact Statement, and make other minor alterations

Figure 2 Proposed zone changes



2.3 Submission issues

(i) Tranche 1

A total of 29 submissions, including a late submission from the Country Fire Authority (CFA), were made to the draft Amendment (Appendix C). All submissions were referred to the Committee by the Minister for Planning. This included supporting submissions from VicTrack and West Gippsland Catchment Management Authority (WGCMA), which were not considered by the Committee, and from South Gippsland Water who attended the Tranche 1 Hearing to respond to Committee questions.

(ii) Tranche 2

The Committee and parties were provided two further submissions with the amended PSP Amendment package including a submission from the Environment Protection Authority (EPA)(Submission 30) which provided advice relating to the application of the EAO in the

context of Amendment VC203 (discussed at Chapter 7.4) and a submission from a PSP area landowner which had been misplaced by the VPA (Submission 31).

Following the re-exhibition of the draft Amendment with the amended PSP, DCP and NVPP the VPA referred a further 25 submissions (Appendix C) which included:

- 15 submissions from submitters that had already made initial submissions to the draft Amendment referred to the Committee in January 2021 (submitters 1, 3, 5, 7, 11, 16, 18–25 and 27). This included supporting submissions from WGCMA, Department of Education and Training (DET), DELWP (Environment) – submissions 3a, 5a and 7c respectively⁶, and a submission from Regional Roads Victoria/Department of Transport (DoT) – submission 11a
- the two submissions referred to above from EPA (submissions 30 and 30a) and landowner submission 31
- nine new submissions (submissions 32–40). This included a supportive submission from Multinet Gas Networks (submission 36), a submission from Council (submission 35), a submission from the Bunurong Land Council Aboriginal Corporation (BLCAC), which is the Registered Aboriginal Party for much of the Mornington Peninsula and Bass Coast area (submission 32) and submissions from five further landowners within the PSP area.

Precinct property based submissions and related property parcel numbers (Parcel #) are mapped in Appendix F.

The submission from DET advised that the changes made to the 2021 version of the PSP by the VPA in response to its original submission and discussed in the Interim Report had been resolved. The WGCMA submission supported the changes made in the PSP and DCP to address outfall flows from the PSP area to Powlett River. The EPA advised that it generally supported the VPA’s amended approach to applying the EAO and requirements around the assessment of potentially contaminated land.

Table 3 of this Report sets out the Committee’s summary of unresolved Tranche 1 submissions and the unresolved submissions referred on 4 April 2022 in response to the amended 2021 versions of the draft Amendment, PSP, DCP and NVPP, and where this is addressed in the Interim Report (IR) and the Final Report (FR).

Submission 16a (Wonthaggi Lifestyle Precinct) which requested that the Amendment provide a clear strategic pathway for the Wonthaggi Lifestyle Precinct, a proposed residential project located immediately south of the proposed industrial precinct, was withdrawn during the Tranche 2 Hearing.⁷ The submission was therefore not considered further by the Committee.

Table 3 Summary of unresolved issues

Theme	Issues	Report section
Strategic basis for Amendment	<ul style="list-style-type: none"> • Strategic basis for Amendment • Impacts of Bass Coast Distinctive Areas and Landscapes Project (DAL) 	IR-4.1, FR-3.6

⁶ The letter suffix ‘a’ following the submission number denotes a submitter who made a further submission in addition to those first referred to the Committee in January 2021. DELWP provided further submissions identified with a ‘c’ suffix.

⁷ Document 304 (8 June 2022)

Theme	Issues	Report section
Application of PSP and land use directions	• Inclusion of land already in the GRZ1 with approved development plans and planning permits	IR-4.2, FR-7.9
	• Impacts on existing Low Density Residential Zone (LDRZ) areas to be rezoned GRZ	IR-4.3, FR-7.9 IR-5.1, FR-7.7
	• Commercial and mixed use precinct zoning	IR-5.2, FR-7.8
	• Industrial precinct including the need for further industrial land, buffers and amenity requirements, alternative land uses and integration and development of the existing industrial area	
	• Appropriate application of Zones and Overlays and other Planning Scheme provisions	IR-4.1, FR-9.1 & FR-9.2
Development considerations	• Gas pipeline impacts	FR-7.1
	• Bushfire including buffer dimensions and application	FR-7.2
	• Contamination including requirements for preliminary site assessments and application of the EAO	IR-7.2, FR-7.4
	• Cultural heritage including requirements for Cultural Heritage Management Plans	IR-7.1, FR-7.3
	• Housing affordability, diversity and sustainability	IR-6, FR-7.5
Infrastructure	• Drainage including:	
	- appropriateness of drainage strategy	FR-4.4
	- drainage strategy implementation including interim works	FR-4.5
	- drainage project design and costs	FR-4.6
	- apportionment	FR-4.7
	• Transport and movement including:	IR-8.1-8.5
	- project design	FR-5.1
	- costing	FR-5.2
	- apportionment	FR-5.3
• Open space provision including location and size of local parks and tree reserves	IR-9, FR-5.4	
• Other infrastructure including high voltage powerlines, sewerage and water infrastructure, provision of schools and kindergartens	IR-9, FR-7.6 & FR-7.10	
DCP	• Approach to recognising existing s173 Agreements	FR-6.1
	• DCP detail including valuation methodology, indexation and other mechanics	FR-6.2
NVPP	• Vegetation removal required for infrastructure projects • Vegetation removal exemptions	FR-8
Other	• Appropriateness of fast-track amendment process	IR-10
	• Town entrances and appearance	IR-10

2.4 Procedural issues

(i) Committee members considering Tranche 2 referral

Mr Hartigan's was appointed to another matter coinciding with the Tranche 2 Hearing which limited his attendance on some hearing days focussed on drainage issues. Committee member Ms Ward participated in the Tranche 2 Hearing and preparation of the Final Report. This ensured a quorum of at least two Committee members could be achieved for all days of the Hearing as required in the Committee's Terms of Reference.

(ii) Conduct of the Hearing

The Terms of Reference note:

Depending upon the nature of the referral, the Committee can conduct its proceedings through round table discussions, on the papers or, a public hearing, including by video conference if unable to conduct this 'in person'.

The Interim Report sets out the basis of the conduct of the Tranche 1 Hearing by videoconference and arrangements for expert conclaves.

Given the ongoing challenges of COVID 19 and associated public health requirements, the complexity of issues, number of parties, advocates and experts involved, the Committee considered that a videoconference based Hearing format was appropriate.

Table 4 below identifies the experts called by parties for the Tranche 2 Hearing:

Table 4 Tranche 2 Expert evidence

Evidence topic	Expert (party calling expert)
Drainage and costing	<ul style="list-style-type: none"> Caroline Carvalho of Alluvium (VPA) Warwick Bishop of Water Technology (VPA) Peter Coombes of Urban Water Cycle Solutions (Council) Chris Dale of Safe System Solutions Pty (Council) Michael Mag of Stormy Water Solutions (Parklea Developments Pty Ltd/Krastoy Pty Ltd (Parklea/Krastoy)) Marc Noyce of Noyce Environmental Consulting Pty Ltd (Giovani & Cheryl Paterno and Leigh & Gemma Clifford (Paterno & Clifford)) Aram Manjikian of Beveridge Williams Wentworth Pty Ltd (Wentworth), Robert John Edden, Carbora Nominees Pty Ltd/BW Projects St Clair P/L (Carbora/BW Projects), Wallis Watson Industrial Pty Ltd (Wallis Watson), Summerfields Wonthaggi Pty Ltd (Summerfields) and Ocean Rise P/L (Ocean Rise) Mark Fleming of Spiire (same parties as Manjikian)
Development contributions	<ul style="list-style-type: none"> Chris DeSilva and Jo Fisher of Mesh (VPA) Chris McNeill of Ethos Urban (Council) Mark Woodland of Echelon Planning (Parklea/Krastoy) Alex Hrelja of HillPDA and later of Urbis (Parklea/Krastoy)
Bushfire	<ul style="list-style-type: none"> Phillip Walton of XWB Consulting (Paterno and Clifford)

Given the number of drainage and DCP experts called by the parties, a Drainage and Costing conclave and a DCP conclave took place, with related evidence and statements⁸ circulated before the Tranche 2 Hearing. The Drainage and Costing conclave statement is reproduced in Appendix G (except the signature pages) given the agreed opinions were relied upon by all parties. Both conclaves were particularly useful in understanding common issues and shared positions on key elements of the drainage strategy and the operational aspects of the DCP.

The Committee heard all the experts together by evidence based theme which provided a more iterative understanding of the issues and enabled some progress to be made by the VPA and Council in preparing considered responses. The Committee appreciates the evidence provided and the way in which the parties embraced this approach.

The Committee thanks the parties for the way in which they engaged with the Hearing process and the submissions and suggestions they provided. The submissions of Council were particularly helpful in advancing a potential way forward on the more complex issues associated with stormwater management and existing s173 Agreements.

2.5 VPA's Tranche 2 - Day 1 proposed changes

In response to Tranche 2 submissions, submission issues not addressed at the Tranche 1 Hearing and further technical work, the VPA provided a suite of Tranche 2 'Day 1 changes'⁹ to the draft Amendment and documents which were outlined in an updated Changes Report May 2022. The key changes are summarised in Table 5 below and marked up in Figure 3 by the Committee to identify key changes to the Future Urban Structure (shown in red outlined shapes). The changes are further discussed in Chapters 4 to 9.

Table 5 Tranche 2 - Day 1 changes

Document	Change proposed
UGZ1	<ul style="list-style-type: none"> Update Map 1 to align with VPA Day 1 version of Future Urban Structure Section 4.0 conditions amended to remove the words '<i>in addition to</i>' in relation to management of bushfire risk during subdivision works, and remove '<i>all to the satisfaction of the responsible authority</i>' to provide greater clarity that the CFA is responsible for the approval of Site Management Plans
DPO21	Update Wonthaggi North East growth area concept plans 1 and 2 to align with VPA Day 1 version of Future Urban Structure and Public Transport and Path Network plan
Public Acquisition Overlay (PAO)	Application of the PAO shown in PAO Maps 57, 63 and 64 and addition of PAO5 to Schedule 1 abandoned at the request of Council because the precise location of intersection projects being subject to change at the subdivision stage
DCPO1	Section 2.0 Summary of costs and Section 3.0 Summary of contributions updated to refer to April 2022 figures: <ul style="list-style-type: none"> Total costs; \$129,079,153 (including: roads - \$4,710,886, intersections - \$26,552,811, culverts/bridges - \$3,587, 997, drainage \$76,282,005) at 100% apportionment Contributions: Development Infrastructure Levy (DIL) - Commercial \$242,971 Net

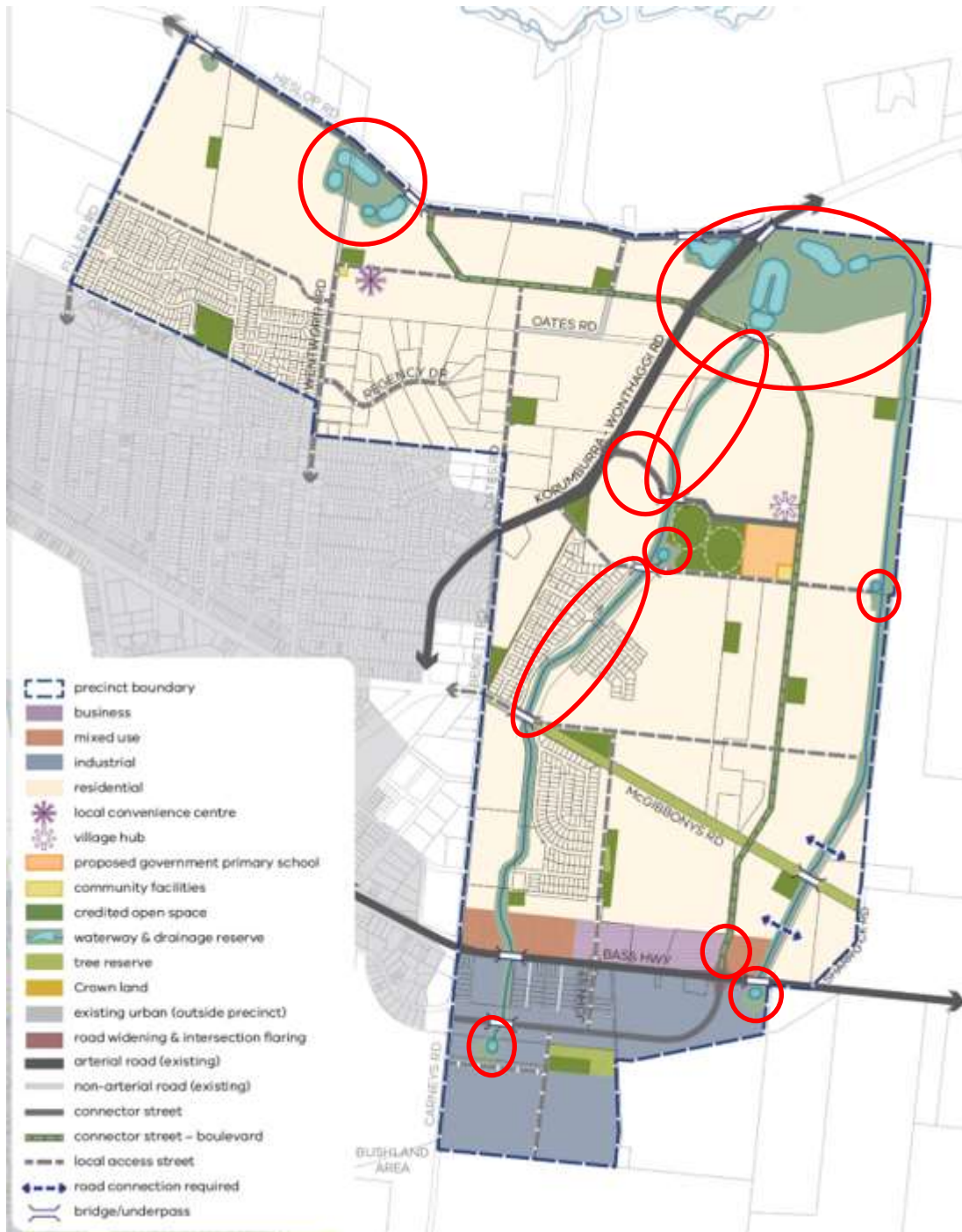
⁸ Documents 258 (Drainage and Costing conclave statement) and 259 (DCP conclave statement)

⁹ Documents 232(a) to (f), 233(a) to (o) and 234(a) to (j)

Document	Change proposed
	Developable Area (NDA), DIL – Residential \$215,838 and CIL 1,136 per dwelling
Clause 53.01	Open space requirement updated to 2.41 per cent
Clause 66.06	Schedule updated to correctly reference the Pipelines Act 2006
Clause 72.08	Schedule updated to reference all April 2022 background documents
PSP	<ul style="list-style-type: none"> • range of minor changes, edits and document reference updates • amended references to the role of sites with s173 Agreements • amended Plan 3: <ul style="list-style-type: none"> - amended design and reduced land area for wetland WL-01 and WL-02 - amended layout and reduced area for wetland WP-03 and WL-04 - sediment basins SB-02 and SB-04 relocated into waterway corridors DR-01 and DR-02 reducing land take - realignment of connector street to Village Hub precinct - western waterway realigned to avoid parcel 48 - eastern waterway reduced in width - intersection IN-01 amended to earlier design - intersection IN-09 redesigned as roundabout - southern boulevard connector realigned onto Parcel 63-R • objectives, guideline and requirement changes including renumbering: <ul style="list-style-type: none"> - additional integrated water management and utilities objective (014) - guideline G71 added regrading timing of infrastructure and renumbering - open space requirement R65 updated to 2.41 per cent • updated land use budget • other Plan changes: <ul style="list-style-type: none"> - removal of note from Plan 8 - addition of shared paths adjoining WL-01 and Korumburra- Wonthaggi Road in Plan and Section 15 - note on ‘Plan 11 Integrated Water management’ amended to extend detailed design caveat - Plan 13 Precinct Infrastructure Plan (PIP) added • St Clair Boulevard’ renamed ‘Boulevard Connector’ • ‘Appendix 5 Precinct Infrastructure Table’ added setting out DCP apportionment and indicative timing
DCP	<ul style="list-style-type: none"> • Drainage projects: <ul style="list-style-type: none"> - culverts CU-01, CU-05, CU-06, CU-07 removed but remain identified as assets in PSP and PIP - CU-13 proposed by Alluvium removed as not required - CU-04 cost reduced as part constructed, 50% of costs to be indexed to 2020\$ - minor cost adjustment to CU-08 - land take and costs reduced for WL-01 and WL-02 - land take and costs increased for WL-03 and WL-04 - land take for DR-01 has increased but cost decreased - land take and costs for DR-02 has decreased - decrease in costs of DR-03 - minor increase in costs of sediment basins - amended cost assumptions for excavation and fill - 100 per cent apportionment • Transport projects:

Document	Change proposed
	<ul style="list-style-type: none"> - constructed RD-02 costs indexed to 2018 - IN-01, IN-02, IN-03, IN-04, IN-05, IN-06, IN-07 and IN-08 costs or indexation rates adjusted - IN-09 costs adjusted to reflect roundabout design • S173 Agreement provisions amended throughout document • Other changes: <ul style="list-style-type: none"> - 'Table 1 – Summary of Charges' and 'Table 9 Calculation of costs – CIL' updated to reflect reduced CIL as a result of increase in residential land budget and revised project costings and apportionment - removal of PS-01 from 'Plan 6 Community Facility & Active Recreation Projects' - indexation rates adjusted for RD-02 and CU-04 - 'Section 3.2.4 Integrated water management' revised to clarify land acquisition for drainage infrastructure - deletion of note in 'Section 4.3.4 Summary of charges per hectare' - 'Table 11 – PSP Parcel reference with corresponding S173 dealing number and permit status' updated to reflect Parcels 65 and 127 have planning permits - references to St Clair Boulevard replaced with 'Boulevard Connector' - IN-09 project amended to 'Bass Highway and proposed connector street – roundabout' - updated infrastructure provision triggers in Tables 3 (Transport Projects), 4 and 5 (integrated Water Management projects) - land values updated to reflect Council's land valuation report (Westernport Property Consultants) • Total NDA increased by 9.15 ha to 514.89 ha (total) with NDA - Employment reduced by 0.37 ha and NDA - Residential increased by 9.53 ha
NVPP	<ul style="list-style-type: none"> • 'Plan 4 Native Vegetation Retention and Removal' updated to show vegetation within the known extents of the revised IN-04 and IN-09 as 'habitat zones that can be removed' • Updated to exclude vegetation identified outside NVPP area

Figure 3 VPA Day 1 version of Precinct Structure Plan showing key changes



2.6 Without prejudice drafting

During the Tranche 2 Hearing both the VPA and Council advanced a series of proposed or suggested changes to the PSP and DCP to deal with issues of drainage strategy implementation, including further work on the Engeny and Alluvium reports, and an approach to interim treatments and management of s173 agreement contributions. Other parties also advanced suggested changes on a 'without prejudice' basis.

At the conclusion of the Tranche 2 Hearing arrangements were made for the VPA to provide an updated set of proposed changes to the PSP, DCP, NVPP and other Amendment documents.¹⁰ These were provided to the parties for response on a 'without prejudice' basis following which the VPA providing its final proposed changes (VPA's Final changes) on 22 July 2022.¹¹

The Final changes are identified within Tables 7, 9-11 and 13-15 of this Report, with the more extensive PSP and DCP changes included in the Committee's preferred versions in Appendix I and Appendix J.

2.7 Limitations

(i) Submissions issues and role of the Interim Tranche 1 Report

The Terms of Reference make it clear that the Committee is to only consider the unresolved submission issues referred to it for advice.

The following Tranche 1 submission issues were not raised in Tranche 2 submissions or were addressed by the VPA in its 2021 changes to the PSP:

- inclusion of land already in the GRZ1 with approved development plans and planning permits
- alignment with existing development plans
- the proposed industrial precinct including the need for further industrial land and alternative land uses
- particular roads and intersections not raised in Tranche 2 submissions
- need for or location of a bypass route
- active transport
- reticulated sewerage and water infrastructure
- guidelines for provision of schools and kindergartens
- town entrances and appearance.

The Committee adopts its Interim Report findings in relation to those issues and does not consider them further in this Report. It considers that the VPA's 2021 changes have appropriately responded to its findings where document changes were considered necessary unless where specifically identified in this Final Report. Those findings have however been taken into account by the Committee in forming its recommendations in this Final Report.

(ii) Resolved issues

The VPA's Day 1 changes and Final changes resolved aspects of a number of party submissions. These are identified in each chapter where relevant. While the Committee broadly accepts these changes and makes recommendations about their inclusion in the final Amendment documentation, the Committee has not discussed or analysed them in detail. Consistent with the Committee's observations and recommendations around a final 'sweep' of all Amendment documentation, further changes to the PSP, DCP or other Amendment documents may be required to ensure no unforeseen circumstances arise from these proposed changes.

¹⁰ Document 337

¹¹ Document 344

(iii) Role of VPA

Several parties were critical of the VPA including that it had not sufficiently engaged with landowners, had not dealt with fundamental issues of PSP delivery and DCP implementation including those related to drainage and existing approvals, and that the draft amendment was not a suitable one for a fast tracked process through the VPA Projects Standing Advisory Committee process.

It is not appropriate for the Committee to make comment about the suitability of the referral or the way the VPA has gone about its task. The Committee acknowledges these concerns but observes that the path of this PSP/DCP and draft Amendment has been complicated by the extent of existing development and approvals in place (both permits and Development Plans), the existing mix of zone and overlay tools in place and the approach of applying s173 Agreements for this growth area. The challenge of securing an appropriate and sustainable drainage solution within flat terrain that can be implemented in stages over a potentially long time period is a significant one.

During the course of the Tranche 1 and 2 Hearings, the VPA has undertaken extensive additional drainage work and increasingly embraced the need for a more nuanced approach to the PSP/DCP and to address the deliverability issues inherent in the localised context. This was an important step to ensuring that the draft Amendment could be progressed in a manner that could deliver housing outcomes consistent with the strategic growth role of Wonthaggi.

The Committee is of the view that the VPA's role does not end with the completion of the PSP, DCP and NVPP in this instance. It is likely that Council will need the support or guidance of the VPA in managing some of the more detailed planning and design work that lays ahead including facilitating critical drainage projects and opportunities to plan and integrate the existing Bass Highway industrial estate.

2.8 Content of Final Report

The Terms of Reference require the Committee to produce a written report. Table 6 below sets out the requirements for the report and the relevant chapter of this Final Report. This Report should be read in conjunction with the Committee's Interim Report which sets out a range of background material, summary of evidence and submissions and findings that have not been fully reproduced in this Report but informs a number of its recommendations.

Table 6 How this report addresses the Terms of Reference

Terms of Reference report requirements	Interim Report and Final Report section
Whether the referred element(s) of the draft amendment is appropriate	Chapter 10
A summary and assessment of the issues raised in submissions referred to the Committee	Tranche 1 issues – Interim Report Chapters 2 – 10 Tranche 2 issues – Chapters 2 - 9
Any other relevant matters raised in the Committee process	Chapters 3 – 9
A list of persons who made submissions considered by the Committee	Appendix C includes all submissions referred and identifies submissions not considered by the Committee for both Tranche 1 and 2

Terms of Reference report requirements	<i>Interim Report and Final Report section</i>
A list of tabled documents	Appendix E – for both Tranche 1 and 2
A list of persons heard	Appendix D – for both Tranche 1 and 2

2.9 Terms used in Final Report

To assist with reading of this Report:

- any reference to ‘the Amendment’ refers to the draft Amendment as exhibited in November-December 2021 and referred to the Committee on 4 April 2022 unless it refers specifically to the VPA’s Tranche 2 ‘Day 1’ or ‘Final’ changes documents
- the references to PSP, DCP and NVPP refer to the November-December 2021 exhibited draft versions with the amended November 2021 date unless it refers specifically to the VPA’s Day 1 or Final changes versions of those documents. The previous exhibited versions referred to in this Report contain the ‘2020’ suffix
- references to numbered requirements (R#) and guidelines (G#) refer to the numbering in the 2021 version of the PSP or proposed by the VPA in its Day 1 or Final changes
- reference to Parcel number refers to the PSP property parcel numbers in Plan 4 Land Use Budget of both the PSP and DCP.

3 Planning context and strategic justification

3.1 Planning policy framework

The Committee's Interim Report identified the key parts of the Planning Policy Framework (PPF) relevant to the proposed Amendment and the development of the PSP, DCP and NVPP.

The VPA's Tranche 2 Part A submission¹² sets out a number of changes to the Bass Coast Planning Scheme since the Tranche 1 Hearing. One of the key policy changes was the replacement of the Local Planning Policy Framework of the Bass Coast Planning Scheme with a new Municipal Planning Strategy (MPS) following the gazettal of Amendment C160basc on 8 July 2021. That amendment translated much of the content of the Local Planning Policy Framework into a new MPS at Clause 02 and within Clauses 11 through to 19 in the PPF. It also made a number of changes to local schedules to overlays and operational provisions consistent with changes to the Victoria Planning Provisions introduced by Amendment VC148. The amendment was effectively a neutral translation and resulted in no material changes in the intent or application of policies referred to in the Interim Report. For continuity in the SAC's reports, the key policies referred to in the interim Report can be found in the following translated policies:

Municipal Planning Strategy:

- Clause 02.03
 - identifies Wonthaggi as regional centre accommodating high spatial growth and large scale residential growth within the settlement boundary as the north-east growth area - Clause 02.03-1 (Settlement)
 - supports habitat protection and enhancement and minimise the loss and fragmentation of indigenous vegetation - Clause 02.03-2 (Environmental and landscape values)
 - ensures development does not increase the risk of environmental hazards including bushfire and flooding - Clause 02.03-3 (Environmental risks and amenity)
 - supports housing diversity and provision of affordable housing - Clause 02.03-6 (Housing)
 - supports further industrial development in Wonthaggi and its role as the region's main centre for retail, commercial and industrial activity - Clause 02.03-7 (Economic Development)
 - supports the provision of efficient vehicular, pedestrian and cycling networks that account for seasonal changes in traffic volumes and movements – Clause 02.03-8 (Transport)
 - supports the provision of a range of appropriately designed and accessible community facilities, open space and other infrastructure to meet future growth that is delivered in an effective and efficient manner - Clause 02.03-9 (Infrastructure).

Planning Policy Framework (which articulates previous policies found at clauses 21.03, 21.04, 21.05 and 21.07):

- Clause 11 (Settlement) including 11.01-1L-01 (Settlement) which supports growth consistent with the Strategic Framework Plan and 11.01-1L-02 (Wonthaggi) consistent

¹² Document

with the Wonthaggi strategic framework plan which identifies the north-east growth area, a bulky goods-peripheral sales area along Bass Highway and industrial expansion area south of Bass Highway

- Clause 12 (Environmental and landscape values) including 12.01-1L (Protection of biodiversity)
- Clause 13 (Environmental Risks and Amenity) including 13.02-1L (Bushfire planning) and 13.03-1L (Floodplain management)
- Clause 15 (Built Environment and Heritage)
- Clause 16 (Housing) including 16.01-1L (Housing supply)
- Clause 17 (Economic Development) including 17.01-1L (Diversified economy)
- Clause 18 (Transport)
- Clause 19 (Infrastructure) including 19.03-2L (Infrastructure design and provision).

Other relevant changes to the Bass Coast Planning Scheme which impact the Amendment include:

- VC203 which implements the *Environment Protection Act 2017* into the Victoria Planning Provisions (VPP) and all planning schemes and affects application of the EAO based on guidance within the updated *Planning Practice Note 30: Potentially Contaminated Land* (PPN30)
- VC171 which amended Clause 13.03-1S (Floodplain Management)
- VC204 which modified Clause 18 (Transport) to implement changes to State planning policy for transport
- VC185 which updates Clause 11.03-5S (Distinctive areas and landscapes) to include more strategies regarding the implementation of strategic directions of approved and Localised Planning Statements and Statements of Planning Policy.

The VPA submitted that the revised Amendment documentation had been reviewed in the context of the above changes.

3.2 Planning Scheme provisions

The Committee's Interim Report identified:

- the current and proposed zones and overlays
- relevant particular provisions
- relevant Ministerial Directions and Planning Practice Notes.

3.3 Bass Coast Distinctive Areas and Landscapes project

On 29 October 2019 the whole of the Bass Coast Shire was declared a 'distinctive area and landscape' (DAL) in accordance with Part 3AAB of the *Planning and Environment Act 1987* (PE Act). The declaration was made following consideration of the results of a first phase of public engagement and a technical assessment against the requirements of section 46AP of the PE Act.

Declaration of the Bass Coast triggers the requirement to prepare a Statement of Planning Policy (SPP) to create a framework for the future use and development of land in the declared area. In accordance with section 46AV of the Act, the SPP must set out:

- a 50-year vision identifying the values and attributes to be protected and enhanced
- the long-term needs for the integration of decision-making and planning for the declared area

- Aboriginal tangible and intangible cultural values and other cultural heritage values in relation to the declared area
- a declared area framework plan that integrates social, environmental, economic and cultural heritage attributes and which may specify settlement boundaries or designate settlement boundaries as protected settlement boundaries.

The Committee's Interim Report included an April 2021 update from DELWP on the status of the Bass Coast Distinctive Areas and Landscapes Project (DAL) and associated SPP and its relationship with the Amendment. At that time DELWP was drafting the SPP following a second stage of engagement on a discussion paper which identified Wonthaggi as located within a Regional Centre Precinct and advised:

Given the strategic importance of Wonthaggi as a regional centre for growth and in light of the assessment of the relevant landscape as not of state significance, DELWP considers it appropriate that the Committee's scheduled hearings for Amendment C152basc proceed in parallel to DELWP's preparation of the SPP.

DELWP's correspondence noted the DAL project would be further progressed before the consideration of Tranche 2 submissions.

The Committee sought an update on the DAL project which DELWP provided on 4 May 2022.¹³ DELWP advised that public consultation on the draft SPP had ended and submissions were under consideration. It identified:

The draft Bass Coast SPP identifies Wonthaggi as a regional centre and the declared area's primary service and employment centre. It is expected to accommodate future population and employment growth as well as health, education, civic and retail services. This is consistent with the designation of Wonthaggi as a regional growth centre within Clause 11.01-1S, 11.01-1R and 21.07 of the Bass Coast Planning Scheme. I understand that the Wonthaggi North East Precinct Structure Plan and Amendment C152basc helps progress the growth envisaged in the area within the existing settlement boundary.

The draft SPP indicates that growth will be accommodated within designated growth areas within the current settlement boundary and a future protected settlement boundary. The resolution of the location of the future protected settlement boundary will be informed by strategic planning work led by the Bass Coast Shire Council in collaboration with the Traditional Owners: Bunurong people, DELWP and other relevant agencies and authorities, which includes the Victorian Planning Authority. The referral regarding the Wonthaggi North East Structure Plan will inform this process.

The process to determine the boundary will be completed in accordance with the objects of Part 3AAB – Distinctive Areas and Landscapes of the Planning and Environment Act 1987. It will include community consultation and a public submissions process.

I therefore consider that the Committee's scheduled hearings for Amendment C152basc can proceed in parallel to the consideration of submissions on the draft Bass Coast SPP and as part of the strategic work required to determine the location of the proposed protected settlement boundary for Wonthaggi.

¹³ Document 231

3.4 Preparing Development Contributions Plans

(i) Legislative framework

Sections 46H to 46QD of the PE Act enable the implementation of a DCP. This head of power supports the DCP related policy framework and provisions in each planning scheme. The sections relevant to this Amendment are summarised as follows:

- s46I(1) a planning scheme may include one or more DCPs to levy contributions to fund:
 - (a) the provision of works, services and facilities in relation to the development of land in the area to which the plan applies; and
 - (b) the reasonable costs and expenses incurred by the planning authority (plan preparation costs) in preparing the plan and any strategic plan or precinct structure plan relating to, or required for, the preparation of the DCP
- s46J a DCP may provide for DILs and CILs
- s46K(1) a DCP must:
 - (a) specify the area to which it applies
 - (b) set out the plan preparation costs, works, services and facilities to be funded, including any staging
 - (c) relate the need for the plan preparation costs, works, services and facilities to the proposed development of land in the area
 - (d) specify the amount of the plan preparation costs and the estimated cost of the works, services or facilities, or the standard levy applicable
 - (e) unless a standard levy is applied, specify the proportion of the total estimated cost of the plan preparation costs, works, services and facilities to be funded by a DIL and, or a CIL
 - (f) specify the land in the area and the types of development for which a levy is payable and the method for determining the levy amount for the development of land
 - (fa) specify the Minister, public authority or municipal council to whom the levy is to be paid (the collecting agency)
 - (fb) is responsible for the provision of the identified works, services or facilities and plan preparation costs (the development agency)
 - (g) provide procedures for the collection of a DIL for of any development which does not require a permit.
- s46K(2) a DCP may:
 - (a) exempt certain land or certain types of development from payment of a DIL or CIL
 - (b) provide for different rates or amounts of levy to be payable in respect of different types of development of land or different parts of the area
- s46N provides for the payment of an amount of levy to the collecting agency through mandatory permit conditions (where a development permit is required and triggers the levy) and where a permit is not required but development still triggers the levy, requiring payment or entering into an agreement to pay the levy
- s46O provides for the payment of a CIL at the building permit stage
- s46P the collecting agency may
 - (1) require the payment of an amount of levy referred to in section 46N or 46O to be secured to its satisfaction
 - (2) accept the provision of land, works, services or facilities by the applicant in part or full satisfaction of the amount of levy payable.

(ii) Ministerial Direction on the Preparation and Content of Infrastructure Contributions Plans

The *Ministerial Direction on the Preparation and Content of Development Contributions Plans* (Part A) (October 2016) specifies the items which may be funded through a DCP, including: a) the acquisition of land for roads, drainage and public open space; b) the construction of roads, including the construction of bicycle and foot paths, and traffic management and control devices; c) the construction of public transport infrastructure; d) basic improvements to public open space, including earthworks, landscaping, fencing, seating and playground equipment; and e) drainage works.

(iii) Development Contributions Guidelines

The *Development Contributions Guidelines* (Department of Sustainability and Environment, June 2003 – as amended March 2007)(Development Contributions Guidelines) are a guide for the appropriate and practical application of the development contributions system (as opposed to the infrastructure contributions system) and as an alternative to ‘voluntary agreements’ to provide or pay for infrastructure under s173 Agreements. They identify the following principles for the development of a DCP:

- it must have a strategic basis
- infrastructure projects can be justified:
 - where they will be used by a future community of an area, including existing and new development - where charging rates are based on the projected share of usage, identifying *“This is all that is required to demonstrate ‘need’”*
 - a nexus can be demonstrated between new development and the likely use of the infrastructure to be provided. *“New development should not be considered on an individual basis, but as part of the wider community that will use an infrastructure project. The wider community may also include existing development. This is all that is required to demonstrate ‘nexus’ to justify the application of the charge”*
 - a reasonable time horizon is provided (should not exceed 20 – 25 years) to ensure contributions are equitable and reasonable. Timeframes should consider the time horizon for strategic planning, provision and funding, the expected rate of new development and degree of certainty in projecting growth
- costs must be apportioned on the basis of shared usage where levies are calculated amongst all the likely users so *“new development will not be charged for the whole cost of an infrastructure project that others will use and costs are distributed on a fair and equitable basis.”* However, *“while the levy is calculated on the basis that all the users pay for the cost of the infrastructure, only new development can actually be charged the levy. Therefore, a DCP will rarely cover the full cost of providing the infrastructure.”*
- it must create a binding obligation or commitment on the infrastructure provider to provide the infrastructure by the identified date or criteria
- it must form part of the planning scheme
- it must provide accountability to ensure levies collected are used to provide for the nominated infrastructure
- it must transparently identify all the assumptions associated with levy calculation are clearly documented, justified and understandable.

Other elements of the Guidelines identify that a DCP:

- can only charge new development the levy
- cannot apply to specific development identified in the PE Act or other identified exempt development
- can include a new item of infrastructure, upgrades of existing infrastructure or replacement of properly maintained infrastructure which is at the end of its economic life
- includes infrastructure which must be used by a broad cross section of the community and serves a neighbourhood sized catchment or larger area
- provides for a standard of infrastructure basic to the health, safety and well being of the community, or is consistent with community expectations of that standard
- a DIL can fund the construction of roads (including bicycle and foot paths) and traffic management and control devices, basic improvements to public open space (including earthworks, landscaping and seating) and drainage works, generally collected through planning permit conditions
- a CIL can fund community or social purpose buildings (other than child health and child care centres and kindergartens), generally collected through the building permit process
- levy is calculated based on the estimated cost of infrastructure based on clear documentation detailing project costs. Relevant costs include capital costs of provision, financing costs, design costs and costs associated with the preparation of the DCP.

3.5 Preparing Precinct Structure Plans

The initial PSP2020 was prepared by the VPA using its then standard PSP guidance approach. In October 2021 the VPA released the *Precinct Structure Planning Guidelines: New Communities in Victoria*, October 2021 (PSP Guidelines) which aim to 'lift the bar' for PSPs to provide higher standards of design and development. The PSP Guidelines provide for a consistent, best practice approach to preparing PSPs so as to create liveable new communities that are accessible, safe and attractive.

The PSP Guidelines identify that PSPs are:

- ... high-level strategic plan that sets out the preferred spatial location of key land uses and infrastructure to guide decisions on staging of development, subdivision permits, building permits and infrastructure delivery
- ... deliberately flexible – they cannot anticipate and control every challenge that may be encountered at detailed design and delivery phases. As a tool to guide subdivision and delivery of essential infrastructure, they provide certainty of intended outcomes and the flexibility for detailed design to respond to site-specific requirements and solutions, and innovations.

The PSP Guidelines identify key PSP features and targets.

While the PSP Guidelines maintain a focus on preparing PSPs in Melbourne's new communities, they note that where prepared within regional Victoria, a more nuanced approach to the application of the PSP Guidelines is required, with the same principles, features and targets considered in the regional context.

The PSP Guidelines identify that open, flexible and creative thinking along with strong leadership is required to drive innovation in a PSP, observing:

Place-based coordination by an on-ground oversight entity is a prerequisite to ensuring quality outcomes. In most cases, this is a council role. The developer also has a key role to play, particularly in relation to master-planned estates at scale. But

once the plan is complete, the real work starts; delivering a PSP can never be “set and forget.”

In terms of infrastructure coordination, the PSP Guidelines identify the coordinated and timely delivery of infrastructure and the logical and orderly development of precincts as essential to unlocking development and ensuring housing affordability. For regional settings it is acknowledged:

Service infrastructure delivery, standards and timing differ between metropolitan and regional areas given their unique settings. The timing and financing of infrastructure and service delivery is generally aligned with the rate and extent of demand.

This target can be achieved through two different methods depending on the identified growth pattern of the precinct or area. Where a PSP is developed, an DCP/ICP will be implemented for the delivery of essential infrastructure. Where a Development Plan applies, infrastructure will be delivered via a Section 173 Agreement entered into between council, developers and delivering agencies (where relevant). All principles should be achieved irrespective of the method utilised.

Relevant general principles include:

- coordinated delivery of key infrastructure and appropriate staging of development to provide for:
 - timely delivery, taking into consideration likely sequencing of development, land ownership constraints and funding sources
 - efficient delivery, taking into consideration likely sequencing of development
 - development that will not be isolated from basic and essential infrastructure and services
 - ensuring that development does not take place unless it can be serviced in a timely manner
 - ensuring that development within a PSP can be staged to match the attainment of infrastructure triggers and the provision of infrastructure and services
 - opportunities for alternative delivery models that achieve sustainability or other community benefits.
- staging of development within PSPs should consider:
 - proximity to existing or proposed development fronts or serviced land
 - proximity to significant public transport infrastructure or public transport services
 - proximity to existing or committed community infrastructure such as schools
 - proximity to new or existing arterial or connector road infrastructure
 - existing uses (for example, extractive uses) which may transition over a longer period of time
 - its role in facilitating delivery of this infrastructure.
- maximising opportunities for development to utilise existing infrastructure
- a staged approach to drainage outfall to align with incremental development of the precinct
- alternative and innovative infrastructure and service delivery approaches should be explored early in the PSP place-shaping and visioning stages to ensure new and innovative initiatives are embedded in the design and structure of a PSP
- potential mechanisms to incentivise the early delivery of key infrastructure should be explored, particularly where fragmented land parcels and/or other site constraints exist.

The PSP Guidelines identify that a staged approach to drainage outfall should be considered to align with incremental development of the precinct, with PSPs to typically include an indicative

staging plan. The PSP Guidelines note however that a PSP is only part of the sequencing approach observing:

It is the role of subsequent processes beyond the PSP to deliver infrastructure. Typically, the infrastructure provider (council, utilities, state agencies) will consider PSP intent but also investment business cases, changes in technology and service models, in addition to policy and financial considerations.

3.6 Strategic justification

(i) The issues

The issues are whether the Amendment:

- is strategically justified
- should proceed before completion of the Bass Coast DAL.

(ii) Interim Report

During the Tranche 1 Hearing the Committee considered several submissions relating to the need for further housing supply (submissions 16 and 19).

Submission 18 from Parklea considered there was no strategic justification for the Amendment and that there was a sufficient land supply for housing in Wonthaggi. The submission considered the Amendment premature in the context of the DAL project which would specify long term settlement boundaries. Evidence statements were circulated from Mr Woodland of Echelon Planning on planning and of Mr Dawson of Urbis on property economics. That evidence was not called at the Tranche 1 Hearing with Parklea electing to present its entire submission at the Tranche 2 Hearing.

The summary of submissions and the Committee's discussion can be found in the Interim Report and is not repeated here.

The Committee's Interim Report findings were that:

- At the broad strategic level the PSP is the appropriate tool to guide the future development of the Wonthaggi North East growth area and its application is strategically justified subject to a number of changes to respond to submissions.
- The application of the UGZ1, GRZ1, IN3Z, EAO, IPO2 and DPO21 are broadly appropriate and strategically justified subject to suggested changes.
- The Amendment process should proceed without waiting on the completion of the Bass Coast Distinctive Areas and Landscapes project.

(iii) Evidence and submissions

At the Tranche 2 hearing the submission for Krastoy/Parklea did not rely on the earlier Tranche 1 evidence statements of Mr Dawson or Mr Woodland. It did however rely on Mr Woodland's Tranche 2 planning evidence particularly in relation to the application of the DCP to Krastoy/Parklea's land interests.

Mr Woodland's evidence provided an overview of the relevant planning policies, Directions and Ministerial Guidelines relevant to the Amendment and salient elements of the draft DAL SPP and associated draft landscape planning controls for Wonthaggi.

While Krastoy/Parklea's Tranche 2 Hearing submission did not explore the issues of the wider strategic basis for the Amendment beyond the appropriateness of applying the DCPO to land with

a s173 Agreement or the potential impacts of the DAL project, it did raise concerns about Council's submission proposing an alternate zoning and policy regime for the PSP/DCP area. This is discussed further in Chapter 6.

Parklea/Krastoy's submission referred to the recent PSP Guidelines and observed that the PSP was inconsistent with elements of those guidelines, particularly relating to implementation aspects including staging approaches to infrastructure.

The VPA advised that the PSP had been prepared and substantially advanced before the release of the PSP Guidelines but that the further changes it proposed in response to submissions and evidence appropriately responded to the new guidelines.

No other parties raised issues associated with the strategic justification for the Amendment beyond identifying the necessity of the Amendment to facilitate growth and land supply consistent with the settlement role of Wonthaggi.

(iv) Discussion and findings

For the reasons identified in its Interim Report the Committee considers that the draft Amendment is strategically justified and critical to ensuring the coordinated growth and release of land to achieve the policy ambitions for Wonthaggi. It supports the PPF and is underpinned by extensive background analysis.

The Committee maintains its Interim Report view that the DAL project has little impact on this Amendment other than to reinforce that this area is where Wonthaggi's growth should occur.

The Committee is satisfied that the PSP is appropriately constructed but will be enhanced with the inclusion of changes proposed by VPA, Council and recommended by the Committee. These changes and recommendations will also enable it to align with the recent PSP Guidelines. The Committee considers there is no reason the final PSP should not adopt the current best practice standard and aspiration to 'lift the bar'.

There is a broader question of whether the draft Amendment's proposed suite of tools (zones and overlays) is the best planning control regime to deliver the PSP. This issue is complicated by historical factors including existing zoning patterns, approved Development Plans and planning permits, multiple active growth fronts and different approaches to applying s173 Agreements. The Committee discusses s173 Agreement challenge at Chapter 6.

The Committee acknowledges there are challenging issues associated with the implementation of the PSP and DCP particularly those associated with delivering the drainage strategy and managing the crossover of DCP projects with existing s173 Agreements projects. The Committee is generally satisfied that these issues can be appropriately managed through changes to the draft Amendment and associated documents to enable development to occur, without having to make drastic and fundamental changes to the Amendment that would significantly transform it or to send it 'back to the drawing board'.

The Committee finds that the draft Amendment:

- Is supported by, and implements, the relevant sections of the PPF.
- Is consistent with the relevant Ministerial Directions and Practice Notes.
- Is well founded and strategically justified.
- Will deliver net community benefit and sustainable development, as required by Clause 71.02-3.

- Is not impacted by the Bass Coast DAL project
- Should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

4 Stormwater management

4.1 Background

(i) Further technical work

Following the Tranche 1 Hearing and associated conclave of drainage experts, Engeny Water Management Pty Ltd was engaged by VPA to update the 2019 Drainage Strategy. The key changes in the 2021 Drainage Strategy included:

- updated hydrology to be compliant with Australian Rainfall and Runoff 2019
- updates to account for existing gas transmission and water supply pipelines
- further work on the outfall channel from Wetlands 1 and 2 to the Powlett River.

Alluvium Consulting Australia Pty Ltd prepared updated functional designs and costs for the stormwater drainage assets proposed in the Drainage Strategy which resulted in:

- naming convention for all four wetlands amended from WL (wetland) to WLRB (wetland retarding basin) reflecting their retarding function
- WLRB1 'split' into WLRB-1A and WLRB-1B to improve overall treatment performance and asset integrity, while ensuring land take is confined to land subject to inundation
- increased sinuosity of both waterways to reduce instream flow velocities to protect the waterway bed/banks and promote the ecological health of waterways and associated riparian zones
- reduced number of independent sediment basins by integrating them or removing redundant assets, resulting in the reduction of proposed drainage assets from 31 to 23
- functional design assets superseding the earlier Drainage Strategy concept designs
- the identification of the following additional assets:
 - two constructed waterways for flow conveyance and improved ecological outcomes for the broader area
 - five independent sediment basins including two previous basins being replaced by GPTs
 - nine culverts
 - the main outfall to the Powlett River designed to carry the 50 per cent Annual Exceedance Probability (AEP) flow from WLRB-1A, WLRB-1B and WLRB2.

Neil Craigie and Graham Daff undertook an independent and first principles review of the Functional Design Report (Preliminary Design Review, December 2021) including assumptions and scope for cost savings through redesign of the proposed drainage infrastructure. The review was used to inform further refinements to Alluvium's Functional Design Report supported by Engeny's TUFLOW modelling:

- reduced size of WL-01, WL-02 and WL-03 to achieve cost savings without compromising treatment quality
- revised outfall culvert design (CU-08) for improved function
- revised Main Outfall design to account for sensitivity of the downstream channel to changes in the outfall cross section
- revised cost estimates, adopting an excavation rate of \$25 a cubic metre
- included volume analysis from existing external catchments.

Cardno prepared concept design and high-level costing (Bridge Concept and Cost Estimate) for three crossings of the main outfall channels (CU-14, CU-15 and CU-16).

(ii) VPA Day 1 PSP and DCP changes

The VPA’s Day 1 changes included:

- amending PSP Plan 3 to showing revised drainage projects, and depicting these projects in a PIP (Figure 13 of the PSP) as shown in Figure 4
- amending guideline G62 to read (additional text underlined):
 Development should demonstrate a reduced reliance on potable water through the use of alternative design features that increases the utilisation of fit-for-purpose alternative water sources such as storm water, rain water and recycled water. In particular, the use of lot-scale rainwater tanks plumbed to internal reuses such as toilet features is encouraged for stormwater quality treatment
- other changes summarised in Tables 1 and 5 of this Report.


Figure 4 VPA Day 1 version of Precinct Structure Plan ‘Plan 13 – Precinct Infrastructure Plan’



(iii) Agreed changes

The VPA set out its agreed changes in its Final version of the PSP, DCP, Drainage Strategy and Functional Design Report. Table 7 below summarises some of the changes proposed by the VPA which are not discussed elsewhere in this chapter or in any significant detail. The Committee supports the changes identified in Table 7.

Table 7 VPA Final changes to its Day 1 version of the PSP, DCP and technical documents related to drainage supported by the Committee

Document	Change	Submitter
PSP Maps	Amend Map 11 to Straighten alignment of waterway DR-01 through Parcels 65 and 66-R 	LandGipps - Barich evidence
PSP Requirements & Guidelines	<ul style="list-style-type: none"> Amend R52 and G63 to replace 'responsible authority' with 'Bass Coast Shire Council' Change wording of R49 to: <i>The proposed development for the PSP must meet or exceed best practice stormwater quality treatment standards in accordance with the Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO, 1999 as amended) (BPEMG) prior to discharge to receiving waterways as outlined on Plan 11, unless otherwise approved by the responsible catchment management authority and the responsible authority.</i> Change wording of R50 to: <i>For waterways shown on Plan 11, development works must ensure:</i> <ul style="list-style-type: none"> <i>Waterways and integrated water management design maximise land available to be used for multiple recreation and environmental purposes.</i> <i>Overland flow paths and piping within road reserves will be connected and integrated across property / parcel boundaries.</i> <i>Any freeboard requirements for overland flow paths will be adequately contained within road reserves</i> <i>All to the satisfaction of the catchment management authority and the responsible authority.</i> Change wording of R53 to: 	<p>Council</p> <p>Drainage conclave</p> <p>Council, Drainage conclave</p> <p>Drainage conclave</p>

Document	Change	Submitter
	<p><i>All development areas identified as “subject to an existing flood extent” and/or abutting a drainage reserve on Plan 11, must meet the freeboard requirements above the 1% AEP flood level estimate, as specified by the responsible authority, and in accordance with DELWP safety criteria guidelines.</i></p>	“
	<ul style="list-style-type: none"> Change wording of R60 to: <p><i>The design and layout of roads, road reserves and public open space should optimise water use efficiency and long-term viability of public landscaped areas through the use of Water Sensitive Urban Design (WSUD) and Integrated Water Management (IWM) initiatives and outcomes.</i></p> 	“
	<ul style="list-style-type: none"> Add a new requirement R#: <p><i>The proposed development within the PSP must accord with the Australian Rainfall and Runoff Guidelines, 2019 (as amended) and accord with the Urban Stormwater Management Guidance (Publication 1739, EPA 2021).</i></p> 	
DCP	<ul style="list-style-type: none"> Update all cost sheets and costing tables to reflect revised design and costs as a result of changes identified in the agreed changes to technical reports Update ‘Plan 7 Integrated Water Management Projects’ to include the pipe references in Table 39 of the DCP. VPA to reflect the final data on Plan 7 following Alluvium review of pipe assets when further work has been completed by Engeny and Alluvium Include SB-01 in legend of Plan 7 Include the cost of the easement as a land cost for DR-03 with the amount (based on current valuation) to be provided by Council Update incorrect reference at Section 3.2.4. to ‘Alluvium November 2021’, to ‘April 2022’ (or relevant date of any further version of the report) Update dot point 3 at ‘Section 3.3 Project timing’ to read: <ul style="list-style-type: none"> <i>the early progressive delivery of DR-01 is required to enable orderly sequential development of the growth area with DR-02 coming on line as part of later stages of development.</i> Update Table 5 to renumber Culvert projects sequentially. Only Culverts proposed as DCP items will be shown (consistent with current projects shown on Plan 7) and description of DR-03 updated to ‘construction of main outfall channel’ Amend ‘Appendix C Project cost estimates & concept designs’ to: <ul style="list-style-type: none"> Update documents with full titles and finalisation dates Amend SB numbering for consistency and clarity Update culvert costings to refer to Culvert project number Reinstate deleted Table 25 to the DCP and add map from Engeny report for clarity on culvert project references Table 26 and 27 updated to state ‘as per Engeny Strategy, 2019’ Remove Table 29, 30 and 31 	<p>General</p> <p>“</p> <p>De Silva</p> <p>Council</p> <p>“</p> <p>“</p> <p>“</p> <p>“</p> <p>Submissions</p>

Document	Change	Submitter
	- Engeny to amend the cost sheets for CU-08, CU-10 and CU-12	21-25
Functional Design Report	<ul style="list-style-type: none"> • Include a line item for landscape maintenance costs (24 months) required in establishing the site for all relevant drainage assets • Update text to: <ul style="list-style-type: none"> - provide more detailed discussion around internal and external catchment treatment and offsets to meet PSP pollutant load reduction targets - provide further detail in relation to treatment targets - make reference to the need for requirements around fill to be considered at the detailed design stage • Apply a nominal \$50,000 allowance for Environmental Management and reporting, and an additional 0.5 % of construction value for erosion control management for each wetland • Maintenance tracks / shared path costings to be itemised to per m² • Review the drainage pipe location and costs from the Drainage Strategy. Pipe alignments to be checked to ensure general consistency with the Functional Design Report and Cost report. Current pipes identified in the DCP are based on Engeny's now superseded drainage design. Alluvium to consider rubber joint costs in light of Fleming evidence • Update Figure 57 to be consistent with Table 1 of the Functional Design Report 	Submitters 22, 23, 24, 25, 35 and 40 Drainage conclave " Council, Drainage conclave Drainage conclave, Fleming evidence Submissions 20-25 and 40
Drainage Strategy	Engeny to amend the relevant cost sheets for CU-08, CU-10 and CU-12 to include the allowances required for crossing of servicing infrastructure and to reflect Alluvium design specifications	Submissions 21-25

4.2 The stormwater strategy

(i) The issue

The issue is whether the proposed stormwater strategy is appropriate.

(ii) Drainage and Costing and DCP conclaves

In summary, the Drainage and Costing conclave statement (Appendix G) indicated that:

- generally, the experts were content with section 3.6.1 and Plan 11 of the PSP subject to several amendments including:
 - final design of constructed waterways (including widths), drainage corridors, retarding basins, wetlands, and associated paths, boardwalks, bridges, and planting, must be to the satisfaction of the catchment management authority and the responsible authority (R48)

- R49 be amended to ensure development meets or exceeds best practice stormwater quality treatment standards in accordance with BPEMG prior to discharge to receiving waterways as outlined on Plan 11
 - R50 be amended to ensure waterways and integrated water management design maximise land available to be used for multiple recreation and environmental purposes, overland flow paths and piping within road reserves will be connected and integrated across Parcel boundaries and containing freeboard requirements within road reserves
 - R53 be amended to specify that all development areas identified as “*subject to an existing flood extent*” and/or abutting a drainage reserve on Plan 11 must meet the freeboard requirements above the 1 per cent AEP flood level, as specified by the responsible authority, and in accordance with DELWP safety criteria guidelines
 - R60 be amended to read that the design and layout of roads, road reserves and public open space should optimise water use efficiency and long-term viability of public landscaped areas through the use of WSUD and Integrated Water Management initiatives and outcomes
 - a new requirement be added that the proposed development within the PSP must accord with the *Australian Rainfall and Runoff Guidelines, 2019* and accord with the *Urban Stormwater Management Guidance (Publication 1739, EPA 2021)*
 - PSP Plan 11 should be updated to reflect the proposed catchment boundaries and to clearly identify all assets listed in PSP Table 7
- the two proposed waterways, the wetland retarding basins and sediment basins are generally an appropriate means of servicing the PSP
 - the revised drainage strategy has provided justification for the selection of the loss parameters used in the runoff routing (RORB) model but not for the parameters used in the hydrologic model, there is insufficient validation and calibration of the existing conditions hydrology model which may result in over-estimation of 10 per cent to 1 per cent AEP flows, and these results should be documented
 - a direct outfall to the Powlett River may be required to minimise downstream impacts
 - it was appropriate to have considered external catchment flows as these would continue to drain through the future PSP roads and drainage network
 - external catchment flows were appropriately modelled and the treatment of external catchments was then excluded when calculating the BPEMG pollutant load reductions for the PSP.

The DCP conclave agreed that clarification was required to establish whether the drainage solution provides for conveyance of external flows only or whether storage and treatment of external catchments is proposed and how this impacts on land take and scope of drainage works.

(iii) Additional information list

In response to drainage evidence of Mr Coombes for Council and associated cross examination, Council sought the opportunity for Mr Coombes to provide a list of the further work he said was necessary to address a range of concerns of experts about the modelling and other assumptions built into the Drainage Strategy and Functional Design Report. The Committee was of the view that such a list would be useful to understanding whether this information would assist PSP/DCP finalisation and implementation or if a fundamental reworking of the stormwater strategy was required. Council provided a final version of a document titled ‘The Need for Additional

Information' (Additional information list) (Appendix H) which was signed by drainage experts Mr Coombes, Mr Mag and Mr Bishop. All drainage experts were provided with the opportunity to input into it. The final Council version responded to the VPA's points of clarification.

The VPA advised that it had provided the document to Ms Carvalho to review and agreed that it would undertake this work if required.

(iv) Evidence and submissions

Stormwater management strategy

The VPA stated in its Part B submission¹⁴ that in response to the Tranche 1 drainage conclave, it had completed a suite of technical reports which, in its view, addressed as far as reasonably practical the conclave statement and the issues raised by submitters about the Drainage Strategy. It submitted that:

... the proposed drainage strategy provides an appropriate ultimate solution to capture, retard, retain, treat, and convey stormwater safely through the precinct while also contributing to recreational and visual amenity to the future community. The VPA is of the view that the PSP provides flexibility to enable this ultimate solution to be realised as part of the rollout of this development, the staging of which is not known, and dependent on the order of applications from development proponents.¹⁵

On the question as to why an 'end-of-line' drainage design is proposed, the VPA submitted that:

- the experts broadly agree with the proposed drainage strategy and accept the 'end-of-line' asset arrangement
- an 'end-of-line' drainage strategy had been envisaged in the first strategy commissioned by the Council in 2013 and has been continuously recommended through various reviews and iterations
- as indicated in the evidence of Ms Carvallo and Mr Bishop, the overall drainage solution and location of assets responds to the land topography in the precinct which necessitates reliance on a series of corridors leading into a drainage basin (WL-01) at the northern end of the precinct
- it supported the cross examination of Mr Mag who indicated that the drainage asset at the northern end of the PSP is unavoidable due to the extent of flooding in the area.

Council noted in its Part B submission that "*... it is not insignificant that all the drainage experts by each party expressed the opinion, that apart from implementation, the drainage scheme proposed was acceptable.*"¹⁶ Council submitted that the drainage scheme as proposed with the planning tools sought by Council in the PSP and DCP is a reasonable way forward. It noted that there was no other proposal on the table.

In its closing submissions,¹⁷ Council submitted that in response to the Additional information list the Committee should recommend that the Alluvium and Engeny final reports be revisited and amended and then published as final documents and the references updated in the PSP and DCP where currently referenced.

Krastoy/Parklea restated in its Part B submissions its view that:

¹⁴ Document 301, page 43

¹⁵ Document 301, page 43

¹⁶ Document 306, [5]

¹⁷ Document 306, [117]

As a result of being an end-of-line strategy, the drainage of the entire precinct is wholly dependent on works occurring at the northern end of, and outside, the precinct boundary.

...

This critical challenge to the precinct's drainage strategy has still not been resolved. That is, the updated draft Amendment documents do not address how and when the ultimate and critical drainage infrastructure is intended to be delivered.¹⁸

It submitted that:

It is clear that the Guidelines¹⁹ do not consider that devising staged development and drainage outfalls that reflect the development of the area is a level of detail that is unnecessary for a PSP. Quite the opposite, there is recognition that those matters are important to support the delivery of infrastructure.²⁰

BW Projects and others submitted that:

It is the case that the drainage experts agreed that, apart from implementation, the drainage scheme proposed was 'acceptable'. We take this to mean that the proposal 'works'. However, given that implementation was a matter of significant concern to many experts, this agreed outcome (is) hardly something to brag about. There is no doubt a variety of designs which could have been acceptable, and those other designs may likely have been easier to implement. However, they were never explored – so we are making the best of the design that was chosen.²¹

BW Projects and others sought, amongst other matters, a review of the 'Coombes plan' contained in his evidence (refer Figure 6 in Chapter 4.5) and the consideration of the inclusion of *permanent* (submitter's emphasis) disbursed assets as part of the PSP. In response to a question of clarification from the Committee, Ms Kaczmarek for BW Projects agreed that this would amount to a fundamental review of the proposed drainage strategy.

Drainage modelling parameters

The VPA noted that two experts questioned the broader parameters of the drainage modelling work. In his evidence, Mr Coombes raised two alternative methods that could be used to validate the flood modelling. He suggested that the existing peak flows have been overestimated for the 10 per cent and 1 per cent AEP and proposed an alternative methodology for recalibrating the hydrology model by combining the upstream gauge on the Powlett River with Regional Flood Frequency Estimation methods and observed local flooding.

Ms Barich in her evidence stated that the revised Engeny 2021 Drainage Strategy reflects current standards but has not provided sufficient justification for the parameters used in the hydrological model. She suggested that this may result in the selection of inappropriate peak flows and the under or over design of stormwater assets in the PSP.

The VPA submitted Ms Carvalho evidence confirmed Engeny's flood modelling parameters were reviewed by Alluvium and were considered appropriate for adoption at the functional design stage. In addition, the evidence of Mr Bishop considered the hydrology model to be consistent with industry approaches and appropriate to support the proposed functional designs.

¹⁸ Document 317a, [40]

¹⁹ Precinct Structure Planning Guidelines: New Communities in Victoria, VPA, October 2021

²⁰ Document 317a, [62]

²¹ Document 315, [14]

The VPA stated that in its view, the flood modelling work has been sufficiently tested and peer reviewed, the changes recommended in the 2021 drainage conclave statement had been implemented and that on the basis that no specific omissions were listed in the 2022 Drainage and Costing conclave statement, it did not agree to any further changes to the modelling work.

Ms Carvalho stated that asset performance and compliance to BPEMG requirements have been factored into the functional designs. Mr Bishop confirmed that water quality treatment performance more closely matches BPEMG targets after the reduction in wetland sizes.

LandGipps submitted that as noted by Ms Barich in her evidence, the revised Drainage Strategy (Engeny November 2021) did not contain sufficient justification for the parameters used in the hydrological modelling. This could lead to an under or over design of the stormwater assets. It added that this view is reflected in the agreed opinion 9 of the Drainage and Costing conclave.

Treatment of external flows

The VPA stated in its Part A statement²² that the drainage strategy and assets have been designed to safely convey stormwater flows through the PSP via constructed waterways under developed conditions for the 1 per cent AEP overland flows (major flows). It confirmed that the drainage assets have been designed to only treat the quality of runoff (minor flows) generated by the PSP under developed conditions for treatment to best practice.

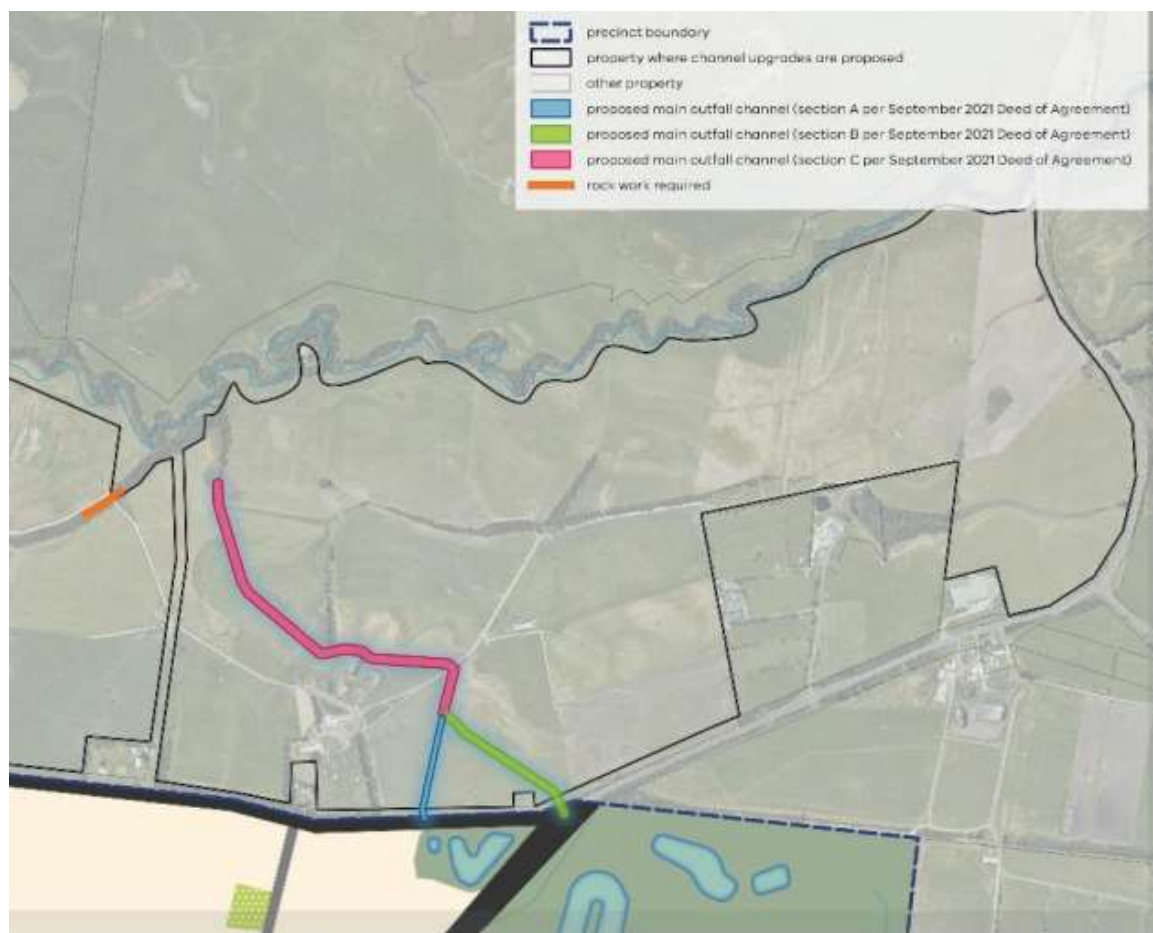
Flows from external urban and agricultural catchments have been included in the modelling to ensure drainage asset designs have considered these external catchment flows passing through the PSP. The drainage assets have not been sized or designed to treat the external catchment flows and treatment of these external flows have not contributed to the overall asset sizing.

Outfall to Powlett River

The proposed outfall is depicted in Figure 5.

²² Document 235, page 11

Figure 5 Proposed outfall channel to Powlett River



Source: VPA Part B submission page 69 Document 301

Mr Coombes proposed an alternative outfall solution:

- connection of the outfall channel to the nearest point on the Powlett River
- location of the channel in a drainage easement or land purchased from the downstream land owner
- maintaining connectivity to the existing rural drain to lessen impacts on the river
- the new connection designed to protect the integrity of the river based in WGCMA guidance.

The VPA disagreed that a direct outfall to the Powlett River was acceptable noting that Engeny and Alluvium had demonstrated that the speed of flows through the nearest connection point to the Powlett River would cause erosion and the loss of riparian vegetation. It submitted that:

- the Deed of Agreement process with the landowner provided sufficient certainty that easements can be secured along the existing outfall channel
- the current outfall functional design provides a solution that would appropriately mitigate downstream flooding impacts.

The VPA noted that the WGCMA supported the proposed outfall approach and confirmed that as recently as April 2022, the owner of 465 Heslop Road was still a willing participant in the Deed of Agreement process and had indicated no concerns with the outfall proposal.

The VPA said that its position was supported by the evidence of Ms Carvalho and Mr Bishop. Ms Carvalho stated that the existing outfall design had been appropriately tested by modelling work.

Mr Bishop stated that he was satisfied that the outfall solution appropriately addressed flood risk and if formal agreement is reached with the landowner to facilitate the necessary channel upgrades, the liability risk of downstream flooding impacts would be resolved.

BPEMG Targets

The VPA stated that the assumptions relating to BPEMG targets are appropriate, noting that flood performance was the driver when determining asset sizing, not water quality. It submitted that following redesign work, wetland performance outputs are now closer to BPEMG expected targets and the remodelling and redesign has reduced the overall costs of the PSP.

The VPA submitted the stormwater treatment assets meet best practice. It agreed however, to include more detailed discussion on treatment targets in the Functional Design Report (Alluvium, April 2022) and to amend the wording of requirement R49 as recommended in the Drainage and Costing conclave statement.

Paterno & Clifford included in their submission Tables 5-7 and 5-8 from the Drainage Strategy and Table 35 from the Function Design Report. They argued this information demonstrated that the nutrient loading calculations were based on Engeny figures that took into account the undeveloped upstream catchment. This represented a difference of 50 percent of the suspended loading for the development area. It was submitted that allowing for the undeveloped catchment alone, the sediment treatment infrastructure can be reduced by one third and noted that on top of this reduction, the modelled percentage reduction loads applied by Alluvium significantly exceeded the BPEMG requirements.

In cross examination by Mr McIlrath for Paterno & Clifford, Mr Bishop stated that the drainage assets were only sized to remove a percentage of the pollutants from the PSP catchment. He added that nitrogen was the critical nutrient and as a consequence of treating to reach the BPEMG target on nitrogen, other pollutants would be treated to a higher target than set out in the BPEMG.

(v) Discussion and findings

It is worth noting at the outset that the existence of a gas transmission pipeline just to the north of the PSP and a water supply pipeline running adjacent to the Korumburra-Wonthaggi Road have not had a material impact on the drainage strategy and only some minor changes to some assets were needed to account for these pipelines. No further concerns or issues were raised during the Tranche 2 Hearing with respect to these pipelines.

The adjournment of the Hearing to allow time to investigate any potential impact of the transmission gas pipeline has fortuitously provided the time for further work to be done on the Drainage Strategy report by Engeny and the Function Design report by Alluvium. This work appears to have improved the overall drainage strategy. Agreed changes have been reflected in the revised PSP and in the VPA's Day 1 version.

There was general agreement that the Drainage Strategy is sound and that the 'end-of-line' concept on which the strategy is based was necessary to respond to the existing topographical conditions and extent of flooding in the precinct. There was no questioning of the strategy's key elements, notably DR-01, DR-02, DR-03 and WL-01, although some issues were raised with respect to design aspects of DR-03 (the outfall to the Powlett River) and WL-01. The Committee also notes the opinion of the Drainage and Costing conclave that the two proposed waterways, the wetland retarding basins and sediment basins are generally an appropriate means of servicing the PSP.

An alternative design of DR-03 which involved a direct outfall to the Powlett River was proposed in evidence. The Committee is satisfied for the reasons outlined by the VPA for why this alternative is not appropriate. With the recent landowner negotiations to date over an easement, the Alluvium functional design of DR-03 is the preferred design to respond to existing conditions including flows in the Powlett River. The Committee notes this design has the support of WGCMA. It will be essential that DR-03 is delivered in the short/medium term and the Committee urges the parties to finalise as soon as possible an agreement on the provision of land (whether that be an easement or some other approach) to enable DR-03 to be delivered.

Some questions were raised over the parameters used in the drainage modelling although it appears to the Committee that based on the opinions expressed in the Drainage and Costing conclave, this is more to do with a lack of detail and description of the modelling provided in the Engeny and Alluvium reports. The Additional information list includes more details on the drainage modelling assumptions and parameters. The Committee is satisfied that a response to the Additional information list and appropriate updating of the Drainage Strategy and the Functional Design Report will address these questions.

The Committee is also satisfied that the design of the drainage assets is based on the conveyance and treatment of internal flows and the conveyance of flow from external catchments. The designs do not provide for the treatment of external flows. It is satisfied that the treatment designs do not exceed the BPEMG targets. The Committee accepts the oral evidence of Mr Bishop that treating nitrogen was the primary target and that may mean that some other nutrients are 'over treated' in that BPEMG targets are exceeded for those nutrients. The issue of whether there should be some external apportionment of the cost of the drainage assets is discussed in Chapter 4.4 below.

The Committee notes the changes to PSP Plan 13 – Precinct Infrastructure Plan (Figure 4 above) showing revised drainage projects including waterway drains, wetlands, sediment basins and culverts and the VPA PSP Day 1 version and DCP costings changes relating to drainage projects (Tables 1 and 5 of this Report). It supports these changes.

The Committee finds:

- The drainage strategy is an appropriate response to the existing conditions and topography of the PSP area and no material change to the strategy is needed.
- The proposed functional design of DR-03 to convey flows to the Powlett River is appropriate.
- The Additional information list (Appendix H) will expand and clarify the description and explanation of the design assumptions and parameters used in the Drainage Strategy (Engeny 2021) and the Functional Design Report (Alluvium 2022).
- The VPA should implement the action items in the Additional information list and update the Drainage Strategy (Engeny 2021) and the Functional Design Report (Alluvium 2022) accordingly and consolidate the addendum material as appropriate into final versions of the documents.
- The design of the stormwater management assets is based appropriately on managing stormwater flows from internal and external catchments and the treatment of internal flows to meet BPEMG targets.

4.3 Stormwater strategy implementation

(i) The issues

The issues are whether:

- the proposed drainage projects are appropriate
- interim solutions should be considered
- the guidelines for rainwater tanks are appropriate
- the PAO, drainage easements or other statutory mechanisms and processes should be applied by Council to support implementation of the Drainage Strategy.

(ii) Relevant guidelines

The PSP Guidelines include the following Feature:

Drainage management measures should have sufficient capacity and be in accordance with relevant legislation, policy and guidelines (for example, CSIRO's Best Practice Environmental Management Guidelines for Urban Stormwater (BPEM)).

They should take into consideration what is expected to occur as a result of predicted climate change.

Where appropriate and feasible, drainage solutions should prioritise environmental and amenity-based solutions over highly engineered solutions.

(iii) Drainage and Costing and DCP conclave

The Drainage and Costing conclave statement identified that:

- the engineering solution for the PSP is feasible but the practical delivery of the engineering solution requires further consideration
- a development staging and implementation plan would be useful including mechanisms to provide for drainage outfall for staged delivery and appropriate downstream drainage connections. Drainage easements in favour of the Council could be appropriate.
- the PSP and DCP should provide flexibility to allow staged delivery or alternative solutions (potentially independent of the main PSP stormwater infrastructure) to accommodate distributed systems that may not be in the same locations as the currently proposed stormwater infrastructure
- a marked up plan of waterway corridor widths with appropriate cross sections should be provided in the PSP and DCP to give guidance on the assumed DR-01 and DR-02 waterway widths and associated land take in the land use budgets
- the drainage alignments and land set aside in subdivisional processes and existing s173 Agreements should align with the proposed PSP waterway corridors and drainage reserves particularly in relation to the DR-01 alignment and the WL-04 drainage reserve
- a geotechnical and soil contamination assessment needs to be undertaken to determine the volume and suitability of site soils for reuse to better inform earthworks costs in the DCP or if that assessment is not done, the contingency (included in the functional design DCP costings) should be increased to 35 per cent
- the fee percentage rates should be modified (see conclave agreed rates in Table 8 below).

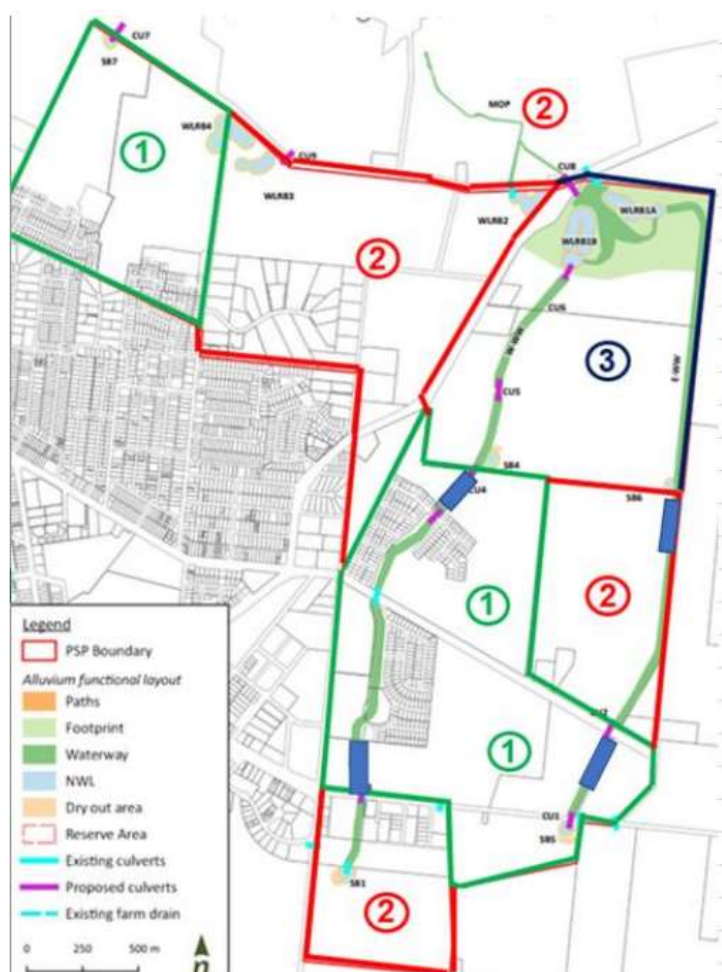
The DCP conclave statement of agreed opinions identified the following:

- agreement that the type of projects included in the DCP are generally appropriate, save for the need to clarify the rationale for inclusion of certain culvert projects
- the location, scope and cost of the drainage projects is such that Council will need to consider proposals for interim works and/or staged delivery of infrastructure (with or without sacrificial works)
- it would be beneficial for the PSP and the DCP to:
 - recognise the likely need for interim works and/or staged delivery of infrastructure
 - set out parameters regarding how such proposals will be assessed and the conditions under which (if any) credits will be issued for the works under the DCP.

(iv) The Coombes Plan

The evidence of Mr Coombes for Council included a suggested staging plan for drainage infrastructure required to deliver the ultimate end-of-line stormwater strategy which allowed for the provision of distributed 'on line' drainage infrastructure (blue rectangles) based on existing catchments. This plan (Figure 6) was frequently referred during the Hearing as the 'Coombes Plan' or the 'Coombes blue blobs' plan.

Figure 6 Coombes Plan



Source: Figure 21 of Mr Coombes' Evidence statement (Document 249)

Mr Coombes also suggested that the smaller catchments not associated with the linear waterway (DR-01 and WL-01) could proceed first. He gave as examples the Northern Views estate and Summerfields estate which drain into WL-04.

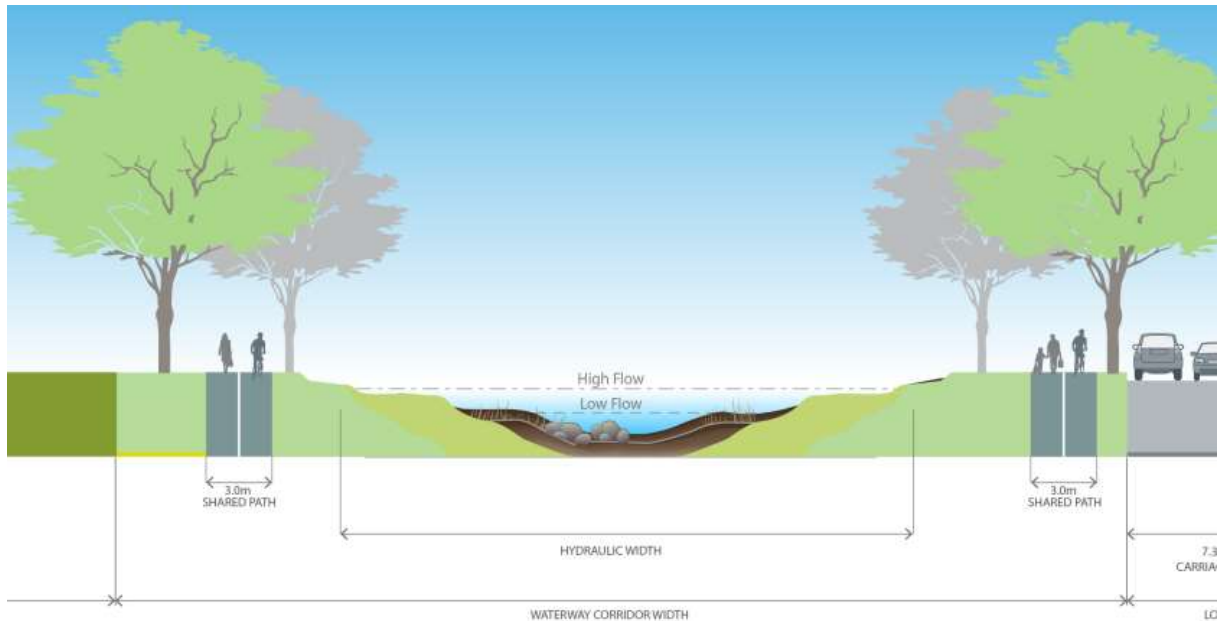
The VPA noted that the Coombes staging strategy generally accorded with the VPA's indicative infrastructure delivery timings as set out in the PSP 'Appendix 5 Precinct Infrastructure Table'. The exceptions were WL-01 and DR-03 which the VPA considered should be delivered in the short-medium term and in the short term respectively subject to the availability of funds. The VPA submitted²³ that the PSP Appendix 5 provides adequate guidance on the infrastructure staging and that any further detail is outside the scope of the PSP.

(v) Waterway widths - PSP Section 14 and DCP Plan 7

During the Hearing the VPA circulated:

- PSP 'Section 14 - Interface: Waterway & wetland Section' (Figure 7) which clarified the design elements of hydraulic and waterway widths
- an updated DCP 'Plan 7 Integrated Water Management Projects' (Figure 8) which clarified the hydraulic and waterway widths for DR-01 and DR-02 and designated 'Possible Permanent Integrated Water Management Projects' (PP-DR) within identified waterway sections (within pink lines).

Figure 7 VPA Final proposed Precinct Structure Plan 'Section 14 – Interface: Waterway & wetland'



Source: Document 294b). Note: The Figure 7 image above does not show the Notes and other detail included in the full PSP cross section.

²³ Document 301, page 75

Figure 8 VPA Final proposed Development Contributions Plan 'Plan 7 Integrated Water Management Projects'



(vi) Evidence and submissions

Drainage Strategy Implementation

Parklea/Krastoy submitted that:

Michael Mag's evidence in support of a staged approach was compelling. His evidence supports the proposition that the drainage strategy is a feasible engineering solution, but its practical implementation is a major impediment to growth.²⁴

²⁴ Document 317a, [4]

It submitted further that without a clear implementation strategy for staged drainage, it is simply not possible to achieve development of Parkland's Precinct C. It further submitted that there are numerous benefits to Council as well as landowners if the additional work to confirm a staged drainage design is done before the PSP and DCP are finalised.

Parklea/Krastoy tabled a Victorian Civil and Administrative Tribunal (VCAT) decision²⁵ on its permit application for Precinct C of its development (Parklands Coastal Estate). VCAT concluded that no permit be granted based in part on its view that:

More work is required, and we find that it is not appropriate to grant a permit at this point in time until greater clarity of how stormwater drainage is to be managed for not only the PC Estate, but also for other catchments draining through this land, while the broader planning for stormwater management in the WNEGA is determined.²⁶

Parklea/Krastoy submitted that the VCAT decision had *"... confirmed Parklea's submission that the planning controls must actively support staged drainage works as part of an ultimate design if there is to be orderly development within the growth area."*²⁷

In an attachment²⁸ to its submission, Parklea/Krastoy set out proposed changes to the introductory text and requirements of PSP 'Section 3.6 Integrated Water Management and Utilities'. It stated that these were 'without prejudice' changes and that its primary position remained that the drainage strategy needs to be redesigned to have regard to the orderly development of the precinct with consequential changes to the PSP and DCP.

Council noted that except for Mr Coombes, no other drainage scheme even in a conceptual sense has been put forward. It submitted that while the 'blue blobs' on the Coombes plan did not contain detail, that was not their purpose; rather their purpose was to signify that there is the potential for an asset to be located approximately in that location which may fulfil both an interim and an ultimate role and potentially relieve downstream assets of some of their ultimate role and size.

Council stated that DR-01 and DR-02 are necessary and some form of wetland and retardation at WL-01 and the outlet DR-03 appear to be unavoidable. It submitted that while some elements of the drainage scheme could be redesigned as claimed by some submitters, *"... one will still eventually face the core issues of having to deliver the waterways, some degree of ultimate retention and the outfall."*²⁹

Council observed that the evidence and approach of the parties indicates implementation of the drainage scheme will be challenging. In its view, there needed to be some recognition of an incremental approach and inevitably some interim assets are going to be required. It proposed adjustments to the provisions of the PSP and DCP to provide in its view the necessary flexibility and tools that will be required to assist in a more incremental approach to the drainage scheme.

Council stated that it saw a benefit in including explanatory text in Section 3.6 of the PSP as proposed by Parklea/Krastoy, and attached³⁰ to its closing submission suggested changes to the Parklea/Krastoy drafting if it was to be supported. Council noted that requirement R49 of the

²⁵ Document 241, *Krastoy v Bass Coast SC [2022] VCAT 511*

²⁶ Document 241, [164]

²⁷ Document 317a, [2]

²⁸ Document 317d

²⁹ Document 306, [12]

³⁰ Document 328, Annexure B

Parklea/Krastoy drafting deals with assets that could be considered to be permanent and requirement R51 deals with interim assets. It added that in R51, the standards defined by Parklea/Krastoy were fairly low standards. Council submitted that providing low standards for interim assets in R51 undermined the potential for R49 to usefully facilitate the ‘upspeccing’ of interim assets to permanent assets to assist the timely development of the drainage strategy. It added that the likely long life of the interim assets makes it necessary for different treatment standards to what is proposed by Parklea/Krastoy as the minimum standards and that the WGCMA will likely have a view on this.

Council attached to its Part B submission suggested changes to the DCP to implement in its words “a more flexible approach to integrated water management projects”.³¹

The VPA submitted that the development of a detailed staging plan or detail of potential drainage solutions are not reasonably expected in a PSP. It added that:

The PSP does not preclude the delivery of interim drainage solutions, in fact the PSP is deliberate in providing flexibility, with the assumption that interim drainage solutions are a normal and necessary part of the development process.³²

The VPA agreed, however, in response to issues raised by various parties to add additional guidance in the PSP and DCP to recognise the potential for interim drainage assets being delivered and then later upgraded to ultimate assets.

In response to the PSP and DCP changes proposed by Council, the VPA tabled³³ its proposed changes to the:

- Day 1 PSP to:
 - make minor amendments to requirement R48
 - amend requirement R51 to provide for interim solutions
 - amend guideline G66 to allow for acceptance of interim assets on a permanent basis by Council as the drainage authority
 - include a new guideline (G#) providing for any surplus land resulting from upstream drainage assets reducing the land take for end-of-line assets to become part of the net developable area.
 - amend the note to ‘Plan 12 Utilities’
- Day 1 DCP to include:
 - an amended Plan 7 to identify possible permanent drainage assets along DR-01 and DR-02 and waterway widths (including designation of a 70 metre width for Parcel 52 for areas C and D on DR-01)
 - a new Table 5b relating to the possible permanent drainage assets and provision trigger
 - redrafted ‘Section 3.2.4 Integrated Water Management Projects’.

The VPA proposed further DCP changes to provide for the management of credits for possible permanent Integrated Water Management Projects and for matching existing s173 Agreement projects which is discussed in Chapter 6.

³¹ Document 306, Annexure D – Revised

³² Document 301, page 44

³³ Document 324b

Costings and fee allowances

BW Projects and other submitters noted that the VPA has disagreed with the experts regarding the inclusion of an allowance for geotechnical, cultural heritage, flora and fauna and safety assessments as part of the DCP costings. It submitted that once the DCP is finalised, the opportunity to distribute these costs is gone and will fall to the individual developer. BW Projects included a table in its submission which set out the Drainage and Costing conclave's agreed costing rates and fee allowances compared to those proposed by VPA (as summarised in Table 8 below). The VPA's agreed changes (Table 7 above) supported a line item for environmental management and applying in the Functional Design Report a nominal \$50,000 allowance for Environmental Management and reporting, and an additional 0.5 per cent of construction value for erosion control management for each wetland.

Table 8 Summary of Drainage and Costing conclave agreed rates

Item	VPA rate	Conclave rate
Council fees	3.25%	3.25%
VicRoads fees	0% WLRB 3 & 4 1% WRLB 1	0% WLRB 3 & 4 1% WRLB 1
Traffic Management	5%	2%
Environmental management	0.5%	\$50,000 plus 0.5% for erosion control for each wetland
Survey and design	5%	5%
Supervision and project management	9%	4%
Site establishment	2.5%	2.5%
Contingency	20%	20% or 35% if no geotechnical allowance
Geotechnical fees	-	\$50,000
Cultural heritage fees	-	\$50,000
Flora and fauna assessment	-	\$30,000
Independent safety assessment	-	\$20,000

Source: Committee

Council submitted that the costings allowances should be reviewed or amended as recommended by the Drainage and Costings conclave (as set out in the conclave rates in Table 8 above).

The VPA noted the evidence of Mr Fleming who suggested the inclusion of geotechnical fees, cultural heritage fees, flora and fauna studies and independent safety assessment totalling \$150,000. It disagreed that additional allowances should be included for those items, noting that appropriate high-level studies have been done at the PSP stage. It submitted that detailed parcel specific studies are typically completed as part of the subdivision process.

Geotechnical Investigations

In its opening submissions, the VPA stated that it did not agree that geotechnical investigations are required as the PSP is a high-level strategic document. It submitted that it was appropriate for further geotechnical investigations to be undertaken at the permit application stage as per the

usual subdivision processes. The VPA noted that this was supported in cross examination by Mr Fleming who referenced a Parcel specific geotechnical report when queried on the level of study required.

In closing submissions³⁴, the VPA submitted that a geotechnical study is rarely completed as part of the PSP process unless responding to a specific risk such as the potential risk of acid sulphate soils, it had completed functional designs for the DCP which provide more detail than the concept level typically prepared for a DCP and therefore adding additional contingency was not appropriate or desirable.

The VPA submitted that:

If the SAC is inclined to make a recommendation on this matter inconsistent with the view of the VPA, the VPA would respectfully request that that contingency percentage is recommended (as per agreed opinion 35 of the conclave), rather than a recommendation to complete a geotechnical study. We are of the view that completion of a site-specific geotechnical study for every property in the precinct would add unnecessary time and cost to the finalisation of the PSP and d DCP.³⁵

In oral submissions during its closing submission, Council agreed with the VPA that the inclusion of a geotechnical assessment in the PSP was not necessary. It submitted that there should be no further reduction in the earthworks charge (as recommended by Mr Fleming) because the rate was previously reduced as the raw rate was too high, not because of soil conditions. Council suggested that the BW Projects submission had conflated two separate issues; the lack of geotechnical investigations which may confirm the extent of excavated material that can be reused, and on the other hand the separate issue of the rate per square metre for excavation. It submitted that the geotechnical issue is addressed by contingency while the \$25 per cubic metre excavation cost is based on contactor costs and in its view is a reasonable rate.

BW Projects and others requested that a geotechnical and soil contamination assessment be prepared to determine the volume and suitability of site soils for reuse. It noted that Mr Fleming estimated that if geotechnical assessments were done the adopted DCP rate of \$25 per cubic metres could be reduced to \$15 per cubic metre resulting in substantial excavation cost savings.

Rainwater tank guidelines

The VPA noted that guideline G62 had been carried over from the exhibited 2019 PSP and amended to include words to encourage the use of rainwater tanks. The VPA stated that rainwater tanks were found to have very low impact on the overall treatment targets due to the very large PSP catchment. It considered it impractical for Council to mandate and regulate the provision of rainwater tanks. The VPA submitted that this is supported by the evidence of Mr Bishop who stated that his independent sensitivity test of rainwater tank assumptions revealed that the uptake of rainwater tanks had an insignificant impact on the overall effectiveness of water treatment.

Council noted the proposed revised G62 text to encourage rainwater tank use and indicated that implementation will be through permit conditions, which may require a s173 Agreement to ensure compliance.

³⁴ Document 330, page 5

³⁵ Document 330, page 6

Mr Mag supported the wording of G62 but noted that the additional design requirements (reuse and filtration) specified in the 2021 EPA Updated Guidance were not referenced in the Functional Design Report. The VPA submitted that it was not necessary to update the Functional Design Report, noting that future development will need to align with the most up to date EPA guidance.

Wentworth submitted that rainwater tanks should be mandated across the PSP and the effect of this adopted in the drainage calculations across the PSP, or at the very least, the rainwater tanks mandated by the s173 Agreement for the land should form part of the modelling for WL-04.

Council's role in securing drainage outcomes

Various submissions including submission 14, Wallis Watson, Kilgour, LandGipps and Stuart Edden considered that Council as the drainage authority should take a more proactive role in securing critical drainage infrastructure. This included securing easements under the *Subdivision Act 1988*, applying a PAO or including finance arrangements within the DCP to forward fund projects. The evidence of Mr Fleming supported the application of the PAO as a mechanism for the early acquisition of land.

Council was of the view that developers would resolve the solutions through negotiation. It did not support the use of a PAO over any land at the present time, noting that a PAO could be applied if required but at a time when it had the funds to deal with the implications of triggering the obligation to pay compensation.

The VPA agreed. It did not support the application of PAOs noting that they are not generally used to secure land for infrastructure that is funded via a DCP. The VPA submitted that the use of PAOs is not recommended because it may result in higher land values, affect Council's timing and cashflow management, and limit the flexibility in the design and delivery of drainage infrastructure items which has been an issue raised by many submitters throughout the Hearing.

(vii) Discussion and findings

There was general agreement during the Hearing that the proposed engineering solution is feasible and with the existing PSP topography, the 'end-of-line' drainage strategy is probably the only realistic option. The issue is, however, whether the strategy can be implemented in a timely way to enable the development of the PSP to occur in stages as currently expected. The drainage strategy relies ultimately on the delivery of some key assets, namely DR-01, DR-02 and WL-04, which because of the landownership pattern and likely staging of the PSP development may not be delivered in full for some time and certainly not early enough for some upstream development stages to proceed in the short to medium term.

All the experts agreed that there will need to be a progressive delivery of the drainage strategy which will inevitably mean construction of interim drainage assets which may or may not become permanent. The Coombes plan is one example of a staged approach to implementation. It depicts stages of development of the precinct including the area in the north-west corner of the PSP which in effect is a separate catchment which has its own wetland/retardation asset (WL-04) and can proceed independently from the rest of the PSP.

The issue then is whether there is sufficient flexibility in the Day 1 version of the PSP and DCP to allow for and provide guidance on the construction of interim assets. The experts and many of the parties submitted that there needs to be an implementation strategy included in the PSP and DCP to clearly allow for interim drainage works. The Committee considers that the VCAT decision cited by Parklea/Krastoy is relevant to this matter.

The VPA was initially reluctant to add to the PSP but during the course of the Hearing, the VPA did respond to submissions by Parklea/Krastoy, the Council and other parties and tabled proposed changes to the PSP and DCP to incorporate provisions for what is described as “*possible permanent integrated water management projects*”. These changes include a new PSP guideline and a new section in the DCP to allow a credit to be provided to developers for possible permanent Integrated Water Management projects. A revised DCP Plan 7 (Figure 8 above) depicts the location along the upstream reaches of WR-01 and WR-2 of the possible permanent Integrated Water Management Project.

In the circumstances faced in the PSP area where critical downstream assets may not be delivered for some period of time, the Committee agrees that it would be highly beneficial to include in the PSP and DCP some form of implementation strategy. This would provide clear guidance on the delivery of interim/permanent drainage assets to allow for development in the PSP area to proceed prior to the delivery of the ultimate drainage strategy. The proposal developed by Parklea/Krastoy, amended by Council and further amended by the VPA is, in the Committee’s view, a reasonable and practical mechanism to allow for and recognise the delivery of interim drainage assets that may become permanent assets. While it could be argued that this mechanism is not a complete implementation strategy, the Committee considers it to be sufficient and provides a way forward. In addition to the Day 1 changes identified in Table 7 of this Report the Final changes proposed by the VPA to the PSP and DCP and supporting documents are considered appropriate as set out in the Committee’s preferred version of PSP and DCP Sections in Appendix I and J. While acknowledging the concerns of Parklea/Krastoy about the implementation challenges the Committee considers that they are pragmatic and provide for sufficient flexibility for negotiation.

On the matter of costing fees and allowances in the DCP, the Committee notes that most rates have been resolved including the line item on environmental management. On the outstanding fee items (geotechnical, cultural heritage, flora and fauna, and independent safety assessment), the Committee notes the advice of the VPA that high-level studies have been done at the PSP stage. It agrees with the VPA that detailed specific studies on these topics are typically completed at the subdivision stage and an allowance for them should not be added to the DCP.

Neither Council nor the VPA supported the inclusion of a requirement for a geotechnical study in the PSP. Both considered that geotechnical assessments should be required at the permit application stage as normal practice. Mr Fleming suggested a precinct wide geotechnical study undertaken before finalisation of the PSP would assist to confirm costings and allow the excavation rate to be substantially reduced to \$15 per cubic metre. Council disagreed noting that the DCP rate of \$25 per cubic metre is based on local contractor rates and is reasonable.

The Committee agrees with the VPA and Council that geotechnical assessments should be done at the planning permit stage and therefore the excavation rate should remain at the DCP rate of \$25 per cubic metre. This approach does, however, introduce some element of uncertainty in the DCP costings. The Committee considers that it is therefore appropriate in the absence of a geotechnical assessment to increase the contingency rate from 20 per cent to 35 per cent. This accords with the opinion agreed at the drainage and costings conclave and is acceptable to the VPA in preference to a geotechnical assessment.

Guideline G62 has been changed to add words to encourage the use of rainwater tanks. The Committee agrees with this change and considers it sufficient. While the use of rainwater tanks is highly desirable and will in all likelihood be installed by developers and individual home builders as

a selling point, the Committee does not consider that rainwater tanks should be made mandatory. Council would be faced with compliance and regulatory issues should tanks be made mandatory and, in any event, on the evidence of Mr Bishop, the uptake of rainwater tanks would have an insignificant impact on the overall effectiveness of water treatment.

The Committee notes the proposed changes to DCP Plan 7 (to include a table showing minimum hydraulic and waterway corridor widths) (Figure 8) and to PSP Section 14 – interface: waterway and wetland to clarify the extent of the hydraulic and waterway corridor widths (Figure 7). It considers that this issue has been resolved.

The Committee agrees that it is not appropriate to propose the application of PAOs over major drainage infrastructure land areas unless and until all other processes fail in securing land for key assets. Council as drainage authority does have a key responsibility to endeavour to broker on ground outcomes to implement the Drainage Strategy. It appears to be taking a lead in this regarding DR-01 and the VPA's agreement to include the costs of land acquisition in the DCP is appropriate. Council acknowledged that it needed to work with landowners and as a priority explore ways to secure DR-02 and WL-01. The key actions for Council as drainage authority will be to work with individual landowners and developers to implement interim solutions and supporting outfall mechanisms whether this be through negotiating easements or applying PAOs if necessary.

The Committee finds:

- The progressive implementation of the drainage strategy with the construction of interim assets, some of which may become permanent, will inevitably occur as development of the precinct proceeds in stages.
- Acknowledgement and guidance of progressive implementation of the drainage strategy should be included in the PSP and DCP.
- The changes to the PSP and DCP proposed by the VPA in its Day 1 changes (as identified in Table 7 of this Report) and Final change versions (as set out in Appendix I and J) provide an appropriate approach to allow for and guide delivery of Possible Permanent Integrated Water Management Projects which will facilitate staged implementation of the ultimate drainage strategy.
- DCP Plan 7 'Integrated Water Management Projects' should be amended to identify a 70 metre waterway width for Parcel 52 for areas C and D on DR-01.
- A geotechnical assessment prior to the finalisation of the PSP and DCP is not warranted.
- The DCP excavation rate should remain unchanged at \$25 per cubic metre.
- An increase should be made to the contingency rate for DCP costings from 20 to 35 per cent in lieu of a geotechnical assessment.
- The rates agreed by the Drainage and Costing conclave and identified in Table 8 of this Report are appropriate.
- Rainwater tanks should not be made mandatory. The Day 1 alterations to guideline G62 are appropriate to encourage the use of rainwater tanks.
- It is not appropriate to apply PAOs over land for major drainage infrastructure assets unless other processes fail to secure the land.

4.4 Drainage project design

(i) The issue

The issue is whether the designs for drainage infrastructure projects are appropriate.

(ii) Drainage and Costing and DCP conclaves

The Drainage and Costing conclave statement identified that:

- alternative treatment options to service runoff from the proposed industrial area on Carneys Road could be implemented to protect the downstream waterways and the integrity of the stormwater treatment assets
- more clarity is required on where the proposed subdivisional drainage pipes will outfall into the waterways and which landholdings are affected or serviced by each pipeline. These pipelines should be shown clearly on an appropriate plan
- refinement of WL-01 could be undertaken to determine the feasibility of alternative design arrangements for water quality such as combining the drying out area, maintenance bypass, reducing the 'empty' areas around the asset and the potential consolidation into one sediment basin for WL-01(a and b)
- WL-04 is located across Wentworth Road and two properties and to deliver WL-04, a temporary alternative road alignment needs to be provided or Council confirms that Wentworth Road can be closed.

The DCP conclave statement identified that De Silva/Fisher noted that clarification was required regarding the inclusion and credit value of retarding basin WL-04.

(iii) Evidence and submissions

Wetland WL-01

BW Projects and others noted the evidence of Mr Manjikian that there were opportunities to improve the design of the drainage proposal and requested a further review and refinement of WL-01 "*... to determine feasibility of alternative designs (for water quality) to achieve potentially better cost outcomes to inform the finalised DCP costs.*"³⁶ They submitted on the evidence of Mr Manjikian that this review should include the dry out areas, maintenance bypasses, reducing empty areas around the asset, the potential consolidation into one sediment basin and the opportunity to steepen batters to reduce land take.

Mr Manjikian observed in his evidence statement that:

- the area around the drainage reserve has inefficiencies in asset placement which makes the reserve larger than it should be
- maintaining a single wetland would be more efficient for wetland sizing and maintenance than splitting into two wetlands.

Mr Fleming in his evidence noted that there may be challenges in delivering WL-01 due to its size and high cost. Splitting the wetland into two parts can help with staged delivery but noted he had not considered the possibility of design efficiencies such as combining the assets or reducing its footprint.

The VPA submitted that WL-01 enables a sound drainage outcome that services two constructed PSP waterways. The VPA submitted that the proposed split of WL-01 (into WL-01a and WL-01b) will result in cost savings over the life of the asset. It added that it "*is impractical to design a single wetland to manage a 1147 hectares catchment for a 3 day holding time as doing so will likely lead*

³⁶ Document 315, [20a]

to increased extent of inundation, higher flows through the system, and the potential impacts on maintenance frequency.”³⁷

The VPA in closing submissions stated that it maintained its view that subject to further consideration of the Additional information list, it is not necessary or appropriate at the PSP stage to undertake new or further modelling or design work on WL-01. It submitted that the landowner can identify design efficiencies as part of the detailed design process and the VPA does not need to do further design work for this to occur.

Council noted in closing submissions that Mr Manjikian’s recommendations related to one asset (WL-01) and submitted that his concerns can be taken into account at the WL-01 detailed design stage and potentially in the context of there being some dispersed drainage assets where the design of WL-01 would take account of those assets.

Mr Montebello for Council identified in oral submissions that the DCP needs functional designs to cost assets and that WL-01 can be considered further at the time of delivery.

During the Hearing several parties queried whether an ANCOLD³⁸ assessment should be done on WL-01. The VPA sought advice post the Hearing regarding the need for an ANCOLD assessment identifying that:

The VPA has sought advice from Richard Rodd Associates to undertake a preliminary assessment of WL-01 and evaluate the need for an ANCOLD assessment for this asset given the inundation experienced adjacent to Korumburra-Wonthaggi Road. Mr Rodd, who is a state representative for the Australian National Committee on Large Dams Incorporated, has advised that Korumburra-Wonthaggi Road is not designed as a WLRB water-retaining structure and does not serve that purpose. Therefore, a Dam Breach, Hazard and Consequence Assessment (referred to during the SAC hearing as an ANCOLD assessment) is not required.³⁹

Wetland WL-04

Wentworth in relation to Parcel 6 submitted it holds an approved planning permit and through further work between Engeny, Council and the landowner as part of the approved permit, an agreed Functional Design for WL-03 and WL-04 was prepared. It submitted that during the PSP process as part of the Alluvium work, this wetland arrangement has been revisited and as a consequence, the size, cost and function of the wetland system have all increased from the previously approved design.

Wentworth noted through the conclave process, the VPA had agreed that the \$1.4 million cost for WL-04 should be adopted in the DCP but that this cost reflects the Engeny design, not the current Alluvium design. It submitted that should the revised Alluvium design be pursued, the DCP cost and land budget should be corrected so that they are appropriately reimbursed for the full cost of the revised asset.

Council stated that it was not too concerned about the ultimate form and shape of WL-04 or on which land it ultimately sits so long as the intended design of the basin is adequate to serve its intended function. It submitted there was plenty of scope within the concept of ‘general accordant’ for the permitted design to be constructed in the context of the DCP defined project.

³⁷ Document 301, page 50

³⁸ Australian National Committee on Large Dams Incorporated

³⁹ Document 337, Sec 1.2

The VPA advised that following submissions from the owners of Parcels 6 and 7 and Council providing concept designs, it instructed Alluvium to undertake an independent functional design of WL-03 and WL-04. It was determined by Alluvium that given that Wentworth Road will not be constructed, the distribution of the WL-04 asset across property boundaries and the decrease in the size of WL-03 presented a better drainage option. The VPA agreed to amend the land use budget to accurately reflect the split between the two assets.

The VPA submitted that the proposed Wentworth Road closure was an implementation consideration that did not need to be addressed by the PSP.

In response to questions from the Committee, the VPA advised⁴⁰ that it was confirmed by Alluvium that the sizing of WL-04 proposed in Engeny's strategy was insufficient from a velocity management and inundation frequency perspective. This advice created a level of uncertainty as to how WL-04 should be delivered with the VPA offering two delivery options:

Option 1: WL-04 is delivered in accordance with the Section 173 agreement and the design of WL-03 is amended and re-designed, as required, to meet the performance objectives of the PSP stormwater system; or

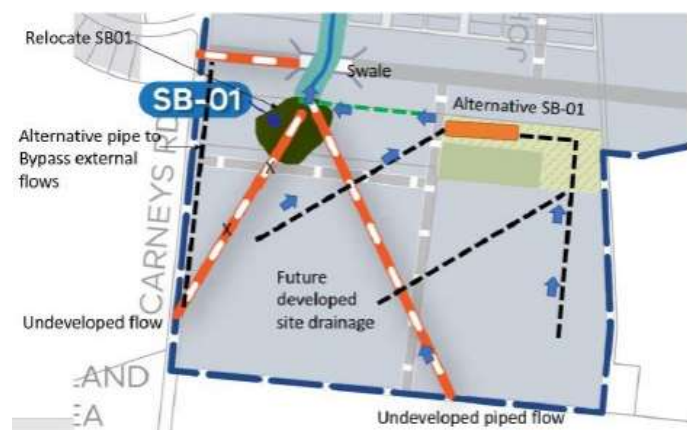
Option 2: WL-04 is delivered in accordance with the Alluvium design and that consequential changes are made, only as necessary, to the planning permit and section 173 agreement to facilitate the delivery of WL-04 as designed by Alluvium.

The VPA advised further that it understands that the owner of Parcel 6 is open to negotiating with Council to deliver the Alluvium designed WL-04 on the basis that it receives a credit for the full value of the Alluvium WL-04 design but it does not know Council's position on this. The VPA stated in order to provide certainty to the owner of Parcel 6, it was of the view that if no agreement could be achieved between the owner and Council in relation to Option 2 by 30 July 2022, that Option 1 was preferred.

Sedimentation Basin SB-01

Paterno & Clifford (Parcels 128 and 129) stated in submissions that while the need for a sedimentation basin is not questioned, that it was reasonable to allow for a degree of flexibility as to its location and design. The submission included a figure depicting a possible alternative location for SB-01 (Figure 9) based on the evidence of Mr Noyce.

Figure 9 Paterno & Clifford alternative proposal for SB-01



⁴⁰ Document 337b, page 1

Paterno & Clifford argued that the agreed opinions from the drainage conclave supported their position and while the note to PSP Plan 11 provides that the location and configuration of drainage projects may be adjusted to the satisfaction of the responsible authority, there remains a significant risk that without clear guidance, there could be a dispute regarding the 'generally in accordance with' test at the permit stage.

Paterno & Clifford noted that while guidelines G64 and G65 will assist in striking the right balance, they sought clarity that the alternative location can be considered. It was submitted that it was logical and reasonable to minimise the impacts of the sediment basin on developable land and that there are opportunities to capture stormwater and sediment along the property's northern boundary within an existing depression that should be explored.

The VPA submitted that the location of SB-01 is appropriate and has been tested at both the conceptual and functional design stages. It noted that the exact locations of future assets are 'generally in accordance' with the PSP and future developers may advocate for alternative locations that comply with the outcomes stated in the PSP to the satisfaction of the Development Agency (which is also the drainage authority).

Council noted that the VPA version of the PSP already proposes to include a possible alternative location of SB-01 and therefore the inclusion in the PSP and DCP of guidance or notes (to allow for consideration of the relocation of SB-01 at the permit application stage) was not required.

Sedimentation Basin SB-02

Mr Trevakis for Mr Stuart Edden noted that Parcel 49 is subject to a number of infrastructure projects which reduce the developable area of their property. He sought a more equitable distribution of non developable land uses, specifically that SB-02 be moved south onto Parcel 52. He argued that a large part of the catchment is on Parcel 52 and moving SB-02 onto Parcel 52 would be advantageous for that property because it is likely to be developed before the southern parts of Parcel 49. Mr Trevakis submitted that relocation SB-02 off Parcel 49 improved the urban design outcome within the active open space and education precinct and allows for a more conventional alignment of the east-west road along the northern boundary of the active open space on Parcel 49.

Ms Mitten for Robert Edden objected to SB-02 being included on Parcel 49 in lieu of the two sedimentation basins on Parcel 52 (identified in the 2021 Revised Drainage Strategy as SB6 and SB7). She considered it unfair to burden her client's land with an additional sedimentation basin that would not service that land. She noted that the facilities had significantly increased the land take and reduced the extent of developable land. Ms Mitten submitted that the facilities should be distributed amongst parcels within the PSP as per the original proposal.

Council had no firm view as to the location of SB-02. It submitted that the 'generally in accordance with' provisions of the PSP would enable a shift in location but in the first instance the DCP must determine on which parcel SB-02 is to be located with the land budget reflecting that. While not a matter to determine now, Council noted that its drafting changes in Annexure D to its Part A submissions made provision for the ability to shift funding from SB-02 to the interim project on Parcel 52 with the agreement of the owner of Parcel 52.

The VPA noted the evidence of Mr Manjikian that there is no drainage reason for the relocation of two sedimentation basins to Parcel 49 and his recommendation that the old locations on Parcels 52 and 56 be adopted. It also noted the evidence of Mr Mag that the Parklands Stormwater Management Plan adequately provides for the equivalent DCP asset SB-02 and removed the need

to provide for SB-02 in the PSP. The VPA submitted that in its view there was not sufficient evidence to justify the removal of SB-02.

The VPA noted that the sedimentation basin was relocated to Parcel 49 due to the uncertainty associated with the VCAT decision regarding Parcel 52. It stated that there is flexibility for the location and sizing of the sedimentation basin to be amended at the detailed design stage subject to the 'generally in accordance' principle.

Drainage pipes

LandGipps submitted that the drainage pipes should be included in the DCP. It accepted that while a precise location of the pipes may not be required at this time, an indicative alignment from the low point to the outfall is essential as minimum because it will inform the sizing and costs for the DCP. Otherwise in its view, complications will almost certainly arise:

- without the inclusion of pipes in the PSP and DCP, properties without sediment ponds do not have an outfall
- on site sediment treatment would need to be facilitated resulting in the loss of Net Developable Area
- various PSP properties will need to rely on the properties leading to sediment ponds to construct the required pipelines to the sediment ponds
- land owners may face resistance from downstream owners to construct drainage pipes which could be an impediment to development (but avoided if the drainage pipes are a DCP item)
- a consistent approach with drainage pipes may not occur.

LandGipps noted that a plan showing recommended points of discharge was included in the Engeny Drainage Strategy dated October 2019 but this was omitted from the Revised Drainage Strategy (Engeny 2021) although that strategy does acknowledge that drainage pipes may be needed to convey stormwater to sediment ponds. LandGipps also cited the agreed opinions of the Drainage and Costing conclave which highlighted the lack of drainage outfall for staged delivery and that more clarity was required on the location of the proposed subdivisional pipes and which landholdings are affected or serviced by each pipe. The Drainage and Costing conclave made reference to the plan included in the Engeny Drainage Strategy (2019).

LandGipps also noted that the Additional information list item 5 states that the Engeny plan of drainage pipes should be updated and merged with Appendix D of the Engeny 2021 report.

In her evidence statement and as referenced by LandGipps, Ms Barich stated in summary that without the inclusion of the pipe lines in the PSP or DCP, properties without a sediment pond do not have an outfall and may need to provide on site sediment treatment resulting in a loss of developable land for drainage purposes or multiple GPTs for Council's ongoing maintenance.

The VPA agreed to instruct Alluvium to review the drainage pipe location and costs from the Drainage Strategy which were also provided in the Addendum to the Drainage Strategy (Engeny 2022). It maintained its view that detailed solutions depicting exact connection points is not an appropriate level of detail at the PSP stage and noted that requirement R50 states:

For waterways shown on Plan 11, development must ensure:

...

Overland flow paths and **piping within road reserves will be connected and integrated across property/parcel boundaries** (VPA emphasis)

It stated that it does not agree to identify subdivision specific drainage pipes as these will need to be planned for at the same time as the subdivision layouts because this infrastructure would utilise road reserves. In its view, this level of detail was not known at this stage, nor was it the role of the PSP to resolve. The VPA did agree to clarify in the Functional Design Report that the need for fill should be considered at the detailed design stage.

Council submitted that a plan showing the pipelines by number should be included in the DCP so that the costings in the DCP appendix have an appropriate reference plan. It did not agree that the 'trunk' pipeline infrastructure should be included in the DCP.

(iv) Discussion and findings

Wetlands WL-01 is a large and costly asset and there may be design changes that could be made at the time it is to be constructed. Mr Manjikian outlined changes that could reduce costs and land take and potentially maintenance costs but in the absence of a detailed design and costings, the Committee is not able to support his proposal. Nor is it able to reject them at this time. Refinement of the design of WL-01 will inevitably occur at the detailed design stage when its construction becomes imminent. Indeed, as noted by Council, by that time approved permanent assets may have been constructed up stream which could impact the sizing and layout of WL-01. As is often the case with Melbourne Water drainage scheme standards included in other PSPs, the design of the assets in this PSP drainage scheme can be refined at the detailed design/subdivision stage. The PSP allows for this to occur under the 'generally in accordance with' principle and with the approval of the drainage authority.

Based on the advice of the VPA post the Hearing, the Committee is satisfied that an ANCOLD assessment of WL-01 is not required.

The VPA identified two design approach options with respect to WL-04. It appears to the Committee that provided the landowner receives full credit for the cost, Option 2 should be pursued because it accords with the Alluvium design although it would require some changes to the existing s173 Agreement. The Committee agrees, however, with the VPA that to give certainty to the landowner, if no agreement can be reached in a limited time (the VPA suggested 30 July 2022) Option 1 should be preferred.

The owners of Parcels 128 and 129 put forward an alternative location for SB-01 which on the face of it seems to the Committee to be a reasonable option taking into account the existing land conditions and topography. That said, no functional design and costing of the alternative location was presented nor was an assessment to confirm that the alternative location would be functional in the context of the overall drainage strategy. For example, would the alignment of the two underground local drainage pipes currently depicted on DCP Plan 7 need to be changed or their outfall into DR-01 modified?

The Committee does not reject the alternative location of SB-01 but considers that the current location should remain as shown on the PSP and DCP and its final location determined at the development stage to the satisfaction of the drainage authority applying the flexibility afforded by the 'generally in accordance with' principle.

On the evidence and submissions, the Committee sees no basis at this time to move the location of SB-02 from Parcel 49 to Parcel 52. It notes the submissions of Council and the VPA that the 'generally in accordance' principle will apply and under the proposed changes to the DCP there would be scope within the DCP to reallocate funding from SB-02 to any interim asset constructed

on Parcel 52. The Committee is of the view that in the circumstances, development of Parcel 52 (and the need for construction of a sedimentation basin on that land) may well occur before development of Parcel 49. That may not give much comfort to the owner of Parcel 49, but the Committee considers that the final location of SB-02 (or whatever interim asset is built instead) will need to be confirmed at the time of development of the two properties involved. In the meantime, as noted by Council, a location of SB-02, its cost and land take need to be determined for inclusion in the DCP.

With respect to the internal drainage pipes, the VPA has agreed to instruct Alluvium to review the drainage pipe location and costs from the Drainage Strategy to ensure consistency with the functional design report. The Additional information list includes an update to the pipelines shown in Appendix D of the Engeny 2019 report, the merging of this updated information with Appendix D of the Engeny 2021 report to create a masterplan of the 'trunk' drainage pipelines in the PSP and the creation of a new plan showing this updated information along with other information. Presumably, this new plan is to be added to the Engeny 2021 report.

Updating and consolidation of the information on the drainage pipelines into an appropriate plan as an addition to the Engeny 2021 Drainage Strategy is supported by the Committee. It would no doubt assist in the assessment of future development applications. The Committee agrees with the VPA, however, that the identification and inclusion in the PSP of specific subdivision drainage pipes is not appropriate or needed at this stage. This level of detail will be determined when the subdivision layouts are planned because this infrastructure will utilise road reserves.

It should be noted that DCP Plan 7 shows underground local drainage pipes which are included in the DCP Table 5. These pipes are also shown on PSP Plan 13 and listed as a single item in the PSP 'Appendix 5 Precinct Infrastructure Table' with their construction included in the DCP. The pipes depicted on Plan 7 are distinct from any internal drainage pipes shown on the plan attached to the Engeny Addendum to the Revised Drainage Strategy which depicts proposed internal drains and points of discharge for individual land parcels. These internal drainage pipes as updated are developer works and not included in the DCP. It is unclear to the Committee which of the pipes shown on the Engeny plan are included in the DCP Plan 7 and which are internal (developer funded) pipes. There appears to be some amount of overlap between the two plans. This distinction should be made clear. The distinction between drainage pipes which are DCP funded (DCP Plan 7) and internal drainage pipes relevant to specific subdivisions (and which are developer works) needs to be clarified on the updated plan recommended in the Additional information list.

The Committee finds:

- The design and costings of drainage assets are appropriate for inclusion in the PSP and DCP.
- Some modifications to the location, design and costings of some assets will occur at the detailed design stage during the permit application process in response to circumstances at the time including the prospect of some interim and potentially permanent assets being constructed on the upstream reaches of DR-01 and DR-02.
- Provisions in the PSP and DCP will allow for alternative designs for drainage assets including WL-01, SB-01 and SB-02 to be proposed at the detailed design stage.
- Option 2 (Alluvium design) for WL-04 is the preferred design but in the event that agreement cannot be reached between Council, as the drainage authority, and the owner of the property on which WL-04 is located by 30 July 2022, Option 1 should be pursued.

- The information on the drainage pipes identified in the Additional information list (Appendix H) should be updated and consolidated onto a plan which should be added to the Drainage Strategy Report (Engeny 2021).
- The updated plan showing drainage pipes should identify which pipelines are funded by the DCP and which are developer works.

4.5 Apportionment

(i) The issue

The issue is whether the proposed 100 per cent apportionment of drainage projects is appropriate.

(ii) VPA approach to apportionment

The VPA's Part A submission confirmed its approach to apportionment which involved *"a nuanced approach that responds to the regional context in addition to the DCP principles of need, nexus, equity and reasonableness and therefore does not rely on usage data alone"*.

In relation to drainage projects, it identified:

In the November 2021 version of the DCP, some drainage items were apportioned 80% to the DCP with the remaining 20% apportioned to Council. The VPA has determined this apportionment percentage should be reattributed to the DCP on the basis of nexus and equity. Further to this, based on the VPA's consideration of the project context and DCP principles, while there is further modelling to complete, we don't anticipate there will be external apportionment of drainage items in the DCP.

It identified that:

- Drainage assets have been sized and designed in a manner that safely conveys stormwater flows through the PSP via the constructed waterways, under developed conditions, for the 1% AEP overland flows (major flows).
- Drainage assets have been designed to only treat the quantity of runoff (minor flows) generated by the PSP under developed conditions for treatment to best practice. External urban flows were not modelled for treatment to best practice and do not contribute to treatment asset sizing. Therefore, it is inappropriate to use the upstream external catchment as justification for external apportionment.
- The overland flows from existing external agricultural catchments are required to be safely conveyed through the precinct's constructed waterways, under developed conditions, for the 1% AEP overland flows (major flows). External agricultural flows were not modelled for treatment to best practice and do not contribute to asset sizing. Further, given that these flows are from non-urban land, no external apportionment is warranted.
- Flows from existing urban catchments account for a small proportion of the external catchment inflows. Due to the difficulty in quantifying future increases in overland flow from these external urban catchments, no apportionment is warranted.
- PSP assets have not been sized or designed to treat the external catchment flows and have not contributed to the overall asset sizing. Flows from these areas have been included in the modelling to ensure asset designs have considered these external catchment contributions (flows passing through).
- If treatment of these areas is required or prioritised, increases in flow and/or runoff quality can be managed by Council, as the responsible drainage authority, at the development permit stage.

- The VPA submits that it is not possible to retrospectively apportion drainage costs to these older urban developments in an accurate, equitable and transparent way or to quantify future increases in stormwater flows to justify apportionment.

(iii) DCP conclave

The DCP conclave did not reach agreement on external apportionment of selected drainage infrastructure projects.

(iv) Evidence and submissions

The VPA approach to apportionment is outlined above. It submitted that:

The VPA is of the view that the existing condition of the PSP land must be taken into consideration in relation to apportionment. There are existing agricultural drains that convey overland flows from outside the PSP land through the PSP to Powlett River. These agricultural drains adequately convey the existing overland flows. If there are changes in overland flows as a result of future development outside the PSP, then Council will have the opportunity to require the management of those flows at the permit stage.

The PSP land, as acknowledged by all the experts, has existing drainage constraints. The VPA submits that 'but for' the development arising out of the PSP the existing agricultural drains would continue to operate in the manner they do today into the future and adequately service the external catchments.⁴¹

In closing submissions, the VPA agreed with Council that the concept of external apportionment does not relate to incidental usage and does not extend to subsidising development that has to address services constraints and conditions that may exist on the land being developed. It submitted:

The parties through evidence and submissions appear to accept that there should be no apportionment for the existing external agricultural catchments on the basis that the drainage assets within the PSP do not treat external catchment flows. The dispute appears to be in relation to external flows originating from the urban area. The VPA, based on the oral statements of Council that there are no illegal discharges onto the PSP land, is of the view that there is no justification to apportion for the external catchments, as like the agricultural catchments the reliance of the urban catchment to drain through the PSP land is an existing condition and 'but for the PSP' there would be no need or impetus to provide and/or upgrade the existing agricultural channels that adequately convey the flow of water from the external catchments to the Powlett River.⁴²

The VPA relied on the evidence of Ms Carvalho who stated that while external catchments are considered in the sizing of PSP wetlands and waterways, these catchments are not treated by PSP assets. As untreated flows already flow through PSP land, Ms Carvalho concluded that external apportionment of stormwater assets is inappropriate.

Mr Bishop and Mr Coombes also concluded that it is not appropriate to externally apportion drainage costs.

Mr Manjikian stated that agricultural catchments south of the PSP have been inappropriately classified as urban. He suggested that if these catchments were modelled as agricultural land, the wetland areas could be reduced in size otherwise the DCP should be apportioned to external

⁴¹ Document 301, page 80

⁴² Document 330, page 7

areas. Ms Carvalho confirmed in cross examination that the agricultural catchments south of the PSP have been modelled correctly.

Mr Woodland considered that a 'share of usage' is an appropriate measure to determine apportionment. He noted that the DCP guidelines state that if a project does not have closed a catchment, an allowance must be made for the percentage of external usage and that proportion of costs associated with external usage must be funded by a source other than the DCP.

Council submitted that Mr Bishop, Mr Coombes and Ms Carvalho are very clear about how the issue of apportionment should be approached in the context of drainage and that these experts have each counselled against external apportionment. It argued that Mr Mag did not make out any case for external apportionment, noting that paragraph 74 of his evidence does not suggest that there is external apportionment at play.

Council submitted that external apportionment is not straight forward and was an issue that required expert input. It submitted that this is recognised in the DCP Guidelines which advises use of expert assessment and professional advice *relevant* (Council emphasis) to the type of infrastructure in estimating external usage.

It added that the expert opinion of Mr Bishop and others should be preferred on drainage matters to the more general opinion of Mr Woodland or Mr Hrelga who are not experts on drainage matters.

Council noted that in oral submissions, Parklea/Krastoy conceded that it had no issue with the *treatment* assets in relation to external apportionment but then focussed on *conveyance*, (Committee's emphasis) from adjacent urban areas of Wonthaggi that had insufficient assets to control the flow of water over the PSP land.

Council submitted that:

This argument is the weakest in relation to external apportionment. It has no sound basis at all. None of the experts comprising Mag, Bishop, Coombes supported the proposition that external catchments should pay for the control of flows *through* the PSP.

The pipes (to outfall) referred to in the submission are required in order to *enable* the PSP area to be developed without impacts on the PSP area. The user of those assets is the PSP area not the existing Wonthaggi catchment. To illustrate in a more dramatic way, under the *Water Act 1989* there are the provisions at section 16 and 157 of that Act which enable a landowner to bring an action against another person or an authority for unreasonable flows of water over land. No action has ever (and we say will never) be brought because there is no unreasonable flow of water from upstream. The existing flows of water from the township are reasonable and cause no damage to the farmland. To develop the farmland, it is not unreasonable to concentrate that water through drains to protect proposed houses. Those drains are for the entire benefit of the new subdivisions not the existing township. The issue should go no further.⁴³

Parklea/Krastoy stated that it accepted the VPA and Council's position that treatment assets have been sized for the PSP but noted that the conveyance and retardation assets are a substantial part of the scheme and have been designed to cater for external flows.

It noted that the Functional Design Report included a figure showing relevant catchments and "... numerous red blobs to deal with the flows from the existing Wonthaggi township ... which illustrate

⁴³ Document 328, [80] and [81]

... the simple and uncontroversial proposition that water from subdivisions in the Wonthaggi township simply flows onto the PSP in an uncontrolled manner.”⁴⁴

Parklea/Krastoy submitted that the evidence of Mr Mag was, in essence, that the lack of upstream infrastructure in the urban area of Wonthaggi has influenced the size of the infrastructure in the PSP including retarding basins, waterways and pipes. It noted that this part of Mr Mag’s evidence was not challenged.

Parklea/Krastoy noted that Mr Craigie was not called to give evidence but, relevantly, in his review he recommended that a drainage contribution from the external existing and proposed urban areas should be considered in a similar manner to the way they are treated in the Melbourne Water area. It was submitted that the Committee should draw the inference that Mr Craigie was not called to give evidence because he supported some external apportionment.

Parklea/Krastoy submitted that Mr Bishop in cross examination agreed that he had approached external apportionment on the basis of whether assets are triggered by the PSP and he had not assessed the various drainage assets in terms of the DCP guidelines. In conclusion on the issue of apportionment, Parklea/Krastoy submitted:

Apportionment is not determined through nexus, they are separate considerations. The SAC should not accept that this is the way in which apportionment is determined; this would turn the existing system on its head.

...

An inference ought be drawn that Engeny and Mr Craigie support external apportionment. 20% should be applied to all assets that are not treatment assets, including the pipes which convey post development flows from the Wonthaggi township through the PSP.⁴⁵

LandGipps submitted that there is no cogent justification for the VPA’s apportionment position, and that external apportionment of drainage items should be provided because the required drainage assets would service an area broader than the PSP.

LandGipps noted the evidence of Mr Hrelja who stated that there was a clear case to apportion some of the costs because the drainage scheme is designed to service not only the PSP area but also surrounding urban and rural areas and no apportionment is inconsistent with the state government approved method for cost apportionment as shown in the DCP guidelines. It added that Mr Woodland’s evidence identified that the proper application of the DCP Guidelines requires part of the cost of the drainage assets to be externally apportioned and that some external apportionment was justified based on the principles of nexus and equity.

(v) Discussion and findings

While mindful of the extensive funding gap for Council resulting from the DCP and the management of existing s173 Agreements the avoidance of a gap is not the correct starting point for establishing apportionment.

Flows from external catchments pass through the PSP area now and will continue to do so after the PSP is developed. The drainage assets have therefore been designed to convey these flows from external catchments. In these circumstances, a case could be made for some external

⁴⁴ Document 317a, [151]

⁴⁵ Document 317a, [161] and [163]

apportionment of the cost of the drainage DCP items and a 20 per cent external apportionment was originally applied in the DCP.

The Committee however agrees with the counter argument put by the VPA and Council that there should be no external apportionment because these flows from external catchments are part of the existing conditions in the precinct, are appropriately managed now and it is necessary for the PSP drainage scheme to be designed to manage these external flows to enable development of the PSP to proceed. The need to upgrade the existing drainage assets (essentially agricultural drains) which convey existing flows through the precinct only arises because of the proposed urban development of the PSP area. In other words, the upsizing of the PSP drainage assets and the consequent additional cost reflected in the DCP to manage the existing external flows is a cost to the 'doing the business' of developing the precinct. The Committee notes that Council advised during the Hearing that there are no illegal discharges onto the PSP land from the existing developments in the Wonthaggi township.

The DCP guidelines are not definitive on external apportionment and advise the use of relevant experts to determine the extent of external usage of infrastructure. The experts were divided on the matter. There is no doubt that the PSP drainage scheme is designed to service external flows. That is an unavoidable consequence of existing conditions and in the Committee's view is not sufficient reason to apportion externally part of the DCP drainage costs. The Committee is satisfied that there should be no external apportionment of the DCP drainage items.

The Committee finds:

- The apportionment of drainage assets as proposed in the Day 1 version of the DCP is appropriate.

5 Transport and open space infrastructure

5.1 Transport infrastructure projects

(i) The issue

The issue is whether the proposed transport infrastructure projects are appropriate.

(ii) Relevant guidelines

- the Development Contributions Guidelines
- the PSP Guidelines.

Refer Chapter 3 for more detail.

(iii) Interim Report

The Committee's Interim Report considered the following submissions:

- submission 22 relating to the alignment of Banyalla Parade through Parcel 6 consistent with the Summerfields Development Plan
- submission 19 relating to the alignment of the north-south (industrial access) road
- submissions 1 and 16 regarding the role of Carneys Road as a future bypass road
- submissions 26 and 27 relating to Carneys Road cross section
- submissions 6, 8 and 16 relating to trails and shared paths connections and treatments.

The submission detail and Committee's discussion is included in its Interim Report and is not repeated here.

The Committee's Interim Report findings relating to transport and movement were:

- Roads and intersections
 - No change to the PSP is needed with respect to the Bass Highway/Johns Street intersection (IN-08).
 - No change to the PSP is needed to include an intersection treatment at the St Clair Boulevard/Carneys Road intersection.
 - A note with the wording proposed in the VPA Day 1 Amendment changes should be added to PSP Cross Section 9 to provide flexibility in the detailed design of Fuller Road to include a suitable interface with the abutting farmland.
 - PSP Plans 3 and 7 should be amended to change the alignment of St Clair Boulevard through property parcels 68, 69 and 127 to accord with the road's alignment shown on the approved development plan for PSP property parcel 127 (35 Carneys Road) and as identified in the VPA's Final Tranche 1 changes.
 - No change should be made to the PSP Cross Section 6 with respect to parking bays.
- Arterial road access
 - A new cross section showing services roads on both sides should be added to the PSP to apply to the Korumburra-Wonthaggi Road interface with abutting residential areas.
 - No change is necessary to the PSP Cross Section 11 (Bass Highway interface).
 - No change should be made to the PSP regarding access to Heslop Road.
- Street network changes

- PSP Plans 3 and 7 should be amended to change the alignment of the east west local access street through property parcel 6 to match the alignment of the road as it is shown on the approved Summerfields Development Plan and approved plan of subdivision.
- it is unclear why it is necessary to change the alignment of the east west local access street east of Wentworth Road to link it to the changed alignment of the local access street west of Wentworth Road, that is, the alignment of the street east of Wentworth Road could remain unchanged with the two streets intersecting with Wentworth Road at staggered points.
- Future by-pass
 - Sections of the PSP road network could form part of a future by-pass road but given that DoT is yet to confirm the route of any by-pass, it would be premature to identify a by-pass route or parts of it in the PSP.
 - Carneys Road may form part of a future by-pass when it is constructed south to Cape Paterson Road but the Committee makes no findings as to the merits of it forming part of a future by-pass route.
- Active transport
 - The proposed shared path network as shown on PSP Plan 8 - Public Transport and Path Network provides connectivity with the existing rail trail and makes good provision for active transport through the PSP.
 - Plan 8 should be amended as proposed in the VPA Day 1 Amendment changes to show a cycling and walking connection at the Carneys Road/Industrial Connector Road intersection.

(iv) Further technical reports

The exhibited PSP and DCP were informed by the 2018 Transport Impact Assessment prepared by GTA which has been superseded by an updated Transport Impact Assessment prepared by Stantec. While the updated Transport Impact Assessment recommendations have not fundamentally changed, several transport projects have been revised, added or removed:

- all intersection concept layout plans (IN-01 to IN-08) and costings updated to account for further consideration regarding utility services protection and/or relocation
- Fuller Road carriageway in IN-01 design realigned to the centre of existing road reserve to avoid relocating the existing South Gippsland Water asset within the Fuller Road reserve
- estimated cost for IN-07 removed as the intersection is now constructed
- additional road upgrade (RD-02) included as the existing McGibbonys Road carriageway between Korumburra-Wonthaggi Road and the PSP area is not constructed to a suitable standard to cater for the forecast PSP generated traffic demands
- updating IN-04 design and costs to include an 80km/h design speed on the northeast approach to slow vehicles travelling into Wonthaggi on Korumburra Road
- Bass Highway/St Clair Boulevard intersection (IN-06) concept layout
- continuation of Oates Road, Wentworth Road and Fuller Road into the PSP area
- a new intersection to Korumburra-Wonthaggi Road at St Clair Boulevard (IN-02)
- upgraded Heslop Road (to rural connector standard) between Fuller Road and Korumburra-Wonthaggi Road.

The updated Traffic Impact Statement has resulted in:

- amended design and cost estimates for IN-04 and IN-09
- location of IN-04 shifted due to the modified configuration of WL-01 and new designs and cost estimates (although the VPA identified that IN-04 will revert to the original location and design and the Transport Impact Assessment updated accordingly)

- concept design for IN-09 including improved intersection treatment at Korumburra-Wonthaggi Road/proposed local connector, consistent with DoT advice. The VPA identified that this item was identified in the updated DCP with a benchmark cost, but has now been formally designed and costed.

(v) DCP conclave

The DCP identified that the type of projects included in the DCP are generally appropriate. It identified that Mr De Silva/Ms Fisher and Mr Hrelja agreed that intersection and road projects that have already been delivered by Parklea and Powlett Ridge were appropriate to be included within the DCP (noting that Mr Woodland was of the opinion that Parklea land should not be included in the DCP).

(vi) Amended PSP and VPA day 1 version

The PSP includes:

- an updated ‘Plan 9 – Road Network’ which identifies a hierarchy of roads including arterial road, boulevard connector (identified as St Clair Boulevard), connector roads (industrial and rural interface, the latter applying to Heslop Road) and local access streets (level 1 and level 2)
- an updated Plan 10 – Public Transport and Path Network which identifies bus capable roads, the existing rail trail, shared path and bike path locations and potential connections including changes in response to submissions and summarised in Chapter 2
- a series of largely unchanged requirements and guidelines at Section 3.5.1 for the street network and Section 3.5.2 for walking and cycling
- fourteen street or interface cross sections including additional or modified cross sections as identified in Chapter 2.

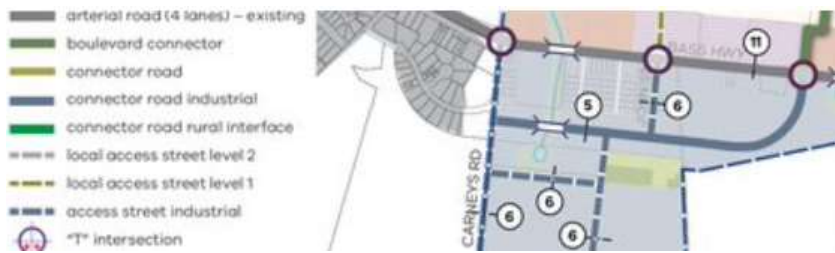

The amended PSP and VPA Day 1 version changes relating to transport projects are summarised in Tables 1 and 5 of this Report in addition to DCP costing changes. Figure 4 (in Chapter 3) depicts the transport projects as amended in the VPA Day 1 version PIP.

(vii) VPA agreed changes

The VPA set out its agreed changes in its Final version of the PSP, DCP, Transport Impact Assessment and Bridge Concept and High-Level Cost Estimate. The Committee supports the changes identified in Table 9 below.

Table 9 VPA Final changes for transport projects supported by the Committee

Document	Change	Submitter
PSP	<ul style="list-style-type: none"> • Amend Plan 9 as shown below to: <ul style="list-style-type: none"> - designate the east-west boulevard connector travelling through Parcels 8, 71 and 127 to a ‘connector road industrial’ - identify the length of Carneys Road from IN-05 south to the southern edge of the PSP boundary as an ‘access street industrial’ as shown in the plan below 	VPA error correction, Council, LandGipps, Paterno & Clifford

Document	Change	Submitter
		
	<ul style="list-style-type: none"> • identify cross section 9 as applying to the north-south section of Oates Road • Amend Plan 13 to show IN-09 with an indicative western leg (as developer works) as shown below and update description of IN-09 in Appendix 5 to reference potential for western leg to be delivered by development proponent 	Council
		
	<ul style="list-style-type: none"> • Amend Cross Section 15 to show a shared path along Korumburra-Wonthaggi Road as shown in PSP Plan 10 in the area between the native vegetation and the loop frontage road 	Error
DCP	<ul style="list-style-type: none"> • Amend Section 4.2.2 to update paragraph relating to RD-02 and IN-07 to: <p><i>Infrastructure projects RD-02 and IN-07 have been delivered as works-in-kind, to the satisfaction of the responsible authority. Therefore, the construction costs of RD-02 and IN-07 have been adopted from the respective Section 173 agreements.</i></p> • Amend Section 4.3.4 to replace references to St Clair Boulevard in projects IN-02, IN-04 and IN-06 with 'proposed boulevard connector' • Amend DCP Table 3 to: <ul style="list-style-type: none"> - replace references to St Clair Boulevard in projects IN-02, IN-04 and IN-06 with 'proposed boulevard connector' - update description of IN-09 in DCP Table 3 to reflect that the roundabout may be designed with a fourth western leg but that the costs are excluded from the DCP 	Council
Bridge Concept and High-Level Cost Estimate	<p>Revise the Cardno cost estimates with the standard allowances using the delivery allowances proposed by the Drainage and Costs conclave:</p> <ul style="list-style-type: none"> - Council fees to remain at 3.25% (including supervision) - VicRoads fees to remain at 1% for WL-01 given works under Korumburra Road (0% for other assets) - Traffic management reduced from 5% to 2% 	Council

Document	Change	Submitter
	<ul style="list-style-type: none"> - Survey and design to remain at 5% - Supervision and project management reduced from 9% to 4% - Site establishment to remain at 2.5% 	
Transport Impact Assessment	<ul style="list-style-type: none"> • Amend to refer to a 'potential alternative route' for Wonthaggi bypass and refer to amended Clause 18 introduced by VC204 regarding how transport matters should be considered • Amend to reflect the IN-09 Concept Design and Broad Level Cost Estimate • Remove design and cost for RD-02 as the cost in the DCP is reflected from the s173 agreement (constructed project) 	DoT VPA consequential changes

(viii) Submissions

Transport Impact Assessment

DoT's submission sought alterations to the Transport Impact Assessment to refer to the Wonthaggi bypass route as a 'potential alternate route' throughout the document rather than 'proposed' bypass route to provide greater alignment between the Transport Impact Assessment and the strategies contained Clause 18.01-1S (Land use and transport integration).

This change was agreed by the VPA (refer Table 9 above).

Bass Highway intersections

DoT supported design changes made to the St Clair Boulevard intersection (IN-06) to respond to road safety concerns subject to reviewing the design.

Mr Brotheridge (Submission 1 and 1a) raised concerns about the inclusion of a roundabout at the Bass Highway and John Street intersection (IN-08). He considered that the roundabout would require land acquisition and not benefit John Street businesses without the link being provided by the developer of the land to the south (Parcel 127), and was not necessary given two other proposed roundabouts on Bass Highway (IN-06 and IN-05) and proposed slip lanes to Vera Street to the west. He was critical that the design costs of the intersection did not allow for the provision of electricity to John Street (beyond serving a light pole at the southern leg of the roundabout works) or other services that could be extended along John Street in time.

Council submitted that the IN-08 roundabout was an appropriate traffic control treatment for a highway intersection and to an industrial area by allowing for truck movements.

The VPA submitted that IN-08 was an appropriate treatment and supported by the Transport Impact Assessment and by DoT. It confirmed that the Vera Street slip lane would be a developer cost and not a DCP cost.

Submitter 31 sought the identification of a local access street parallel to the western waterway connecting the Powlett Ridge subdivision to the Bass Highway considering it consistent with an approved subdivision.

In response to submission 31 the VPA identified that it did not support amending the PSP road network as proposed as this would compromise the arterial road function and intersection IN-05. It identified that the approved subdivision plan was generally in accordance with the PSP and included other opportunities to link to a suitable north-south connection.

St Clair Boulevard (Boulevard Connector) north of Bass Highway

Birdwood did not support the VPA's Day 1 version shifting the alignment of St Clair Boulevard north of the Bass Highway further east so that it did not straddle Parcels 64-R (LandGipps) and 63-R (Birdwood). It considered the exhibited PSP alignment provided flexibility for development sequencing rather than placing the full burden of construction (including wider width to accommodate a boulevard treatment) on Birdwood which was unfair. Birdwood submitted that a PAO should be applied to the road and its acquisition costs included in the DCP to facilitate its early delivery as a key transport spine within the PSP.

LandGipps supported the VPA's Day 1 version of the PSP which shifted the alignment of St Clair Boulevard so that it no longer straddled two land parcels in different ownership. However, it did not support its alignment directly abutting Parcel 64-R and proposed it be located 32 metres further east into the Birdwood land (63-R) to allow for the provision of residential lots on its western side and not landlock part of the LandGipps site in the event the road was not delivered for some time.

The VPA's closing submission and proposed Final changes supported a revised alignment as generally sought by LandGipps (reproduced in Figure 10). It did not support the inclusion of the road within the DCP.

Figure 10 VPA Final proposed version of the Precinct Structure Plan 'Plan 3 Future Urban Structure' changes to Boulevard Connector alignment



Source: VPA Document 337a

Council did not support the further eastward relocation of St Clair Boulevard considering it unnecessary. It did not support the inclusion of the road in the DCP.

Birdwood opposed both the VPA's day 1 changes and LandGipps proposal to push the alignment of St Clair Boulevard eastward considering it would result in a poor planning outcome and an unnecessary bend.

Council submitted references to 'St Clair Boulevard' were no longer appropriate and that the road should instead be identified as a 'proposed boulevard connector'. This change was agreed by the VPA (refer Table 9 above).

Carneys Road

LandGipps submitted that the construction of Carneys Road (north of Bass Highway) was not included in the road network, or its cross section shown in the PSP and considered it should be, along with its inclusion in the DCP. LandGipps' response to the VPA proposed Final changes indicated it no longer pursued this issue.

Council advised that the Carneys Road reservation north of the Bass Highway was unconstructed and heavily vegetated, with future local access streets to be internalised. Therefore, no update of Plan 7 was required for this portion of Carneys Road.

Paterno & Clifford's submission identified that there appeared to be a mismatch in the updated PSP functions for the eastern extent of St Clair Boulevard and Carneys Road (south of Bass Highway) as a Boulevard Connector and the actual width of Carneys Road and approved carriageway width of the road as it passes through 35 Carneys Road (Parcel 127). The VPA confirmed this was an error and that the roles were 'connector road industrial' and 'access street industrial' respectively (refer Table 9 above).

John Street

While not supporting the application of the DCP to John Street (identified as an 'access street industrial' in the PSP) Mr Brotheridge considered that if the area were to be included, the DCP should include the full construction costs of John Street (including provision of power and sewer).

Council submitted that the construction of John Street should not be included in the DCP as it was typically a local item of infrastructure that should be provided at the time of development. To include the costs would also further widen the funding gap for Council.

The VPA considered the inclusion of John Street in the DCP was not appropriate as it would not have the same need and nexus as IN-08 and would be inequitable for other landowners where no access streets were included in the DCP.

Wonthaggi-Korumburra Road

DoT supported design changes made to the Wonthaggi-Korumburra Road and St Clair Boulevard intersection (IN-04) to respond to road safety concerns but sought to further review the implications of shifting the intersection further south to avoid WL-01. It supported the roundabout arrangement for IN-09. DoT supported cross section 15 as a guide for future development along the Wonthaggi-Korumburra Road but identified concerns about unplanned service road access and noted that this could be addressed at the planning permit stage.

The VPA's submission identified that IN-04 had reverted to its original location (as identified in the Transport Impact Statement) satisfying Council's concerns about its location and that its design had been refined in consultation with DoT. VPA committed to engaging with DoT on the final designs of IN-04 and IN-09.

The VPA identified that IN-09 had been redesigned as a three-legged roundabout in response to DoT safety concerns, with the fourth leg to be provided as developer works (not in the DCP). Council submitted that the full roundabout (all four legs) should be shown on the PSP. The VPA agreed to this change (refer Table 9 above).

RD-02

Parklea/Krastoy submitted that road project RD-02 was designed on the basis of predicted PSP traffic volumes, completed in 2018 as part of the Parkland Coastal Estate and credited in the related s173 Agreement. It was unclear why the project was now identified in the PSP and not deleted. It submitted any additional requirements since 2018 should be funded by Council or delivered through other developments that might increase traffic volumes.

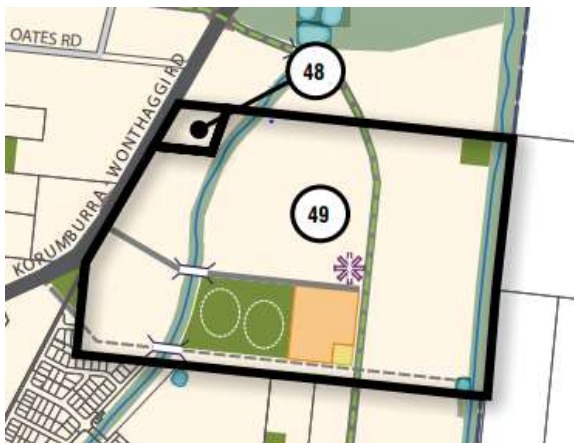
Further submissions on this issue were not made by Parklea/Krastoy or the VPA although the VPA's agreed changes make several changes in recognition of the construction of RD-02 (refer

Table 9 above). The VPA submitted that it was appropriate to include constructed assets in the DCP but to index them to when the works were constructed.

Local Access Streets

Submission 37 requested the active open space, school and community facility site and village hub on Parcel 49 and the adjoining southern access street be moved approximately 35 metres northwards. This would allow residential development to the access street to the south and the landowner to derive more benefit from its construction. The submitter's proposed plan (Figure 11) included a straightening of the alignment of the connector street to the north to remove the dog leg over the western waterway (DR-01).

Figure 11 Submitter 37 proposed version of the Precinct Structure Plan - Plan 3 Parcel 49



Source: Submitter 37 Document 336a

The VPA's Day 1 version of the PSP realigned the Village Hub connector street. The VPA's proposed Final changes supported amending PSP Plan 3 (Figure 12) to allow residential development along the southern boundary of Parcel 49. The VPA's proposed changes however retained SB-02 and the alignment of the connector street west of DR-02. Council broadly supported this change considering it sensible.

Figure 12 VPA's Final proposed version of the Precinct Structure Plan - Plan 3 Parcel 49



Source VPA Document 337a

Council submitted that the southern access street identified above should be realigned to the north to avoid crossing Parcel 51 (Crown land and disused pipetrack). It identified that Parklea/Krastoy had unsuccessfully tried to purchase the land from DELWP who had advised Council that it would not permit a road crossing or drainage infrastructure within it. This meant that the proposed crossing was potentially undeliverable. The VPA did not support this change because it was inconsistent with traffic modelling, would put an increased traffic loading on IN-09 and would not be accepted by DoT.

Parklea/Krastoy submitted there were inconsistencies between what was shown on PSP 'McGibbonys Road Interface Concept Plan', section plans 13 and 14, associated requirements including requirement R45 relating to pathway widths and existing conditions or approvals.

The VPA identified that the plans referred to by Parklea/Krastoy were contextual and appropriate and that R45 provided a minimum width rather than the preferred width which was up to Council's discretion.

Wentworth Road

Ross and Judy Wise (submission 34) raised concerns about the capacity for Wentworth Road to manage current and future traffic volumes including at busy school periods given its width as a main thoroughfare, with potential traffic impacts given its width north of White Road and Regency Drive. The submission supported the widening of the road to manage future traffic flows.

The VPA submitted that there was no traffic evidence to suggest Wentworth Road required widening and that the need for this was not borne out in the Transport Impact Assessment. The VPA submission identified that the northern section of Wentworth Road was to be closed.

(ix) Discussion and findings

Consistent with its Interim Report findings the Committee is satisfied that the overall road network is appropriate subject to a number of changes which were incorporated into the amended PSP. The subsequent changes to project designs are in the main appropriate and respond to the findings of the Safety Management Plan and Transport Impact Assessment and the advice of DoT on arterial roads.

Bass Highway intersections

The Committee supports the introduction of the roundabout at the Bass Highway and John Street intersection (IN-08) into the PSP and its identification as a DCP item. There is a demonstrated need for the infrastructure item which will provide a broad benefit to the future PSP community. The Committee agrees with VPA that a roundabout is the most appropriate form of traffic management for a four-leg arterial road intersection. In addition to the safety benefits of the roundabout, it will enhance the integration of the existing and future industrial precinct and John Street with the rest of the PSP area. It is also likely to provide the impetus for investment in the industrial estate and provision of the necessary infrastructure to unlock its development capacity.

The Committee considers the design and costings provided for in the design of IN-08 is appropriate and satisfies the basic standard typically provided for within a DCP. To 'upspec' the roundabout design to include other infrastructure provision to the southern leg of the roundabout works would not be an equitable outcome. The Committee discusses this issue further in its 'John Street' discussion below.

The Committee supports the VPA's response to submission 31 regarding an additional access street to the north to Bass Highway. This is an issue for the planning permit stage or can be explored through the 'generally in accordance with' provisions to the satisfaction of Council and DoT.

Boulevard Connector north of Bass Highway

The Committee supports the VPA's Day 1 version which shifted the alignment of the Boulevard Connector north of the Bass Highway further east so that it did not straddle Parcels 64-R and 63-R.

This outcome contains the road in one parcel and ensures its delivery can be better coordinated and delivered. The PSP Day 1 alignment does not isolate or inhibit the development of Parcel 64-R which can be accessed via other parcels. The Committee does not support the VPA's Final changes to shift the alignment consistent with the submission of LandGipps. This is unnecessary, would result in a significant kink in the road and loss of any boulevard qualities or aspirations and is better resolved through detailed design and in the context of 'generally in accordance with' provisions.

The Committee agrees with Birdwood that the boulevard connector does form a role in linking the residential precincts with the employment precincts and to Bass Highway more generally. However, this function does not elevate it to the extent where it needs to be identified (in full or in part) as a DCP item. The proposed alignment does not traverse highly fragmented land parcels and its delivery is not essential in the short-medium term given the development of the north-eastern portion of the PSP appears to be a medium-longer term prospect. For similar reasons the Committee does not support the Birdwood position that the PAO should be applied.

The Committee agrees with the changes proposed by the VPA to delete all references to 'St Clair Boulevard' and designate that portion that extends through the industrial precinct as a 'connector road industrial' as shown in Table 9 above.

Carneys Road

The Committee agrees with the VPA's agreed changes to correct the designation of Carneys Road south of Bass Highway as an 'access street industrial' as shown in Table 8 of this Report. A transport hierarchy designation is not required for Carneys Road north of Bass Highway, with future local access streets to be delivered within land parcels to avoid extensive areas of vegetation.

John Street

The Committee accepts the VPA position that the construction of John Street should not be a DCP item as the principal beneficiaries would be the John Street landowners rather than the wider PSP community. It is clearly a local infrastructure item to be provided in the course of development. That said, John Street is different to other local access streets within the PSP. It comprises small, unserviced lots on an unconstructed road. There is limited prospect of the street being constructed and services delivered by individual land parcel owners like Mr Brotheridge, or of coordinated construction and infrastructure rollout being achieved without a major developer coming forward or Council providing some coordinating or advocacy role. This could take some time and leave small land owners like Mr Brotheridge in a no-win situation. Such a scenario is not unusual for PSPs, however in this instance it could result in newer industrial precinct areas being developed ahead of existing estate areas, leaving them undeveloped and potentially blighted. This is not a particular fair or good planning outcome. The Committee is of the view that there is a role for Council, potentially with the VPA, to assist with local scale planning for the existing industrial estate area and to explore coordinated opportunities for staged infrastructure delivery.

Wonthaggi-Korumburra Road

The Committee supports the VPA Day 1 revised designs and treatments for projects IN-04 and IN-09. It supports the VPA's agreed changes relating to the designation of the fourth leg of the IN-09 roundabout in response to Council's concerns as set out in Table 8 of this Report.

RD-02

The Committee supports the basis on which RD-02 was included in the amended PSP as a component of the overall transport network. Its inclusion was supported by the Transport Impact Statement and no traffic evidence was provided to support its exclusion. As observed by Mr De Silva it is not uncommon for DCPs to include recently constructed projects as long as they meet the guiding principles of need and nexus. The Committee notes the VPA's agreed changes in relation to RD-02 as set out in Table 8 of this Report. These are appropriate and reasonable changes.

Local Access Streets

The Committee generally supports the premise of the change sought to Parcel 49 by submission 37. The Committee was initially concerned that the intention of the submission was to accommodate residential lots on the north side of the access street creating residential lots backing onto the reserve. This would be a poor planning outcome. Reserves and community spaces of this nature should be fronted by roads. The further plans provided by the submitter suggest that this was not the intention, rather it was to allow for lots on the south side. This was confirmed in the VPA's agreed changes. While the Committee is of the view that such a design response is one that could be considered in the context of 'generally in accordance with', on a Parcel that has substantial non residential uses to accommodate such an outcome could be beneficial to encourage earlier development of that Parcel. The Committee however prefers the VPA version of this change (which retains SB-02 as previously discussed) and retains the same connector road alignment as it has no information before it about the appropriateness of this alignment. It is not necessary for the PSP to be more specific about the alignment which should be determined through a more detailed design process at development stage. The Committee notes that the amendment to Plan 3 of the PSP will also require a change to 'Figure 2 Village Hub Concept Plan'.

It is unclear why DELWP opposes the provision of an access street across the pipeline track (Parcel 51). No information was provided by VPA or Council for this position. Without the benefit of this perspective or supporting traffic impact evidence the Committee is reluctant to support such a significant change to the traffic network and its potential impact on the functionality of the Wonthaggi-Korumburra Road.

The Committee supports the current PSP concept for the provision of a consolidated and centralised active recreation area, school, community facility and village hub and its general location. The arrangement is consistent with good planning practice including the PSP Guidelines. The Committee does not support the dispersal of these assets across the PSP area as suggested by submission 37.

The Committee supports the retention of the western leg alignment of the local access street connection to Wonthaggi-Korumburra Road (extending through Parcels 50, 51 and 52).

The Committee is satisfied that the relationship between the PSP cross sections and requirements for McGibbonys Road are appropriate and reflect the generalised and contextual nature of the sections and the language of requirement R45.

The Committee does not support the changes sought by submission 31 to identify an additional or alternative local access street connection to Bass Highway. This would compromise the function of Bass Highway and other proposed network infrastructure treatments.

Wentworth Road

The Committee is comfortable that the width and anticipated traffic volumes for Wentworth Road have been properly interrogated through the traffic analysis undertaken including the Transport Impact Statement and that the inclusion for a widening as a DCP project is not strategically justified.

The Committee finds in relation to transport infrastructure projects:

- The final PSP and DCP should be amended to include the changes identified in the VPA Day 1 version of the PSP and DCP, the changes identified in Table 9 of the Committee's Report.
- Amend PSP 'Plan 3 Proposed Urban Structure' to move the southern access road on property parcel 49 northwards by 35 metres as identified in the VPA's Final changes (Document 344) and make related changes to PSP 'Figure 2 Village Hub Concept Plan'.

5.2 Transport project costing rates

(i) The issue

The issue is whether the transport infrastructure project costing rates are appropriate.

(ii) Evidence and submissions

Mr Dale's costing evidence identified a range of issues related to the cost estimates for the Korumburra-Wonthaggi Road embankment and other road and intersection costings. These included allowing for the costs of earthworks including stripping of soil, pavement binding and seal rates, allowance for alterations of services and the low (30 per cent) contingency. He supported a 35 per cent contingency consistent with the Drainage and Costing conclave.

The VPA submitted that the costing allowances aligned with other PSPs and were a suitable high-level estimate. It set out its agreed changes relating to costings as summarised in Table 8 of this Report.

Council's submission at the Hearing did not focus on transport project costings and did not advocate for further costing adjustments to transport projects in response to Mr Dale's evidence. Rather it focused submissions on the wider issue of contingency allowance as set in Chapter 4.3.

(iii) Discussion and findings

Mr Dale's evidence was useful in understanding the assumptions in project costing is critical to determining total project costs and their quantum effect on DIL, and the appropriate level of contingency required because of the inherent uncertainties that exist from site to site and project to project. However, it is not possible for a DCP to do more than reasonably estimate the costs based on an appropriate level of analysis, current standards and best practice. It cannot do more without the benefit of detailed design work.

As set out in Chapter 4.3 the Committee supports the agreed position of the Drainage and Costing conclave experts in relation to contingency percentages. Without specific individual project cost analysis evidence there is no basis for the Committee to recommend further changes in material rates, contingency percentages or fees.

The Committee finds in relation to transport infrastructure project costing rates:

- The final DCP should be amended to include the changes identified in the VPA Day 1 version of the DCP, the VPA agreed changes and the contingency rates agreed by the Drainage and Costing conclave as shown in Table 8.
- The final DCP should be updated to reflect revised transport infrastructure project costings.

5.3 Transport project apportionment

(i) The issue

The issue is whether the proposed 100 per cent apportionment of transport projects is appropriate.

(ii) VPA approach to apportionment

In relation to transport projects, the VPA identified that:

... there is no justification for external apportionment in the DCP for any transport items. In summary, it is proposed that all transport projects will be apportioned 100% to the DCP.

It identified that:

- all transport projects are located on existing roads...Transport modelling demonstrates that external usage is sufficiently accommodated by the existing traffic infrastructure on these roads. This supports the proposition that the PSP generates the need for the DCP transport projects, not existing traffic. Transport projects have been designed to a standard that facilitates access to the precinct to support proposed development.
- Apportionment based on total usage volumes inflates the amount of external apportionment and does not recognise the value of existing assets.
- The proposed transport projects facilitate access from the PSP to the existing road infrastructure, therefore the need for these transport projects is generated by the PSP alone.
- The VPA acknowledges that external (non-PSP) users will use the transport roads and intersections sought by the DCP. However, this is a reciprocal arrangement in that PSP users will also use roads and intersections outside the PSP area.

(iii) DCP conclave

The DCP conclave did not reach agreement on external apportionment of selected transport infrastructure projects.

(iv) Evidence and submissions

Parklea/Krastoy questioned the justification for the 100 per cent apportionment of the Heslop Road widening project (RD-01) given users of this road will not just be from within the PSP area.

Mr Woodland's evidence relating to the apportionment of transport projects focused on the concept of shared usage adopted in the Development Contribution Guidelines, with external usage outside the DCP charge area being funded by other sources. Mr Woodland identified that Development Contribution Guidelines stated that external usage should be based on expert assessment and professional advice, in this instance the Stantec Transport Impact Assessment and daily volume modelling memorandum of April 2022. While acknowledging some utilisation of infrastructure from outside the DCP area (including from the existing township, surrounding areas

and from tourists) area did not automatically generate the need for external apportionment, particularly in regional settings, roads or intersections that were heavily used by external users must be address apportionment. He identified that where the proportion of usage of a transport infrastructure (based on traffic volumes) generated from within the PSP was forecast to be less than 50 per cent of total anticipated volumes using the infrastructure item, a pragmatic and equitable approach would be to externally apportion them. This would include IN-03 on the Wonthaggi-Korumburra Road and IN-05, IN-06 and IN-08 intersection projects on Bass Highway.

Parklea/Krastoy submitted that it was for the VPA and Council through evidence to establish their apportionment positions and that they had failed to do so.

Paterno & Clifford submitted that IN-07 and RD-02 that were external to the DCP charge area should be externally apportioned given the proportion of the PSP affected by s173 Agreements.

Council submitted that Heslop Road is an existing Road that requires upgrading and is only fronted by developable land on only the south side wholly within the PSP area. It submitted that spreading the cost of the road across the PSP area was more equitable consistent with the evidence of Mr De Silva.

Council opposed Mr Woodland's approach to apportionment based on the Stantec traffic modelling volumes. This was because those figures did not show turning movements when that was the management function of the intersection projects. Council favoured a pragmatic approach including one which acknowledged that the funding gap resulting from the existing s173 Agreements was a defacto external apportionment.

Mr De Silva's evidence considered that the *"existing infrastructure serves the existing development and new growth projected to occur within the PSP generates the need to upgrade the existing infrastructure."*

The VPA acknowledged the Development Contribution Guidelines discuss the shared use methodology for apportionment. It identified the approach taken differed across DCP's from:

- a volume of use estimate that relied on detailed modelling; or
- a nexus-proximity approach.

The VPA preferred the latter approach considering it more appropriate in a regional context where:

- most of the transport items were on existing infrastructure already servicing the community outside the PSP area
- the PSP area was the only growth front in Wonthaggi and generated the demand
- the adjoining rural areas are not identified for development
- the PSP generates the need for the infrastructure including the upgrading of transport infrastructure to meet the demands of that growth
- the DCP items are within or proximate to the PSP boundary and required to service the development of the PSP
- if it were not for the PSP, the infrastructure items would not be required
- the volume-based apportionment inflates external apportionment levels and does not value existing assets
- while external users will use the DCP transport projects, PSP users will also use road infrastructure outside the PSP.

The VPA concluded that the transport modelling demonstrated that external usage is sufficiently accommodated within existing roads and that the PSP generated the transport projects, not existing traffic.

(v) Discussion and findings

The issue of external apportionment is not straightforward. While the concept of shared usage is not found in the PE Act, the Development Contribution Guidelines provide some guidance about applying it for the purposes of determining apportionment. The Guidelines suggest that where a project does not have a closed catchment, an allowance must be made for a percentage of external usage based on an estimate of that usage including based on expert assessment and relevant professional advice and local knowledge.

In this instance the Committee has available to it expert assessment and professional advice comprising the Transport Impact Assessment and the Stantec modelling. While no traffic evidence was provided to the Hearing (by any party) to support the various positions on apportionment, the Committee does not feel that the lack of it makes it more difficult for it to form a view. There were no compelling submissions that the Transport Impact Assessment and the Stantec modelling were inadequate. The Committee acknowledges however that the specific task of analysing the information and determining the basis of the 100 per cent rate of apportionment is not readily transparent in any of the Amendment documentation. Accordingly, it appears to be the starting point rather than the end point.

The Committee agrees with Mr Woodland that a pragmatic approach is required, and with the VPA that a nuanced approach is required with regard to apportionment. The approach adopted should reflect the circumstances. For this DCP the context is particularly relevant. The PSP is adjoined to the north, south and east by rural land that is not identified for growth and are unlikely to generate significant use of the existing or proposed transport infrastructure upgrades. Two significant arterial roads run through the PSP area that currently serve the existing community of Wonthaggi and external users including visitors. The proposed transport projects are located on existing roads which require upgrading to meet the traffic demands from the PSP (including safely managing the connections with arterial roads) and not passing traffic. The projects facilitate access from the PSP to the existing road infrastructure. Absent the PSP, these projects are not required or could be accommodated through developer works within the existing GRZ areas. The Committee is not convinced that extensive further transport modelling would support a proposition that a significant use of any of the transport projects will be through external usage.

While mindful of the potential cost burden on Council of the DCP funding gap (and as an aspect of fairness in its broadest sense to the wider community and its broader legislative responsibilities for financial management) avoiding this or minimising it cannot be a key consideration for determining apportionment. A funding gap is an anticipated outcome of the DCP process and application of the principles of nexus, equity and fairness. It is part of the wider community cost for the benefits that come with supporting growth including providing new community infrastructure and that need to be factored into longer term municipal financial plans.

The Committee finds:

- The Day 1 DCP apportionment for transport projects is appropriate and strategically justified.

5.4 Open space

(i) The issue

The issue is whether the open space provisions of the PSP are appropriate.

(ii) VPA Day 1 version of PSP and DCP

The amended PSP and VPA Day 1 version changes relating to open space are summarised in Tables 1 and 5 of this Report respectively.

(iii) VPA agreed changes

The VPA set out its further agreed changes in its Final version of the PSP, DCP, Transport Impact Assessment and Bridge Concept and High-Level Cost Estimate. The Committee supports those identified changes identified in Table 10 below.

Table 10 VPA Final proposed changes for open space projects supported by the Committee

Document	Change	Submitter
PSP	<ul style="list-style-type: none"> • Amend PSP Table 6 to: <ul style="list-style-type: none"> - change description of LP-04 to <i>'Local park in the north-west of the precinct that will service residents within and adjacent to the precinct'</i> - change description of LP-05 to <i>'Local park located on the extension of Oates Road'</i> - change description of LP-11 to <i>'Local park adjacent to the McGibbony's Road shared trail'</i> - Add a new row for 'Tree Reserve – Conservation Areas' with a description 'Encumbered open space for conservation purposes' • Add a new guideline: <ul style="list-style-type: none"> <i>Areas identified as "Tree Reserve - Conservation Area (encumbered open space)" should be managed as conservation areas or if agreed by Council transferred to Council or any other public authority for management as a conservation area.</i> 	Council

(iv) Submissions

LP-12 and LP-13

LandGipps submitted that the relocation of Local Park 12 (LP-12) from Parcel 65 to Parcel 66-R and enlargement of Local Park 13 (LP-13) on Parcel 64-R was not strategically justified. It identified that the recently amended subdivision permit for Parcel 65 accommodated 1.088 hectares of open space abutting the proposed waterway DR-01 in a location north of the PSP's designation of LP-12 (identified as 0.83 hectares). Accordingly, there was no shortfall that needed to be added to LP-13, but rather a net increase of 0.258 hectares of open space. LandGipps sought:

- LP-12 being relocated to align with the open space provided for in the subdivision planning permit 120348-2 and identified as 1.088 hectares
- LP-13 to remain 0.51 hectares in size consistent with the November 2020 PSP.

The VPA submitted that its Day 1 version of the PSP and DCP had redistributed the open space LP-12 to adjoining properties consistent with the request of Submitter 31 and to avoid a net loss of

open space. The VPA's closing submission and accepted changes supported the change sought by LandGipps which would require related changes to PSP Plan 3 and 7 and the land budget.

Council however did not support the position of LandGipps or VPA and considered it unnecessary to provide LP-12 in an area where a permit has already required the provision of open space. It submitted that the area of LP-12 should be redirected to LP-13.

LP-15 and southern tree reserve

Paterno & Clifford identified that Parcel 128 included local park (LP-15) and an adjoining 'L' shaped 'tree reserve'. The submission considered too much of the tree reserve was shown as uncredited open space and that the cleared portions (including a drainage depression area that captured runoff from a former train line) equating to approximately 0.5 hectares should be credited open space. It based these on a map identifying three largely cleared polygons and shown in Figure 13.

Figure 13 Cleared land within the extent of the southern tree reserve



Source: Document 322b

The VPA initially opposed the requested changes to the tree reserve identifying that the extent of the reserve was identified based on the Flora and Fauna Assessment and the substantial clustering of significant vegetation despite there being varying distances between trees on the land. In its closing submission, the VPA supported the designation of the eastern most polygon (approximately 0.21 hectares) as uncredited open space forming part of LP-15 (refer Figure 14), with associated changes to PSP Plans 3 and 7 and PSP Table 6, and to the DCP land use budget open space percentage figures. It did not support the inclusion of the other two polygon areas as they were surrounded by trees on multiple sides.

Noting the limited guidance in the PSP about the form and intent of the tree reserve the VPA proposed to amend PSP Table 6 to include a line item describing the future character of the tree reserve including its maintenance and vegetation.

Figure 14 VPA Final proposed changes to designation of the southern tree reserve (the area within the red dashed line)



Source: VPA Final changes (Document 344)

Council did not support the inclusion of the northern polygon (drainage depression area) as uncredited open space, although it noted its potential use for alternative stormwater assets. Council proposed the following changes:

- change the legend item 'tree reserve' in PSP Plan 7 to 'Tree Reserve - Conservation Area (encumbered open space)'
- add new guideline (G49):

Areas identified as "Tree Reserve - Conservation Area (encumbered open space)" should be managed as conservation areas or if agreed by Council transferred to Council or any other public authority for management as a conservation area.
- in Table 6, amend the size of LP-15 to reflect the increased extent and to identify the tree reserve "*for conservation purposes aligned with compatible open space use.*"

These changes were generally accepted by the VPA (refer Table 10 above). Council's response to the VPA's final proposed changes identified that the 0.21 hectare parcel should only be credited open space when the tree reserve is vested in it to ensure connectivity of open spaces.

The Paterno & Clifford submission further proposed:

The DCP and PSP should include text providing that the land equalisation credits for equalisation of public open space should be based on a valuation of land that is not more than 12 months before the date of reimbursement or payment.

Council considered that such a requirement was unnecessary with requirement R65 already setting out such a mechanism.

The VPA submitted it did not support the request considering it a matter for Clause 53.01.

Parcel 51

Parklea/Krastoy's submission sought the inclusion of Parcel 51 (Crown land or pipetrack) as open space. It did not expand on this concern at the Hearing.

The VPA submitted that as Parcel 51 was Crown land the PSP appropriately reflected its status, and it should remain this way until such time as it was purchased.

Public Open Space percentage included in PSP

The submissions of Larnay Pty Ltd, Robert John Edden and Carbora/BW projects identified a discrepancy in the Public Open Space percentage included in PSP requirement R65 and the Schedule to Clause 53.01 for residential land and considered the 3.82 per cent has been calculated incorrectly as it includes local reserves provided for under the DCP. The submissions suggested that the correct percentage was 2.41 per cent of Net Developable hectares (NDHa). The

submissions acknowledged that was now resolved with related changes made in the Day 1 version of the PSP and Clause 53.01⁴⁶.

(v) Discussion and findings

LP-12 and LP-13

The Committee supports the approach proposed by the VPA to remap the location of LP-12 to reflect its identification in planning permit 120348-2 and retain the same dimensions of LP-13 as shown in the November 2020 PSP (0.21 hectares). This is considered an equitable, fair and pragmatic approach reflecting the open space provided for in planning permit 120348-2 (generally reflecting the location of LP-12 in the 2020 PSP) with no effective open space shortfall, and that the 2021 version of the PSP located LP-12 in what is now proposed to be in a straightened DR-01 alignment.

LP-15 and southern tree reserve

While the basis of tree reserves appears to be the Flora and Fauna Assessment and the desire to conserve significant vegetation, the PSP is unclear about the role of the tree reserves and their subsequent treatment and management. This had a bearing on the Committee's deliberations as to whether some of it should be credited open space and how bushfire buffers should be managed. Council's proposed changes confirmed that these areas are to have a conservation role and be differentiated from a local park function and landscape treatment.

The Committee sees some merit in removing the 0.21 hectare eastern most cleared polygon patch from the tree reserve and recognising it as credited open space given the adjoining land to the east is cleared rural land and would provide little habitat connectivity. However, this cannot be said about the northern and north-eastern other two cleared patches (polygons). These patches are adjoined or edged by trees including both identified significant vegetation and exotic species and some ecological values. Both areas have the ability to buffer the identified significant vegetation and conservation areas and would support native vegetation health, regeneration and recruitment and habitat values to be maintained. The drainage depression area is also proposed as an alternate option to SB-01 which has the potential to be designed in a manner that complements the aesthetic and vegetated values of the location.

The Committee supports the changes proposed by the VPA and Council to better acknowledge the purpose of the tree reserve and to identify 0.21 hectares of it as creditable open space. It is unlikely the two portions of LP-15 and the tree reserve would be provided and transferred to Council at different stages of development, therefore the Committee considers it unnecessary to set any conditions about the land that would be credited.

The Committee agrees with the submissions of the VPA and Council that it is unnecessary to make further changes to the PSP or DCP relating to land equalisation credits.

Parcel 51

The Committee supports the basis for the VPA identifying that Parcel 51 remain identified as Crown land rather than open space. While providing an open space link might be an appropriate aspiration given its narrow width and length there is no indication from DELWP that the land will

⁴⁶ Document 233k

be disposed of or can be used for this purpose. Its designation in the PSP as Crown land does not prevent an open space outcome being explored in the future.

Public Open Space percentage included in PSP

The Committee supports the Day 1 changes to the PSP and Clause 53.01 to correct the public open space percentage rates.

The Committee finds that:

- The PSP provisions for open space are generally appropriate
- The PSP should be amended to reflect the Day 1 version with the following changes:
 - reflect the VPA agreed changes set out in Table 10 of the Committee's Report
 - amend Plan 3 and Plan 7 to:
 - reduction of the southern tree reserve extent by 0.21 hectares and associated increase in LP-15 consistent with Figure 14 and the dimensions of the eastern patch shown in Figure 13 of this report
 - change the legend item 'tree reserve' in Plan 7 to 'Tree Reserve - Conservation Area (encumbered open space)'
 - relocate LP-12 to align with the open space provided for in the subdivision planning permit 120348-2
 - reduce the area of LP-13 to 0.51 hectares
 - in PSP Table 6:
 - amend the size of LP-12 (1.088 hectares) and LP-13 (0.51 hectares)
 - amend the size of LP-15 to reflect the increased extent (total of 1.4 hectares)
 - amend the PSP and DCP land budgets to reflect the amended land budgets for LP-12, LP-13, LP-15 and the southern tree reserve.
- The Schedule to Clause 53.01 Public open space contribution and subdivision should be amended to update the residential contribution rates to 2.41 per cent consistent with the VPA's Day 1 version (Document 233k) and updated as required to reflect any changes in land budget and changes to PSP requirement numbering.

6 Development Contributions

6.1 Managing existing s173 Agreements

(i) The issue

The issue is whether the approach to existing s173 Agreements in the PSP and DCP is appropriate.

(ii) Relevant PE Act provisions and guidelines

- the enabling provisions for a DCP in Sections 46H to 46QD of the PE Act
- the Development Contributions Guidelines
- Ministerial Direction on the Preparation and Content of Development Contributions Plans.

Refer Chapter 3 for detail.

(iii) Background

Evolution of the DCP projects and costings

The additional VPA investigations following exhibition of the Amendment and the 2020 draft DCP led to an increase to the cost of the infrastructure and the levy rate. The revised November 2021 draft DCP had total projects costs of \$174.6 Million and a levy rate of approximately \$300,000 per net developable hectare. Revisions to the drainage approach (discussed in Chapter 4) reduced the total development infrastructure cost in the May 2022 draft Day 1 DCP by approximately \$45.5 Million to \$123.4 Million. The Day 1 version of the DCP estimates a total CIL contribution of \$5.7 Million and DIL's as set out in Figure 15.

Figure 15 Development Infrastructure Levies - Table 1 Summary of Charge

Summary - Development	
Charge area	Contribution per Net Developable Hectare (NDHa)
Residential	\$242,971
Employment	\$215,838

Source: May 2022 Day 1 DCP

Existing s173 Agreements (Prior Agreements)

In 2010, Amendment C113 to the Bass Coast Planning Scheme rezoned 179 hectares of land in the Wonthaggi North East Growth Area to GRZ, C1Z and Industrial Zone (INZ) and applied DPO21 to the land. DPO21 requires the owner of land to enter a contributions agreement with the responsible authority to pay contributions towards on site and off site infrastructure identified in the draft 2010 DCP (Urban Enterprises). There are eight agreements that apply to 21 properties across eight estates. Four current agreements reference the 2010 draft DCP. One earlier agreement has been renegotiated and references the proposed 2020 DCP. Three more recent agreements reference the 2020 draft of the 2021 DCP being proposed.

In summary the Agreements:

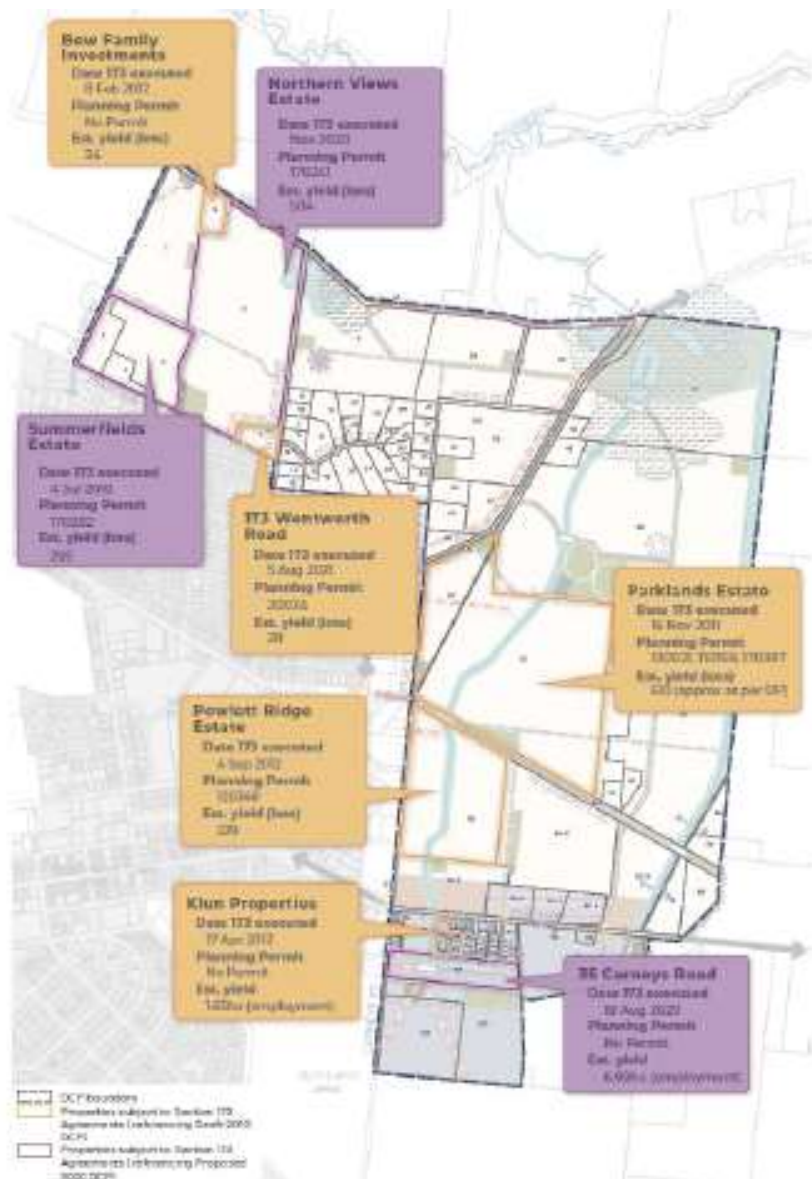
- cover 145.13 residential net developable hectares and 8.17 employment net developable hectares (based on the proposed 2022 DCP land budget). Of this area, approximately 28.4 hectares of land does not have a current planning permit

- collectively seek to collect approximately \$16.5 Million of which \$15.2 Million can be attributed to proposed 2022 DCP projects
- require development contributions ranging from \$5,400 to \$8,500 per lot, \$81,400 to \$107,300 per residential net developable hectare and \$10,200 to \$133,000 per employment net developable hectares (2001 \$s).

There are restrictive clauses in two of the recent Agreements that limit or prevent Council from imposing further levies and a limiting clause in the other six⁴⁷. The Parklea Agreement requires land to be set aside as a land contribution at no cost to council.

Figure 16 from the evidence statement of Mr De Silva and Ms Fischer⁴⁸ identifies the location of properties with existing s173 Agreements.

Figure 16 Properties with existing section 173 Agreements



Source: Mesh Evidence statement (Mr De Silva and Ms Fischer)

⁴⁷ See Document 264 - Outline of submission – Bass Coast Council

⁴⁸ Document 237

Council has been collecting contributions under some of the agreements as development has progressed. Mr McNeill noted in his evidence statement⁴⁹ that all parcels affected by contributions agreements are paying lower contributions compared with the balance of the DCP area. All parties acknowledged a funding gap of the order of \$19 Million - \$23 Million.

Permits for Klun Properties and 35 Carneys Road have yet to be acted upon.

Table 3 in the Mesh evidence statement⁵⁰ summarises the s173 Agreement details and charges and itemises contributions made and owing. In summary:

- some landowners have paid contributions through the contributions agreements towards DIL and CIL projects in the proposed DCP
- four landowners have made contributions for projects not included in the proposed DCP
- two landowners are required to provide land for DCP 2020 infrastructure in addition to monetary contributions.

Alternate options for treating land with existing s173 agreements

The issue of how to treat the existing agreements, the application of the proposed DCP and varied views of what 'fairness' means in this context is complex. Leading up to the Tranche 1 Hearing the conclave of DCP experts agreed:

- The current draft DCP does not adequately resolve the complexity regarding the existing Section 173 Agreements, the status of each development and the relationship between the two mechanisms. There are eight (8) existing Section 173 Agreements that cover 142 net developable hectares and 8.17 net developable employment hectares;
- There will be a gap between the development contributions funds collected via the DCP and the total cost of the works referred to within it, and that the quantum of this gap (and how the gap is addressed) is a key consideration for the DCP; and
- The draft DCP does not quantify the funding or address how the gap will be met by Council or other funding sources.

The VPA then engaged Mesh to assess the financial, equity, administrative and legal implications of four options proposed by experts and the VPA (the Mesh Options Report)⁵¹:

- Option 1 – Echelon proposal:
 - remove the land that is subject of existing S173 agreements from the DCP;
 - redraft the DCP to reapportion the project costs across the balance of the PSP area; and
 - recognise the development contributions contained within the S173 agreements as external apportionments towards the delivery of infrastructure within the PSP area.
- Option 2 – HillPDA proposal:
 - apply the default provisions of the PE Act with respect to DCP liability and administration;
 - enable deviations from the default provisions where both Council and landowner agree, via a voluntary legal agreement;
 - exempt future development from paying DCP levies under the proposed 2020 DCP for infrastructure projects previously dealt with via executed legal agreements;
 - add the above point in the list of exemptions in the proposed 2020 DCP; and

⁴⁹ Document 247

⁵⁰ Document 237, page 22

⁵¹ Document 182

- review whether credits should be provided to landowners for infrastructure projects - drawn from the 2010 DCP but not listed in the proposed 2020 DCP - already delivered or agreed via a legal agreement.
- Option 3 – Mesh proposal:
 - apportion the funding gap associated with the development that has already taken place to Council in a transparent way within the DCP;
 - amend or remove the existing S173 agreements (where they are retained use the agreements to focus on agreed works in kind (WIK) projects in accordance with the project scope and costs that are specified in the DCP (in co-operation with the affected landowners/developers); and
 - review each of the issued planning permits to assess whether there are any consequential changes to permit conditions to reflect the approach that is described above and include standard conditions that implement the requirements of the PSP and the DCP (in co-operation with the affected landowners/developers).
- Option 4 – VPA proposal:

Remove the land that is subject of existing S173 agreements from the DCP and redraft the DCP to apportion contributions to land subject to the DCP and land subject to S173 agreements based on demand for infrastructure within the PSP area. Based on the Proposed DCP charges and project list, and the status of development within the Proposed DCP area.

It later concluded that Option 2 (HillPDA approach) was preferred because:

- it was a balanced approach with regard to funding responsibility
- landowners with existing s173 Agreements are not required to pay additional contributions on land where there is an approved permit
- additional contributions only apply to land not yet subject to an approved planning permit
- additional contribution amount is fixed
- it was preferred over option 3 due to ease of implementation, noting it will require changes and updates to some existing s173 Agreements.

(iv) DCP conclave

The options presented through expert evidence are in summary:

- exclude the land that is subject of s173 Agreements entirely (Woodland)
- honour the s173 Agreements on the full land area that is subject to an Agreement for those projects that are listed in the Agreement and impose an additional levy for a separate list of projects that may be included within a DCP (only for land that does not have a current planning permit) (Hrelja)
- apply the DCP to land that does not have an approved planning permit irrespective of the presence of an existing s173 Agreement (De Silva/Fisher).

The DCP Tranche 2 conclave did not reach agreement on the consideration and management of s173 Agreements, the appropriate charge area or how to address the funding gap.

(v) Amended May 2022 DCP and VPA DCP day 1 version

The VPA's Part A submission confirmed its approach to s173 Agreements and the DCP was based on items 1, 2 and 5 of the HillPDA option only:

1. apply the default provisions of the Planning and Environment Act 1987 with respect to DCP liability and administration

2. enable deviations from the default provisions where both Council and landowner agree, via a voluntary legal agreement
5. review whether credits should be provided to landowners for infrastructure projects - drawn from the 2010 DCP but not listed in the proposed 2020 DCP - already delivered or agreed via a legal agreement.

In addition to new or amended projects and related costings as set out in Chapter 2, the Day 1 DCP included changes along the lines of Option 2 and the steps Council will take as the Collecting Agency. The VPA's Day 1 version changes relating to s173 Agreements are summarised in Tables 1 and 4 respectively of this Report.

The Day 1 version incorporated changes made by the VPA in the May 2022 version of the DCP as modified by Council⁵². Key modified statements are:

Clause 4.3.1 Section 173 Agreements

Landowners with an existing Section 173 Agreement and a planning permit for subdivision or development are not required to pay additional development contributions for land that has the benefit of an approved planning permit. Where a new planning permit is issued, the new planning permit will be subject to levies per this DCP.

The collecting agency will provide a credit for an infrastructure that has been delivered under the section 173 agreement if the value of the infrastructure is greater than the value of the liability to make contributions provided that the maximum value of the credit must not exceed the amount specified that project in this DCP. Where owners comply with their obligations under the DCP the Bass Coast Shire Council will relieve the owner of their obligations under any Section 73 Agreement.

The DCP apportions the costs of all infrastructure items equally to the MCA, inclusive of parcels affected by a Section 173 Agreement.

Clause 5.1 Collecting Agency

Council as the collecting agency and responsible authority is required to implement and administer the 2021 DCP along with the eight existing Section 173 Agreements. Where a funding gap exists in relation to existing Section 173 Agreements, Council is responsible for funding the gap or acting to reduce the gap.

The Day 1 version included an additional section in Clause 5.3.1 provided by the Council:

For parcels subject to a pre-existing Section 173 Agreement

For land which is subject to an existing Section 173 Agreement that makes provisions for development contributions or delivery of infrastructure works that are also infrastructure works funded by this DCP, where a planning permit for subdivision or development has been issued, the collecting agency will not collect the levies payable under this DCP to that land. The collecting agency will incur any shortfall of funding on account of payment of levies consistent with the Section 173 Agreement that applies to that and with the shortfall to be funded by Council.

In relation to land which is subject to an existing section 173 Agreement but in respect of which no planning permit has been issued, then any planning permit for subdivision or development must pay the levies under this DCP. The collecting agency will provide a credit for any infrastructure that forms part of an existing Section 173 agreement if that infrastructure is also funded by this DCP and the works have been partially or fully completed and the value of that credit exceeds the value of the contributions payable and/or paid under the planning permit. The value of the credit will be calculated by the collecting agency on the same basis as the costing of that infrastructure project as set out in this DCP having regard to the extent of the

⁵² Document 234g, pages 34, 37 and 38

infrastructure project that is delivered. The maximum value of the credit must not exceed the amount specified for that infrastructure project in this DCP. When an owner complies with their obligations under this DCP, Bass Coast Shire Council will relieve the owner of their obligations under any existing section 173 agreement.

(vi) VPA agreed changes

Following Council's submission and that of other parties, the VPA tabled proposed changes to the Day 1 DCP on s173 agreements⁵³. This included additional text on Reasonable Match and Substantial Change projects. Parties were able to make 'without prejudice comments' following the Hearing. The VPA set out its final position on agreed changes in its Final Response to all parties⁵⁴. The full set of VPA agreed changes to the Day 1 DCP are in Table 5 of that document and include improvements identified in Mr De Silva's evidence, recognising existing s173 Agreements as 'Prior Agreements' and treating DR-01.

In general, the Committee supports the Final wording changes to Sections 2.3, 3.2.4, 4.2.2, 4.3.1, 5.3.1, 5.3.2, 5.3.4 and 5.5 as proposed by the VPA with further changes identified in the Committee's discussion below and in its preferred DCP Section wording in Appendix J. The Committee's preferred version is based on the VPA's Final changes (Document 344a) with recommended changes identified and with advisory notes where further changes or review are required.

(vii) Evidence and submissions

Application of the DCPO on land with existing section 173 agreements

Council's initial submission identified it had provided input to the VPA's Day 1 DCP but the full extent of the shortfall was not understood⁵⁵. Council indicated it was reasonable and responsible for it to consider itself not bound by contributions agreements where it was able to avoid that. Further its position was it was fair for it to take all measures to address the shortfall including through the imposition of additional levies on land subject to existing contributions agreements where a permit had not been issued. Council proposed alternative wording for DCP clauses 2.5, 4.3.1, 5.31 and 5.3.2. The alternate wording for Clause 5.3.1 set out Council's proposed methodology as collecting agency for determining contributions:

For land which is subject to an existing section 173 agreement that makes provision for development contributions where a planning permit for subdivision or development has been issued before the approval date, the Collecting Agency will not collect the Development Infrastructure Levies payable under this DCP for that land.

For land which is subject to an existing section 173 agreement that makes provision for development contributions where a planning permit for subdivision or development has not been issued as at the approval date, the Collecting Agency will impose the levies under this Development Contributions Plan to that land. A permit condition will be imposed on any permit requiring the payment of the DIL under this DCP. The Collecting Agency must then determine the credits to be applied to the land having regard to contributions agreement.

The extent of any credits due to an owner of land subject to a contributions agreement where no planning permit has been issued before the approval date will be determined by the Collecting Agency having regard to the following.

⁵³ Document 324a

⁵⁴ Document 344a, page 21

⁵⁵ Document 264

A credit will be given to be offset against the DCP liability for the amount of the contributions that would otherwise be required to be made under the contributions agreement taking into account the legal effect of clause 2.3 of the agreement. Therefore, where a project in the Infrastructure Project List is also in the DCP as an exact match, the contribution for those exact match projects under the DCP must be discounted (by the provision of a credit) from what is levied under the DCP so that in respect of those specific projects the overall contribution does not exceed the amount required to be paid under the contributions agreement. The contribution under this DCP in respect of all other projects will be calculated in accordance with this DCP.

Parklea/Krastoy was critical of the Mesh/VPA approach observing it could give rise to 'double dipping' where a DCP levies land for projects which are also funded by s173 agreements. It submitted:

There can be no doubt it would be unfair and unlawful to require payment of the DIL in circumstances where payment of the s173 agreement contributions is also required. The VPA approach either:

- a) offends the fundamental principle against double dipping, or
- b) is dependent upon the outcome of an uncertain future process, namely a process that amends or ends the section 173 agreements.

Its principal position was that the Parklands Estate should be excluded from the DCP (and DCPO) or otherwise clearly exempted. This approach was supported by its expert Mr Woodland.

It also proposed the identification of existing individual s173 Agreements in the DCP be deleted as there could be further approved Agreements in place before Amendment gazettal. Its alternate position was that Parklea should only be required to contribute to those projects for which it is not already required to contribute under the s173 Agreement and should be credited for other projects. This position was supported by the evidence of Mr Hrelja.

Parklea/Krastoy submitted and maintained that the Day 1 DCP (and Final VPA position and wording) at Section 5.3.1 was unlawful:

The DCP assumes all affected parties honour the existing Section 173 Agreements on land that has the benefit of a permit. Where an existing section 173 agreement applies to land that does not have the benefit of a permit, any permit issued will include a condition that the existing section 173 agreement be ended as it pertains to the new permit land and that a new section 173 agreement be entered into in accordance with the DCP.

It submitted:

- the only way to amend or end a s173 Agreement is as provided for in sections 173 and 174 of the PE Act
- s173 Agreement payments cannot lawfully be credited
- s173 payment obligations also cannot lawfully be 'waived' or 'relieved' without following the process in the PE Act.

The submission suggested amending the wording at Section 3.2.4 clarifying the role of the DCP or s173 Agreements to the acquisition of land for drainage infrastructure. The submission identified other amendments to the DCP including deleting DCP Table 10 and corrections to DCP Table 11.

Paterno & Clifford submitted that the approach adopted to s173 Agreements resulted in an inequity between rates in existing agreements and landowners that did not have such agreements in place. It suggested that the s173 Agreement for 35 Carneys Road be amended by Council. It submitted the DCP could have separate charge areas matching existing agreements.

Paterno & Clifford was critical of the Mesh Options Report because it was based on the DCP2020 and not the 2021 version and not consistent with the doubling of employment land DIL. It supported a modified Option 4 that involved:

- the removal (external apportionment) of DCP projects on DCP land affected by s173 Agreements to simplify it and assist the balance of landowners with a DIL closer to the 2020 DCP figure
- the consideration of reserving land for critical projects within those landholdings via a PAO overlay, in the absence of agreement with the relevant landowners.

Paterno & Clifford suggested an apportionment methodology so that projects external to the DCP area (IN-07 and RD-02) are apportioned to all land including those with s173 Agreements. It was submitted that any Council funding gap should be resolved outside the DCP. It further suggested the DCP be amended so that levies are payable on existing permits with s173 Agreements if those permits expire or a permit is sought for a new stage or a different proposal.

The submission of Wentworth sought the exclusion of Parcel 6 given the existence of a permit and long standing s173 Agreement relating to the approved residential development of that land.

Larnay Pty Ltd and Summerfields sought clarification as to whether the DCP was premised on an approach to amend existing s173 Agreements. It objected to such a scenario where development was proceeding in accordance with an approved development plan.

Council in response submitted that providing a general exclusion for agreements would “wreck the DCP” and that “Agreements should not be excluded. They should be dealt with”.

Including s173 Agreement projects in the DCP

The evidence statement of Mr Hrelja identified projects in the 2022 DCP that were an exact or close match. His evidence was that exempting development on land from making contributions towards the same infrastructure projects avoided double dipping and was fair.

The Parklea/Krastoy approach was for the DCP to levy new projects only and credit projects delivered. Council submitted that DIL credits can only be given against projects in a DCP.

The VPA submitted that in its assessment, there was an opportunity to include relevant infrastructure projects from the existing s173 Agreements applying to land within the Wonthaggi North East Growth Area into the DCP. It suggested this would satisfy sections 46K(1)(a) and (b) of the PE Act and allow the collecting agency pursuant to section 46P(1) and (2) of the PE Act, through the DCP, to collect payment or accept the provision of land, works, services or facilities and provide any credits as relevant for an infrastructure project identified in a s173 Agreement. It subsequently circulated two tables of Reasonable Match and Substantial Change projects.

The VPA’s closing submission⁵⁶ outlined the proposed methodology:

Where an infrastructure project in the section 173 agreement is included in the Reasonable Match Project table, Council will accept the contribution for that project under the s173 agreement as discharging the full liability for corresponding Reasonable Match Project in the DCP.

Where an infrastructure project in the section 173 agreement is included in the Substantial Change Project table, these Substantial Change Projects will be recognised in the DCP at the rate in the section 173 agreement (as indexed to 2021

⁵⁶ Document 330, page 7

dollars) as contributing partially to the corresponding DCP project. The difference between the indexed rate of the section 173 agreement infrastructure project and the amount of the liability for the infrastructure project in the DCP will represent the remaining liability under the DCP for that project, i.e. if the section 173 agreement liability is \$80,000 and the DCP liability is \$500,000 the remaining liability will be \$420,000.

The VPA submitted that where a s173 Agreement infrastructure project is identified in:

- the Reasonable Match Project table, there is no double dipping, and
- the Substantial Change Project table, there is no double dipping as the balance of the liability is for funding elements of the infrastructure project that are additional to the infrastructure project as described in the section 173 agreement.

The VPA approach was supported by Council who submitted that it is lawful to include projects to be delivered under a s173 Agreement in a DCP as long as those projects are clearly identified in the DCP.

The VPA submitted that this approach allows payments collected under the s173 Agreements to be applied to DCP liability. The VPAs position was that Reasonable Match and Substantial Change projects provided a balanced approach and a basis for Council to manage the DCP as collecting authority.

The 'without prejudice' drafting process provided Parties with the opportunity to refine the VPA's redrafted DCP clauses. Council submitted alternate Reasonable Match and Substantial Change project tables following its analysis of the proposed approach which included projects identified by other parties in the tables.

Legal views on the interaction of the section 173 agreements and the DIL

Parklea/Krastoy submitted that the approach advocated by the VPA and Council to interlink the contributions under agreements with payment of a levy was unlawful⁵⁷. It did this with reference to section 46 K(1)(e), 46N, 46P of the Act and references to case law:

Section 46P allows the collecting agency to credit 'the provision of land, works, services or facilities' in lieu of a monetary contribution. Its purpose is to allow the 'provision' of infrastructure 'by the applicant' in lieu of a payment for that infrastructure. That is why it is commonly referred to as a 'works in kind' provision.

It does not allow the collecting agency to accept a monetary payment under another funding mechanism in lieu of a monetary contribution under the DCP. The provision is there to facilitate works in kind.

And further:

A DCP cannot restrict or dictate the discretion conferred on the collecting agency by section 46P of the PE Act.

The VPA maintained it was satisfied the approach was lawful.

(viii) Discussion and findings

The Committee supports the starting point of the VPA in adopting the items 1, 2 and 5 of the HillPDA option namely:

⁵⁷ Document 317a, 42-73

- apply the default provisions of the PE Act with respect to DCP liability and administration
- enable deviations from the default provisions where both Council and landowner agree, via a voluntary legal agreement;
- review whether credits should be provided to landowners for infrastructure projects - drawn from the 2010 DCP but not listed in the proposed 2020 DCP - already delivered or agreed via a legal agreement

Application of the DCPO over land with existing s173 Agreements

The Committee supports the application of the DCPO and DCP over land with existing s173 Agreements. While previous decisions by the Council to support early movers using s173 Agreements has proved costly to the Council, the additional analysis through the PSP process has led to a better understanding of infrastructure requirements to support the development of the PSP area. The growth area cannot develop without substantial investment in drainage and other infrastructure, which is costly, and the DCP is the mechanism to fund that investment.

The Committee does not agree with the submissions of parties that ‘the goal posts have shifted’ or application of additional contributions is unfair. All developers with existing agreements would have recognised a drainage solution was required. That Council didn’t start charging for one reflects the lack of project scope at the time. A clear nexus has been established, and existing development will not be charged. It then remains to determine whether the approach advanced through the course of the hearing for contributions from non permitted land covered by existing agreements is appropriate, and able to be implemented.

The clear objective is for the DCP to support collection of funds for projects in the DCP while avoiding developers paying twice. Equally, the Committee agrees with the Council that it is its prerogative and responsibility to minimise its exposure to the shortfall. Whilst a developer seeks to progress its development in a timely manner at least cost to itself, the Council is equally interested to see development progress in a timely manner, also at least cost to the Council and its ratepayers.

Broad application of the DCPO recognises it is fair and equitable that all land owners who purchase lots in the Wonthaggi North PSP area share the burden of infrastructure fairly. While developers build infrastructure, the cost of development is ultimately reflected in lot prices. Advantaging one landholding over another is not equitable. Application of the DCPO across the PSP area supports orderly planning and delivery of infrastructure essential to the development of the PSP and benefits all properties, including those properties with existing agreements.

In any event, the funding shortfall will ultimately be borne by Council’s ratepayers who will be subsidising development in the Wonthaggi North growth area. There is another view that it is not fair that the wider Bass Coast community shoulders the burden of underfunded infrastructure in a development area.

The Committee finds:

- Application of the DCPO across the PSP area supports orderly planning and delivery of infrastructure essential to the development of the PSP and benefits all properties, including those properties with existing agreements.

Including s173 Agreement projects in the DCP

The Committee accepts the VPA and Council positions that a project in an existing s173 Agreement can be included in a DCP. This enables Council to collect for the project and accept “*land, works*

and services". The Committee is less convinced that a cash payment under a s173 Agreement can be construed to be a payment against a levy liability.

The Committee supports the concept of Reasonable Match and Substantial Change projects as a methodology to avoid double dipping.

The VPA's drafting through the Hearing, building off the Hrelja concept, focused on how the DCP can include projects in agreements in a DCP, for the purposes of collecting for the projects and also support crediting against a levy liability. This has been undertaken in response to parties' submissions and concerns about double dipping. Parklea/Krastoy's focus in addition to double dipping, is the legality of the interplay of the two contribution regimes – in essence whether a hybrid of two distinct regimes is legally workable.

The Committee recognises that it cannot resolve legal questions and does not attempt to arbitrate on the alternate views put.

The Committee agrees with Parklea/Krastoy that agreements are voluntary, and Council cannot 'relieve' a party to an agreement of its obligations or 'waive' liability. Council conceded this point.

What can occur however, are negotiations between landowners and the collecting agency in line with a principles-based approach set out in a DCP about how the collecting agency will manage the DCP.

While a landowner can't be compelled to amend a s173 Agreement, a permit application leads a developer to a negotiation. The Committee observes that fundamentally development in a growth area is progressed through negotiation and recognition of mutual benefits within a legal framework. The progress of development in a PSP area relies on a cooperative attitude, a willingness to find solutions and developers to work together through commercial arrangement across boundaries. Council articulated this reality well.

It is important for developers to have certainty under the new planning and contributions regime. The renegotiation of agreements will provide that.

The DIL is a charge on development calculated on the net developable area of a development. A property's levy amount is its share of the total cost of all DCP infrastructure. The unit for the charge is net development hectare. Under this DCP with 100 per cent apportionment to the DCP, levies have been calculated and applied across all properties. The levy rate differs based on the type of development – 'residential' or 'employment'. The Committee supports this approach.

The s173 Agreements as submitted by Parklea/Krastoy, are a different mechanism. The approach used has been to secure collection of contributions towards identified infrastructure projects. The calculation of contributions are done on a case by case basis, and are not necessarily 'theoretically equal' across agreements. Contributions may or may not include land, may or may not be contributing to some roads, and in general don't contribute to drainage.

The interplay of these two contribution regimes gives rise to the potential issue of developers contributing twice for the same infrastructure project – what was termed through the hearing as 'double dipping'.

With the application of a per hectare levy (although only collected on land without a permit), the mechanism to confirm there is no double dipping is through renegotiated s173 Agreements. These might replace or sit alongside earlier agreements and recognise the levy liability and how it is to be met with respect to the earlier agreement. As Council noted in opening, it is necessary to

deal with each agreement on a case by case basis. It is through a new agreement that an account can be made of prior payments, projects delivered or future undertakings to offset the levy amount. This is rightfully negotiated at permit application stage by the collecting agency and the applicant.

The Committee notes and agrees with Parklea/Krastoy's observations that a case by case assessment to avoid double dipping is administratively complex. The collecting agency will need to work through agreements as new permit applications are submitted under a new planning and contribution regime. This is a necessary exercise to support the sound implementation of the DCP. There are legal mechanisms for Council if negotiation fails and an existing agreement needs to be reviewed.

The Committee is of the view that the VPA's Final changes as agreed by Council represent 'solid and fair principles' by which the collecting agency will negotiate with landowners on levy liabilities. It supports the VPA position that it is 'a balanced approach'. The Committee cannot comment on whether this is a legally enforceable approach.

How a levy liability might be dealt with is a distinct and separate issue from how projects in existing agreements are recognised in the DCP. They are intertwined through the concept of works in kind but need to be addressed. The Committee considers the underlying reasons for the methodology, that is, that is recognising works and payments under a s173 Agreement as a consideration against a levy liability (putting aside the legal questions), has been lost through the drafting changes.

The DCP should include clear direction supported by text in the PSP along the lines of the VPA methodology in its Closing submission, but it must be clear that the purpose is towards discharging a levy liability, not discharging a project liability under the DCP:

Where an infrastructure project in the section 173 agreement is included in the Reasonable Match Project table, Council will accept the contribution for that project under the s173 agreement as discharging the full liability for corresponding Reasonable Match Project in the DCP.

Where an infrastructure project in the section 173 agreement is included in the Substantial Change Project table, these Substantial Change Projects will be recognised in the DCP at the rate in the section 173 agreement (as indexed to 2021 dollars) as contributing partially to the corresponding DCP project. The difference between the indexed rate of the section 173 agreement infrastructure project and the amount of the liability for the infrastructure project in the DCP will represent the remaining liability under the DCP for that project.

The DCP requires more context for the methodology and should be clear on how the approach of the collecting authority and the methodology comply with all relevant sections of the PE Act.

The Committee suggests the VPAs Final version of Clause 5.3.1 is further amended to provide more background context for why the Reasonable Match and Substantial Change Project tables have been included and how (potentially in an Appendix) the translation from the s173 Agreements has occurred. The VPA should refer to Council's analysis as it provides a good starting point for presenting how projects have been assessed to be Reasonable Match or Substantial Change projects. The Committee notes that Council's response to the VPA's proposed Hearing changes identified amendments to the projects contained in the Reasonable Match or Substantial Change Project Tables.

The DCP should also be clear the collecting agency will be following established practice and acting reasonably to ensure there is no 'double dipping'. This should be drafted carefully to ensure the

discretion in PE Act Section 46P of the collecting authority is not limited as identified by Parklea/Krastoy.

The PE Act provides that where a DIL is payable in respect of the development of land, the responsible authority must include a condition in a permit that the applicant (c) pay the amount of levy to the collecting agency or (d) enter into an agreement to pay within a time specified in an agreement.

The facilitative PE Act Section 46P(2) supports acceptance of *“land, works, services or facilities provided before or after the application for the permit was made or development carried out”* in *“part or full satisfaction of the amount of levy payable”*. However, the Committee agrees with Parklea/Krastoy that the issue of cash payments is not as clear cut.

The VPA should review the interplay of s46N and s46P of the PE Act with its methodology and its Final DCP version text.

Legal views on the interaction of the s173 Agreements and the DIL

The Committee was swayed by the submission of Parklea/Krastoy and encourages the VPA to review the legality of the wording in its Final DCP version wording for Section 5.3.1, underlined below, against the relevant clauses of the PE Act and for consistency. It should also satisfy itself on the legal relationship collectively between a limiting provision in an existing s173 Agreement, the operations of the DCPO that apply to land with an existing agreement, the enforceability of wording in a DCP and the relevant sections of the PE Act. This relationship should be articulated at a high-level in Section 5 of the DCP. It is important text to support confidence by the collecting agency and developers that the DCP can be administered.

Where a planning permit for subdivision or development has been issued

For land which is or was subject to a Prior agreement that makes provision for development contributions where a planning permit for subdivision or development has been issued before the date the DCP was incorporated into the Bass Coast Planning Scheme, the Development Infrastructure Levy is deemed to have been paid provided the obligations under the Prior Agreement have been or will be fully satisfied in respect of that land. The Collecting Agency will not collect the Development Infrastructure Levies payable under this DCP for that land.

Where no planning permit for subdivision or development has been issued:

For land which is or was subject to a Prior agreement that makes provision for development contributions where a planning permit for subdivision or development has not been issued, as at the date the DCP was incorporated into the Bass Coast Planning Scheme, the Collecting Agency must impose the levies under this Development Contributions Plan to that land unless a Prior agreement prevents the imposition of the levies under this DCP. A permit condition will be imposed on any permit requiring the payment of the Development Infrastructure Levy under this DCP, in accordance with the requirements for reasonable match and substantial change projects identified below. To avoid double payment, the Collecting Agency will recognise (and credit) any payment made under an existing Section 173 agreement as a payment of the development contribution liability under this DCP in relation to those reasonable match and substantial change projects as follows.

Reasonable match projects

What are reasonable match projects and how does the DCP respond?

A reasonable match project is a project identified in a Prior agreement's Infrastructure Project List that is reasonably aligned with the cost and description of a project within Table 9 of this DCP. Where a project is contained in Table 9 below, as a reasonable match project, the full amount paid under the Prior Agreement (indexed to ## dollars)

is recognised (and credited) as payment of the Development Infrastructure Levy under this DCP. No contribution is required under this DCP for a reasonable match project if the levy is paid under the section 173 agreement.

Substantial change projects

What are substantial change projects and how does the DCP respond?

A substantial change project is a project identified in a Prior Agreement's Infrastructure Project List that matches the location of an infrastructure project within Table 10 of this DCP, but substantially differs from this DCP in terms of cost and description.

Where an infrastructure project is contained in Table 10 below, as a substantial change project, in addition to the contribution under the Prior Agreement, the contribution under this DCP is the difference between the value of the project in the Prior Agreement (indexed to ## dollars) and the value of the project in this DCP. The total amount will not be greater than the value identified for the project in this DCP.

Clear wording in the DCP on the approach should give confidence and clarity to developers. Council should also consider adopting an Implementation Strategy that sets out how it intends to address its multiple roles in a complex development environment (that is as responsible authority, collecting agency, development agency and drainage authority). Transparency in this regard would shed light on Council's expectations for how development will progress and confirm how it will approach renegotiation of s173 Agreements and implement the DCP.

It is expected that both Council and a developer will generally find it to their mutual benefit to renegotiate under the new planning and contribution regime. If a developer is unwilling then as highlighted by Council, there are processes for Council to deal with this situation under the PE Act. Equally, a developer can make a commercial decision in response to the new planning and contributions regime on its approach.

In practical terms, it is in every landowner's interest that orderly development proceeds to enable the collecting agency to collect levies and in turn fund and credit provision of essential infrastructure. This is essential in the Wonthaggi North PSP. There is a 'virtuous circle' in timely development which funds infrastructure that in turn supports further development of the precinct.

The Committee finds that:

- The application of the DCPO over land with existing s173 Agreements is appropriate.
- The VPA's Final DCP changes to Sections 2.3, 3.2.4, 4.2.2, 4.3.1, 5.3.1, 5.3.2, 5.3.4 and 5.5 are generally appropriate however further changes are required to:
 - amend the proposed Reasonable Match and or Substantial Change Project Tables as identified in the Committee's Note to Section 5.3.1 in Appendix J
 - include more background context in 'Section 5 Implementation & Administration' to explain why the Reasonable Match and Substantial Change Project tables have been included and how (potentially in an Appendix) the translation from the existing s173 Agreements has occurred.
 - provide clarity that Section 5.3.1 provides that the Collecting Agency will be following established practice and acting reasonably to ensure there is no 'double dipping' and ensuring drafting appropriately acknowledges Section 46P of the PE Act.

6.2 Other DCP issues

(i) The issues

The issues are:

- whether the DCP land valuation methodology is clear
- whether the DCP provisions relating to CIL, levy discounts and works in kind credits are appropriate
- whether the DCP should apply to all land within the PSP area.

(ii) VPA Day 1 version of DCP

The VPA's Day 1 changes to the DCP changes relating to valuations and DCP error fix-ups is summarised in Tables 1 and 5 of this Report respectively.

(iii) Evidence and submissions

The submissions of Summerfields, Wallis Watson, BW Projects and Robert John Edden considered the methodology used to value the land was unclear and sought inclusion of a more detailed methodology in the DCP.

The submissions of Larnay Pty Ltd, Summerfields, Wallis Watson and BW Projects considered there was an inconsistency within the CIL payable per dwelling with:

- page 8 of the DCP stating that the CIL is capped at \$1,225 per dwelling
- Table 9 identifying a lower CIL of \$1,178.97 based on DCP costings for community infrastructure.

Parklea/Krastoy submitted that:

- Section 4.3.3 allowing Council to discount levies for the development of social and affordable housing be deleted as it raised unresolved issues relating to funding gaps and administrative transparency
- Section 5.3.3 relating to credit for works in kind be amended to refer to indexed DCP costings and not actual costs if less than the DCP amount.

Beveridge Williams submitted the costings throughout the DCP were inconsistent and underfunded and all costings should be costed at 2022 dollars and subject to indexing moving forward.

The VPA submitted that it considered a number of issues relating to land valuations resolved, noting the Public Land Estimate of Value (PLEM) methodology was used and would continue to be used by Council in its yearly review and that the revised DCP utilised an updated land valuation report provided by Council. On indexing it submitted that it is appropriate to maintain the indexing in Section 173 agreements and proposed additional drafting in Clause 5.3.1 for clarity.

The submission of Robert John Edden questioned whether the designation of PS-01 on Plan 6 of the DCP was still required if land acquisition for the school had been removed from the DCP. This change was made in the amended DCP.

Mr Brotheridge and Submitter 34 opposed the application of the DCP to their land holdings.

The VPA's proposed Final changes to the DCP and DCPO included a range of changes made to address a range of submitter issues about the mechanics of the DCP as identified in Table 11.

Table 11 VPA Final proposed changes to the DCP and DCPO

Document	Change	Submitter
DCP	<ul style="list-style-type: none"> All project costs indexed to 2022 \$ with commencement of the 2022/2023 financial year, costs 	General
	<ul style="list-style-type: none"> Accurately reflect the cut off in land take between WL-03 and WL-04 in the land use budget if agreed design of WL-04 crosses property boundaries 	Wentworth/ Oceanic Rise
	<ul style="list-style-type: none"> Update land values following an updated valuation report from Council 	Council
	<ul style="list-style-type: none"> Update all cost sheets and costing tables to reflect revised design and costs resulting from agreed changes to technical reports 	General
	<ul style="list-style-type: none"> Update Section 4.2.2 to reference pipe costs following Alluvium review 	Council
	<ul style="list-style-type: none"> Amend Table 8 to fix the calculation error community land which currently shows as 125.44ha 	Hrelja evidence
	<ul style="list-style-type: none"> Include project CI-02c on Plan 6 	
	<ul style="list-style-type: none"> Other De Silva recommendations as set out in Table 4 of his evidence not addressed elsewhere 	VPA
DCPO	Schedule updated with final DCP figures	General

(iv) Discussion and findings

The Committee supports the final changes made by the VPA as set out in Table 11 and considers that they appropriately address the key concerns of parties.

The Committee notes that in addition to indexing to 2022 dollars the DCP land budgets should be reviewed in the context of drainage project changes as part of a broad sweep of final changes to the DCP and DCPO.

The issue of social and affordable housing is discussed in Chapter 7.5. The Committee is of the view it is a positive innovation to give the council discretion to respond to development of social and affordable housing with an exemption or discount in levy fees. Current policy settings however, limit the scope of an exemption to housing provided by or on behalf of the Department of Health and Human Services (now Office of Housing)⁵⁸ to ensure that social and affordable housing that benefits from a levy exemption is retained for that purpose, and a discount is not ‘gamed’ for developer benefit. The limitation precludes diverse, privately developed models of social and affordable housing provision from receiving the financial benefit of a levy reduction (provided they are secured for that purpose). This is a broader policy issue beyond this PSP and DCP. The VPA should satisfy itself that the DCP has the policy and statutory backing to support an exemption or discount of a levy amount as proposed. The levy issue and council's approach as collecting agency is best dealt through a policy framework, which the Committee provides commentary on in Chapter 7.5.

The Committee considers the application of the DCP and DCPO across the entirety of the DCPO the PSP area (including the existing Bass Highway industrial estate and Regency Drive area) is

⁵⁸ Ministerial Direction on the Preparation and Content of Development Contributions Plans 2016

appropriate and will support the orderly planning and delivery of infrastructure essential to the development of the PSP.

The Committee finds:

- The application of the DCP and DCPO to the existing Bass Highway industrial estate and Regency Drive properties is appropriate.
- The VPA's Final changes to the DCP as identified in Table 11 are appropriate.
- The DCP should be amended to include indexation to 2022 dollars and any changes to land takes associated with changes to drainage projects with consequential changes to other draft Amendment documents made such as the DCPO.

7 Other Precinct Structure Plan issues

7.1 Gas pipeline

(i) The issue

The issue is whether the PSP appropriately acknowledges the impacts of the high-pressure gas pipe line.

(ii) Background

Before the commencement of the Tranche 1 Hearing it was identified by the VPA that a high-pressure gas pipe was located some 50 metres to the north of the northern boundary of the PSP area. At the time the VPA and Council jointly advised that it was unaware of the Multinet Gas South Gippsland Pipeline asset and advised that it would need to prepare a Safety Management Strategy and consider the impacts on the PSP including on identified land uses and DCP projects.

The Safety Management Study was prepared by Project Delivery Assurance in consultation with the pipeline operator, which included an AS2885 Pipeline Impact Assessment and followed a workshop with key agencies. The Safety Management Study identifies the potential risk of including increased population densities close to the asset and impacts from rupture. It includes an action plan, with the most significant actions including:

- to eliminate the introduction of population density (per As2885 T1 Location Class) or sensitive land uses within the MG pipeline measurement length
- to refine infrastructure designs in proximity to the pipeline to the satisfaction of Multinet
- for VPA to update planning documentation to the satisfaction of Multinet.

(iii) Proposed changes to PSP, DCP and draft Amendment

The key changes proposed in response to the Safety Management Plan include:

- the redesign of the wetland (WL-01 and WL-02) at the north-eastern PSP boundary to overlap entirely with the pipeline 143 metre buffer
- amending Plan 12 of the PSP to identify the pipeline and buffer and amended retarding basin/wetland design (refer Figure 17 VPA Day 1 version)
- amending the PSP to:
 - include a new Objective:

Ensure sensitive land uses are minimised within the area subject to planning controls responding to the transmission pressure gas pipeline and that construction is managed to minimise risk of any adverse impacts.
 - amend Guideline G13 relating to housing diversity by adding:

Be located more than 143m from the transmission pressure gas pipeline as identified on Plan 12 – Utilities.
 - Add a new Requirement (R59):

Construction of integrated water management and transport projects within 143 metres of the transmission pressure gas pipeline shown on Plan 12 – Utilities must include design measures to ensure hazards and risks associated with the pipeline are appropriately managed to the satisfaction of the pipeline licensee.
- Amending the UGZ1 to:

- insert a Table of Uses including conditions for 'Section 1 – Permit not required' for identified sensitive uses requiring 143 metre setback from the gas pipeline
- add a condition for a gas pipeline construction management plan within 53.5 metres of pipeline.
- Amending Clause 66.06 to include a referral requirement to the South Gippsland Pipeline transmission pressure gas pipeline licensee for applications to use or subdivide land or construct a building or carry out works for identified sensitive uses located within 143 metres of the pipeline.

Figure 17 Transmission pressure gas pipeline and pipeline buffer as shown on Precinct Structure Plan - Plan 12 (VPA Day 1 version)



Note: Pipeline shown as red line and buffer extent in pink shaded area

(iv) Submissions

There were no Tranche 2 Hearing submissions opposing the amended PSP mapping and changes to objectives, guidelines and requirements proposed in response to the Safety Management Plan.

The submission of Multinet Gas Networks supported the amended PSP arrangements.

Parklea/Krastoy identified that the reference to the Pipelines Act 2005 in Clause 66.06 was incorrect and should be Pipelines Act 2006. This was corrected in the VPA's Day 1 version of Clause 66.06.

(v) Discussion and findings

The Committee supports the changes to the objectives, requirements and guidelines included in the PSP. These appropriately respond to the findings of the safety Management Plan.

The Committee finds that:

- The PSP includes appropriate provisions to manage potential impacts of land use and development on the transmission pressure gas pipeline.
- Clause 66.06 should be amended consistent with the VPA Day 1 version.

7.2 Bushfire

(i) The issue

The issue is whether the PSP and UGZ1 provisions for managing bushfire risk are appropriate.

(ii) Background

The issue of bushfire was deferred to the Tranche 2 Hearing at the request of the VPA/Council following its ongoing discussion with the CFA in relation to resolving their submission.

The Bushfire Management Overlay (BMO1) extends approximately 150 metres eastwards into the PSP area from the bushfire hazard (Wonthaggi Bushland Reserve) to the west. The entire PSP area is a designated Bushfire Prone Area.

The Bushfire Report identifies the PSP Area as being within a low bushfire risk landscape. The Bushfire Report addendum:

- includes revised maps for vegetation classification, revised BAL-12.5 setbacks from classified vegetation for the north-western, north-eastern and southern sections of the PSP and a potential BMO1 area
- confirms the wetland and waterway areas of the PSP are to be maintained to low threat vegetation to meet the criteria for exclusion from classification under AS 3959-2018 Construction of buildings in bushfire prone areas. The waterway and wetland setback is now identified as 'low threat vegetation (0 metre setback)'
- identifies that setbacks in response to classified vegetation along the McGibbonys Road shared trail, in the southern tree reserve, and outside of the PSP area continue to apply
- identifies vegetation management requirements for defendable space in the BMO.

(iii) Amended PSP and UGZ1

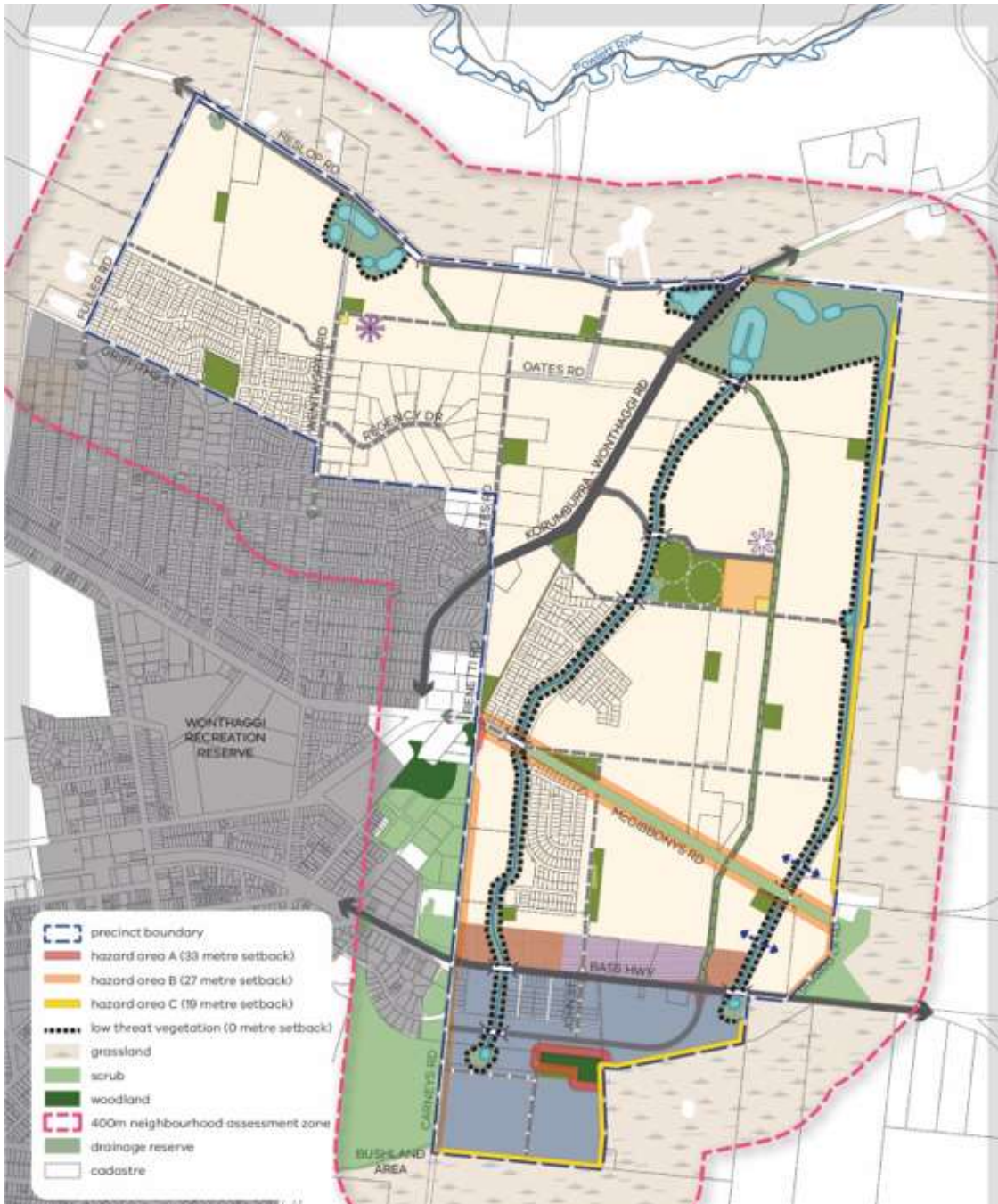
The PSP has been amended to include:

- 'Plan 8 Bushfire Plan' which identifies setbacks for Hazard areas A, B and C to meet BAL-12.5 (Figure 18)
- additional or amended requirements and guidelines as identified in Table 12 below.

The UGZ1 has been amended to:

- add an application requirement for a Bushfire Management Plan in a Bushfire Hazard Area
- add a condition for a Bushfire Site Management Plan in identified areas.

Figure 18 Bushfire Plan



Source: Plan 8 Bushfire Plan from VPA Day 1 version of PSP

Table 12 Amended Requirements and Guidelines relating to bushfire risk

Requirement / Guideline	Summary
R1	Amend street tree planting requirement to account for bushfire hazard setback area
R33	Amend residential interface requirement including road widths and setbacks to reference bushfire treat interface, separation distances of AS3959-2009 and road cross section 12
R34	New - Vegetation within bushfire hazard area to be managed to not exceed the nominated vegetation classification

Requirement / Guideline	Summary
R35	New – UGZ1 development adjacent to bushfire hazard areas to meet identified setbacks
R36	New – vegetation within land in UGZ1 and where bushfire setback applies must be managed in accordance with standards relating to grass height, removal of debris, location of flammable objects, setbacks of plants from building, location of shrubs, size of vegetation clumps, spacing of canopy trees, ground clearance to branches
R62	Amend to limit costs of delivering street tree planting and landscaping to areas outside bushfire hazard setback areas
R63	Amend requirement for delivery of open space to exclude planting of trees and shrubs to areas outside bushfire hazard setback areas
G37	Amend to provide that strategic revegetation and restoration of vegetation does not exceed identified bushfire threat levels
G42	New - All vegetation outside of a bushfire hazard area managed to ensure a low risk of bushfire
G43	New - Subdivision adjoining Bushfire Hazard Areas A, B & C to include perimeter road
G44	New - Subdivision to provide a street network that provides multiple evacuation routes away from bushfire risks and areas of bushfire hazard
G45	New - Bushfire hazard setback should be provided on public land where practical
G46	New - Fencing adjoining Bushfire Hazard Areas 1, 2 & 3 to be made from non combustible materials
G47	New - Landscape design and plant selection in open spaces, waterways and drainage corridors, should not increase bushfire risk beyond identified categorisation
G48	New - Interim bushfire hazards should be identified and risks appropriately mitigated during development
G49	New - land not in UGZ1 and adjoining bushfire hazard should be setback in accordance with identified distances on Plan 8
G50	New – land not in UGZ1 but where setback area required, vegetation in setback area must be managed in accordance with identified standards (same as R36)

(iv) Country Fire Authority advice

The CFA provided a letter to parties on 2 June 2022 which included commentary on the updated bushfire response included in the PSP. The CFA support the amended guidelines and requirements with minor changes recommended:

- including in guideline G35, relating to vegetation in waterways, a reference to bushfire hazard and the low threat vegetation classification in Plan 8
- amending the wording for the Site Management Plan condition in the UGZ1 for the Plan to be approved by the responsible authority instead of the CFA because of potential administrative burden, it is not a referral authority for all subdivisions and that Council is responsible for a range of municipal fire protection functions and better placed to review bushfire hazard in the context of the entire PSP area

- reducing the required setback from the bushland reserve on Parcel 128 from 33 metres to 20 metres.

(v) VPA agreed changes

The VPA’s Final proposed changes to the PSP relating to bushfire are included in Table 13 below. These changes are supported by the Committee.

Table 13 VPA Final proposed changes for open space projects supported by the Committee

Document	Change	Submitter
PSP	<ul style="list-style-type: none"> • Amend Guideline 35 to reference low threat vegetation in waterways and PSP Plan 8 as follows (new words underlined): <i>Constructed/modified wetlands and waterways should be revegetated with indigenous native vegetation based on the species composition of the relevant Ecological Vegetation Class and should be complementary to any specific biodiversity management objectives <u>and consistent with the low-threat bushfire hazard classification shown on Plan 8.</u></i> <i>Note: The Bass Coast Shire “Indigenous plants of Bass Coast Shire” should be used to guide revegetation activities, unless otherwise agreed to by the catchment management authority and responsible authority.</i> 	CFA
UGZ1	<ul style="list-style-type: none"> • At Section 3.0 add ‘in the incorporated Wonthaggi North East Precinct Structure Plan’ where requiring a bushfire management plan for subdivisions adjacent to hazard areas shown in PSP Plan 8 	Council

(vi) Evidence and submissions

Paterno & Clifford opposed the application of the Hazard area A 33 metre bushfire buffer around the existing dwelling on Parcel 128 (southern tree reserve area) relying on the bushfire evidence of Mr Walton.

Mr Walton identified that:

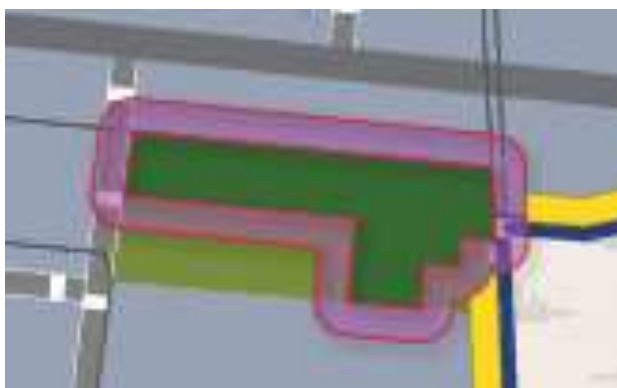
- the mapping of the tree reserve on Map 8 as ‘Woodland’ did not reflect its state and appeared to derive from its strategic role as a tree reserve rather than the vegetation on ground and should be reduced to the north-eastern patch of scrubby woodland
- the area north of the dwelling includes a row of low threat, planted exotics forming part of a garden and open paddocks
- the PSP was silent on the management of the tree reserve and as such it was not possible to assess future risk. But if managed as a local park with scattered trees and grassy understorey it could be assessed as ‘low threat’ vegetation
- overall the pocket of woodland and tree reserve represented a low bushfire risk given its size and future urban use of surrounding land and the setback should be reduced to zero metres or restricted to the woodland pocket with the separation distance managed within the adjoining parkland
- the setbacks required in guideline G49 was not practicably achievable given the approved industrial subdivision to the north.

Paterno & Clifford submitted that the Bushfire Report was not prepared on the basis of a detailed assessment and did not justify the buffers proposed. The submission considered that Council should manage the tree reserve and LP-15 in a manner that internalised buffers and not circumvent its responsibilities under section 43 of the *Country Fire Authority Act 1958*. The submission sought:

- removal or reduction of the tree reserve and LP-15 buffer
- not to apply guideline G49 in its current form
- introduce a new guideline requiring the public land manager to manage the western and southern tree reserve/local park industrial interface in a low threat condition.

In response the VPA proposed to adjust the buffer to the tree reserve to 20 metres reflecting its agreed changes to the tree reserve extent as shown in Figure 19.

Figure 19 VPA Final proposed changes to the Hazard area B setback (purple shading) to the southern tree reserve



Source: VPA Final PSP changes (page 15 Document 344) closing submission

The VPA noted the intent of guideline G49 for non Urban Growth Zone (UGZ) land was to provide discretion regarding existing approvals in the precinct, while ensuring standards were upheld and preserved in areas of the PSP that are yet to be developed. Therefore, it was:

... pertinent to retain the guidelines in the PSP, particularly given the strategies contained at Clause 13.02-1S Bushfire Planning, as their inclusion in the PSP will still result in bushfire protection measures being implemented for new development, whilst not precluding lawfully approved development.

Council submitted that it did not support providing an undertaking that the tree reserve remain in a low threat condition. This effectively required the vegetation to be altered and maintained as clumps of shrubs or mown grass beneath trees which undermined its environmental significance.

Parklea/Krastoy submitted the UGZ1 requirement for a Site Management Plan to be approved by the CFA was poorly drafted and should be amended to remove the words “*in addition to*” where introducing the elements to be included in a Plan, clarify the role of the CFA in their approval and limit application to areas within buffers and not all land. The submission noted that Plan 8 should be updated to reflect as built conditions within Precinct A of the Parklands Estate (road and park) within the Hazard B 27 metre setback area along McGibbonys Road.

The VPA identified that the PSP requirements and guidelines did not apply to the GRZ1 and DPO21 that applied to the Parklea/Krastoy land, but in any event flexibility was provided for existing approvals. The VPA agreed to reword the UGZ1 Site Management Plan requirement and based on the CFA’s advice nominate the responsible authority rather than CFA as the Plan approver. This change was not supported by Council because they did not have the necessary inhouse expertise.

Council however later agreed to the change subject to the inclusion of a requirement that the Plan be prepared by a suitably qualified professional.

Council further submitted that the bushfire setback should not extend across the local parks.

The submissions of parties represented by Ms Mitten and Ms Kaczmarek sought clarification on whether the eastern waterway (DR-02) integrated the 19 metre defendable space setback and made sufficient allowance for vegetation (canopy trees) and shared paths at locations G and H. In response to the VPA's proposed changes an additional notation was requested to be included in PSP 'Section 14-interface: waterway & wetland':

The infrastructure within the drainage reserve (i.e. channel, embankments, paths, maintenance tracks, etc) can be incorporated within defendable space and bushfire setbacks.

VPA confirmed the 19 metre defendable space setback was accommodated in the DR-02 waterway cross section. The VPA agreed to amend guideline G35 to reference low threat vegetation in waterways and PSP Plan 8.

(vii) Discussion and findings

The Committee supports reducing the southern tree reserve hazard buffer to 20 metres. The Committee notes that while the CFA agreed to reduce the tree reserve buffer to 20 metres it recommended the setbacks around it be maintained and the area be assessed as woodland. This was because the likely future status of vegetation was an important consideration at the strategic planning stage not just what exists on ground. The Committee agrees. At the strategic planning stage future neighbourhoods should be planned to strengthen the resilience of communities to bushfire risk through appropriate planning and design that prioritises protection of human life. However, precinct structure planning extends beyond this function and also looks to create diverse and high quality open spaces, increase vegetation and tree cover and enhance biodiversity features. Based on Council's submissions the conservation of the tree reserve will help deliver this outcome. In so doing there is the potential to enhance its woodland characteristics and change its bushfire risk. As identified by the CFA it is best to plan for and mitigate any risk now.

The Committee observes that the setbacks nominated in the PSP are identified as guidelines for non UGZ1 areas, allowing for flexibility particularly for the design of buildings on the industrial lots at 37 Carneys Road. It is likely that future subdivision of Parcel 128 will provide for roads abutting the western and southern edges of the tree reserve which will accommodate most of the identified buffer. Consistent with guideline G45 bushfire setbacks should be managed within public land wherever practicable and the setback should be removed from LP-12 (as amended).

The Bushfire Report included in its bushfire hazard assessment a 400 metre 'Neighbourhood assessment zone' around the PSP area consistent with the assessment strategies in Clause 13.02. This area comprises rural pasture/grassland, existing urban development or areas of scrub and woodland. While the zone is not referred to in any of the requirements or guidelines it usefully informs and explains the identified buffers on the internal edges of the PSP area identified in Plan 8. Alternatively, if the VPA and Council agree the assessment zone designation serves no useful purpose it should be deleted from Plan 8.

The Committee supports the CFA's version of the section 4.0 UGZ1 condition relating to preparation of a Site Management Plan (with the removal of the word 'Construction') and inclusion of similar language to relate it to subdivisions adjacent to a Bushfire Hazard Area shown

on Plan 8 of the PSP so that it is not required for areas not identified at risk. The Committee agrees that a Site Management Plan should for the reasons identified by the CFA be approved by the responsible authority. However, the Committee acknowledges that while Council may not have the internal resources to assess such an application, this does not stop it requiring a plan prepared by a suitable professional, getting it peer reviewed or informally referring it to the CFA for comment. The Site Management Plan should be prepared by an appropriate professional.

The suggestion of Ms Kaczmarek to add a notation to PSP 'Section 14-interface: waterway & wetland' identifying that the waterway easements can be incorporated within defendable space and bushfire setbacks is reasonable and consistent with other PSP Plan notes and the latest CFA advice.

The Committee finds:

- The requirements and guidelines of the PSP and proposed provisions for the UGZ1 and DPO21 appropriately provide for the management of bushfire risk consistent with Clause 13.02 and underpinned by the Bushfire Report.
- The Final changes identified by the VPA identified in Table 13 of the Committee's Report are appropriate.
- PSP 'Section 14-interface: waterway & wetland' should be amended to include a note: *The infrastructure within the drainage reserve (i.e. channel, embankments, paths, maintenance tracks, etc) can be incorporated within defendable space and bushfire setbacks.*
- The bushfire 'hazard area A' setback shown on Plan 8 should be reduced to 20 metres and its designation over LP-15 (as amended) removed.
- The UGZ1 Section 4.0 Condition requiring preparation of a Site Management Plan should be amended as follows:

Prior to the commencement of works in an area adjacent to a Bushfire Hazard Area shown on plan 8 of the Wonthaggi North East Precinct Structure Plan [date], a Site Management Plan prepared by a suitably qualified professional that addresses bushfire risk during, and where necessary, after construction must be approved by the Responsible Authority. The plan must specify:

- *The staging of development and the likely bushfire risks at each stage;*
- *An area of land between the development edge and non-urban areas consistent with the separation distances specified in AS3959-2018, where bushfire risk is managed to enable the development, on completion, to achieve a BAL-12.5 construction standard in accordance with AS3959-2018;*
- *The land management measures to be undertaken by the developer to reduce the risk from fire within any surrounding rural or undeveloped landscape to protect residents and property from the threat of fire;*
- *How adequate opportunities for access and egress will be provided for early residents, construction workers and emergency vehicles.*

All to the satisfaction of the Responsible Authority.

7.3 Cultural heritage

(i) The issue

The issue is whether the PSP requirement for a Cultural Heritage Management Plan (CHMP) on identified land is appropriate and sufficient to manage tangible and intangible Aboriginal Cultural Heritage.

(ii) Interim Report

Submission 19 was considered by the Committee in its Interim Report. That submission sought that the requirement for a CHMP not be mandatory and deleted from the PSP. The submission detail and Committee's discussion is not repeated here.

The Committee's Interim Report findings relating to the Tranche 1 submissions on Cultural Heritage were:

- The PSP requirement R7 for a Cultural Heritage Management Plan on identified land is appropriate.
- The PSP should be amended to include a separate plan or figure in Section 3 to identify areas of Aboriginal cultural heritage sensitivity as identified in the VPA's Day 1 Amendment changes.

(iii) Amended PSP

The 2021 PSP:

- deletes the earlier requirement R7 for a CHMP
- includes guideline G10 for a voluntary CHMP for land identified as being of 'high' or 'moderate' Archaeological potential in a new Plan (Plan 6 Cultural Heritage).

(iv) Submissions

The BLCAC is the Registered Aboriginal Party for much of Greater Melbourne, Mornington Peninsula, and the Bass Coast. Representing the Bunurong people as the Traditional Owners of the Peninsula, its aim is to preserve and protect the sacred lands and waterways of their ancestors, their places, traditional cultural practices, and stories. Their submission⁵⁹ sought to ensure that both tangible and intangible Aboriginal Cultural Heritage has been adequately identified and understood in the development of the PSP and appropriate management responses identified. It considered that the PSP area may contain both tangible and intangible Cultural Heritage in which case the CHMP provided an appropriate basis for the Traditional Owners to assess risk.

BLCAC did not seek to be heard in relation to their submission. The Committee requested the VPA advise it on the discussions it had had with BLCAC in the lead up to the Hearing. The VPA's Tranche 2 Part A submission⁶⁰ set out its correspondence with BLCAC.

The VPA proposed no further changes to the PSP.

⁵⁹ Submission 32

⁶⁰ Document 235 Section 3.1 page 5

(v) Discussion and findings

Consistent with its findings in its Interim Report the Committee is comfortable that guideline G10 linked with the introduced 'Plan 6 Cultural Heritage' provides for an adequate mechanism to avoid or mitigate disturbance in areas identified with moderate or high Aboriginal archaeological potential. The Committee is satisfied that the VPA has properly sought to consider cultural heritage issues and engage with BLCAC.

The Committee finds:

- The PSP provides for an adequate mechanism to avoid or mitigate disturbance in areas identified with moderate or high Aboriginal archaeological potential.

7.4 Contamination

(i) The issues

The issues are whether the:

- application of the EAO is appropriate
- DPO should include a requirement for a preliminary site investigation for sites with approved Development Plans and planning permits.

(ii) Background

The 2020 exhibited draft Amendment proposed to:

- apply the EAO to four Parcels identified as having high potential for contamination
- include a requirement for a preliminary site investigation in the UGZ1 for the use and development of seven identified properties for accommodation, and primary and secondary schools
- include a requirement for a preliminary site investigation for the use and development of land for accommodation, and primary and secondary school in the IPO2
- amend DPO21 to include a permit requirement for a preliminary site investigation for the use and development for accommodation, and primary and secondary school (including works and subdivision) of 13 properties considered to be of medium contamination risk.

This overlay regime was based on the *Wonthaggi North East Growth Area Contaminated Land Investigation* (GHD April 2016) and *Wonthaggi Precinct Structure Plan- North East Growth Area Phase 1 Preliminary Site Investigation* (GHD May 2020). These investigations:

- included a land capability assessment given many farming properties have residual low impact contamination associated with conventional farming practices to determine any contamination potential
- identified areas subject to historical localised contamination
- identified potential contaminants within the soil that may constrain the development of the land for sensitive uses or open space
- were informed by the Potentially Contaminated Land General Practice Note, DSE 2005 and identified areas in relation to per fluorinated compounds (PFC) contamination on rating scale (and assessment level rating) of High (A – requiring an EAO), Medium (B - Phase 1 environmental site assessment) and Low (C – no further assessment required).

The following Ministerial Directions and Planning Practice Notes are relevant:

- Ministerial Direction 1 - Potentially Contaminated Land seeks to ensure potentially contaminated land is suitable for a use proposed by an Amendment and that the environmental conditions of the land are suitable for the proposed land use
- Planning Practice Note 30: Potentially Contaminated Land (PPN30) provides guidance on the application of the EAO.

(iii) Interim Report

The Interim Report considered submission 24 (relating to incorrect EAO mapping) and submissions 15 and 22 regarding the requirement of a preliminary site investigation when a planning permit had already allowed for subdivision consistent with an approved development. That discussion is not repeated here.

The Committee's Interim Report findings were that:

- The application of the EAO is appropriate but the EAO mapping should be amended to apply it to PSP property parcel 48 and remove it from property parcel 47.
- The requirement for a preliminary site assessment in DPO21 is appropriate but should include similar waiver arrangements as proposed in the Schedule to the UGZ1.

(iv) Updated draft Amendment

The 2021 version of the draft Amendment:

- expands the application of the EAO over a much wider area within the PSP area (refer Figure 20)
- deletes the requirements for a Preliminary Site Investigation and related permit condition from the UGZ1 and DPO21.

Figure 20 Proposed Environmental Audit Overlay mapping



The VPA outlined that this change was necessary because on 1 July 2021 the *Environment Protection Act 2017* (EP Act) came into effect, which included new guidance for planning

authorities on how risks associated with potentially contaminated land should be considered as part of planning scheme amendments. These legislative changes were accompanied by associated updates to Ministerial Direction 1 (Potentially Contaminated Land) and an updated PPN30.

PPN30 recommends a Preliminary Risk Screen Assessment (PRSA) or an Environmental Audit be undertaken for planning scheme amendments involving the rezoning of land that may facilitate sensitive uses to assess contaminated land risk. It identifies the EAO as the appropriate tool to defer conducting an Environmental Audit or PRSA as part of a planning scheme amendment to rezone land. The revised draft Amendment approach applies the EAO to properties identified in the 2019 GHD Preliminary Site Investigation:

- as having a high or medium risk of contamination.
- identified for residential development in PSP Plan 3 – Future Urban Structure.
- medium risk properties identified for future industrial development in PSP Plan 3 – Future Urban Structure retain the requirement to undertake a Preliminary Site Investigation within the IPO Schedule as recommended by PPN30.

(v) Submissions

Submission 30 from the EPA was provided to the VPA in response to its request for advice on the impacts of the EP Act. The EPA advised that the appropriate option in accordance with PPN30 2021 was to apply the EAO to properties identified as having a medium risk for potential contamination. It recommended the VPA include a provision for ensuring any recommendations of an audit are complied with in the UGZ1. The EPA's later submission (submission 30a) generally supports the VPA's planning approach to the application of the EAO and to no longer require a preliminary site assessment in the UGZ1 and DPO21 but retaining it in the IPO2 for sensitive uses.

The EPA did not make a submission to the Hearing and consequently the Committee requested that the VPA advise it on the status of discussions with the EPA given the potential ramifications of the changes sought.

The VPA submitted that it did not support the EPA's suggestion that the UGZ1 include a provision for the recommendations of an audit to be complied because:

- PPN30 states that "Where an environmental audit is to be completed in response to an EAO, it is necessary to carefully draft the planning provisions in the planning scheme amendment to address implementation of the environmental audit statement recommendations".
- PPN30 goes on to state at Table 4 that the EPA is responsible for "Enforcement of obligations associated with the duty to manage any environmental audit recommendations that are listed in a mechanism under the Environment Protection Act 2017, including: - A site management order - A remedial notice. These typically relate to long term or ongoing monitoring or management".
- The provision drafted by EPA requires the responsible authority to enforce all audit recommendations, rather than the EPA. Some audit recommendations require complex and ongoing management and should be enforced by EPA, potentially through a Site Management Order (SMO). This provision would unnecessarily duplicate the management framework and require a responsible authority to enforce matters beyond its expertise.
- The current wording makes a requirement for any audit, regardless of whether it was triggered via the EAO, or whether it involves sensitive uses or not. The provision also removes the ability for a responsible authority to determine to issue a permit with conditions for certain audit recommendations to be complied with. This would be for non-complex applications, which should be dealt with by EPA through an SMO.

- Including such a provision in special purpose zone schedules does not allow for standardisation of the approach where standard zones are used and the EAO is applied. The EAO should be self-contained and must be adhered to as the responsible authority must consider the EAO, SPPF and General Decision Guidelines at Clause 65.01.

The VPA advised that it had informed the EPA of its position but had yet to receive a response but would continue to work with EPA and DELWP for the benefit of future VPA projects. It confirmed the EAO mapping had reflected its updated work.

Wentworth questioned the inclusion of the EAO on its land that already had a planning permit for subdivision and sought its removal.

The VPA submitted that there was no evidence of consideration of contamination issues at the time of Wentworth's subdivision and that application of the EAO was consistent with PPN30 and EPA advice. It noted however that it would support removal of the EAO from properties that had undertaken the required reporting and were found to contain no contamination.

In response to a submission from Council regarding the IPO2 requirements for a Preliminary Site Investigation the VPA agreed to update wording to reflect current standards of *Environment Protection Act 2017* and for it to only apply to sites identified as having a high potential for contamination in the Contaminated Land Investigation prepared by GHD.

(vi) Discussion and findings

The Committee adopts its discussion and findings on contamination in its Interim Report. The Committee broadly supports the wider application of the EAO as proposed and the approach taken to sensitive uses within the IPO2 where the EAO will not apply. The approach is consistent with PPN30, EPA advice and preliminary site investigations.

The Committee does not support the inclusion of additional requirements in the UGZ1 for audit compliance and agrees with the VPA's rationale as to why this is both unnecessary and duplicates other provisions of the Bass Coast Planning Scheme.

The Committee acknowledges Wentworth's submission and the scenario where individual landowners constructing dwellings on recently approved lots might be subject to a requirement to prepare a PRSA. This is potentially onerous for home builders and likely to increase costs and delays. This situation can be avoided if the EAO is not applied to land in the first instance where appropriate assessments have already been undertaken as part of the approvals process and where this can be demonstrated. This should be confirmed by the VPA in consultation with Council and affected landowners.

The Committee finds:

- The proposed application of the EAO and inclusion of preliminary investigation requirements in the IPO2 are appropriate.
- The 'Section 3.0 Conditions and requirements for permits' of IPO2 should be amended to reflect current *Environment Protection Act 2017* standards and to only apply to sites identified as having a high potential for contamination in the Contaminated Land Investigation prepared by GHD.
- The VPA in consultation with Council and affected landowners should confirm whether site investigations have been undertaken to an equivalent PRSA standard for any land parcels within the proposed EAO before finalising its application.

7.5 Housing affordability and sustainability

(i) The issue

The issue is whether the PSP should include additional requirements and guidelines for housing diversity including social and affordable housing and sustainability.

(ii) Interim Report findings

The Committee's Interim Report findings were:

- The PSP should include amended requirements and guidelines for housing diversity including affordable housing to provide greater locational guiding criteria.
- It is not necessary for the PSP to nominate particular sites for residential village or higher density housing outcomes.

(iii) Amended PSP

Objective 4 of the PSP is to *"promote greater housing diversity and affordability with lots capable of accommodating a variety of dwelling types and sizes that encourage a variety of tenure and household types in appropriate locations"*. This remains unchanged from the 2020 PSP.

PSP Guidelines and Requirements relating to housing diversity include:

- Requirement R7 - *"Residential subdivisions must deliver a broad range of lot sizes capable of accommodating a variety of housing types"* (renumbered but otherwise unchanged in the amended PSP)
- Guideline G11 - *"Residential subdivision should provide across each neighbourhood a broad range of lot sizes capable of accommodating a variety of housing types as described in Table 3."* PSP Table 3 depicts a range of housing types and an associated lot size category (no change from 2020 version)
- Guideline G13 – *"Medium-high density, residential development, affordable housing typologies and specialised housing forms such as retirement living or aged care should ..."* among other things *"be integrated in the wider urban structure..."* (renumbered with changes from 2020 version underlined by Committee).

(iv) VPA Guidelines

The VPA Guidelines includes guidance for housing diversity – *"Diversity of housing, including lot size and built form, to meet community needs, increased housing densities and integrated housing located close to existing and/or proposed services, transport and jobs"* (Feature F1). These include preparing a housing needs assessment and a Housing Plan to identify areas for higher densities and multiple housing typologies and tenure options and other implementation measures including of residential and mixed use zones/ applied zones and the Small Lot Housing Code.

The VPA Guidelines include the following guidance for Affordable housing options (Feature F3), with affordable housing *"including social housing – that provide choices for very low, low and moderate-income households"*:

- general principles including:
 - Affordable housing should be located in areas that have convenient access to commercial and community facilities, services and public transport.
 - The PSP should support existing planning mechanisms to facilitate delivery of affordable housing (for example, Section 173 agreements).

- application in a PSP:
 - Affordable housing needs and likely affordability conditions should be investigated as part of the PSP technical studies.
 - The housing table should quantify the likely proportion of housing that will meet the affordability definition.
 - Place-specific guidance should identify the preferred approach to entering into voluntary affordable housing agreements, if appropriate. This approach should then be implemented via the zone schedule.
 - Consult with relevant government departments, agencies and community organisations during place-shaping and co-design phase.
 - Sites should be nominated on the Housing Plan where appropriate.
- setting performance targets:
 - Set a minimum target for provision of affordable housing in accordance with affordable housing policy, evidence, and guidance. (T4)
- identifying opportunity:
 - Engagement with community and social housing providers should explore opportunities for the provision of affordable housing, including opportunities for integration with community infrastructure, alternate typologies and tenure.
 - Landholders willing to enter into voluntary agreements (refer to F 3.2), may negotiate to deliver affordable housing in key locations as part of a broader vision.

(v) Submissions

Several submissions raised concerns about specific higher density housing outcomes on specific sites (submission 10) and sought greater direction in the PSP for housing affordability and diversity including lot sizes and higher densities within walkable catchments (submissions 10, 17 and 19). Those submissions are set out in greater detail in the Interim Report and not repeated here.

Bass Coast Housing Matters (submission 38), a local advocacy group seeking affordable and environmentally sustainable housing outcomes for Wonthaggi provided presentations about housing affordability to the Tranche 2 Hearing. The presentations included overviews of local housing challenges including homelessness, rental affordability and affordable housing models (including public housing, shared equity housing, co-housing, transitional and tiny homes) and sustainable housing benchmark examples. The submissions considered there was a mismatch between the PSP Guidelines and Bass Coast Planning Scheme policy aspirations for affordable and diverse housing and limited direction provided in the PSP. The submission sought the following changes to the PSP:

- requirement for inclusionary zoning with a target of 20 per cent affordable housing of which half would be used for public and social housing
- require diverse housing types including co-housing and other forms of innovative housing
- set minimum Environmentally Sustainable Development (ESD) expectations for sustainable housing
- provide for communal land areas and active transport including cycle path linkages to schools and parks and the town centre.

The VPA identified that the PSP encouraged a diversity of lot sizes and the discretion available to or Council to reduce the DIL and CIL so as to encourage social and affordable housing. The VPA's closing submission proposed to amend guideline G13 (changes underlined):

Medium-high density residential development, affordable housing typologies, public and social housing and specialised housing forms such as retirement living, aged care or co-housing should (subject to limitations imposed by utilities):

Council acknowledged that the PSP does not directly require any social housing or public housing to be provided as part of any development. It identified the following guideline for its consideration along with supporting provisions in the UGZ and IPO2 that were proposed for the Beveridge North West PSP:

G16 An application for subdivision of land into residential lots or development of land for residential or mixed-use purposes should provide affordable housing as defined by the Planning and Environment Act 1987. The affordable housing should be located within walkable catchments and provide for a range of housing typologies to meet demonstrated local need.

The VPA's Final changes agreed with Council's suggestions and proposed:

Include the following guideline:

An application for subdivision of land into residential lots or development of land for residential or mixed-use purposes should provide affordable housing as defined by the Planning and Environment Act 1987. The affordable housing should be located within walkable catchments and provide for a range of housing typologies to meet demonstrated local need.

and:

update Plan 3 to show walkable catchments to local town centres to ensure consistency with new guideline.

(vi) Discussion and findings

The Committee observed in its Interim Report that the earlier PSP provided minimal guidance to housing diversity, higher density housing and housing affordability and considered that additional guidance was required for the location of the housing types identified in PSP Table 3 particularly attached housing and semi-detached housing typologies. It identified that this might be achieved through changes to requirement R8 and guideline G11 or provision of new guidelines. The Committee notes however that the VPA's proposed PSP changes focus on minor changes to guideline G13 which is focused on integrating housing typologies rather than providing them. Requirement R7 and guideline G11 remain unchanged but are focused on lot sizes to provide for housing diversity rather than setting any benchmarks for housing provision. The Committee considers that this is an inadequate response to its interim findings and with the current PSP Guidelines which aim to 'lift the bar' in this regard.

As one of the Bass Coast Shire's key centres for growth it is appropriate that the growth areas of Wonthaggi aim to address some of the municipality's housing affordability (including social housing) challenges. The Committee is mindful however that extensive areas of land within the PSP have been actively planned and subdivisions approved and under construction and that Council does not appear to have an overall strategy in place to guide the provision of affordable housing including social housing. The horse however has not fully bolted and there remains opportunity to support greater housing typologies including affordable and social housing in undeveloped areas of the PSP particularly around employment and commercial precincts and the village hub, school and recreation areas.

The Committee supports the VPA's Final changes to guideline G11 however this in itself is not enough to progress meaningful housing affordability and diversity outcomes. The Committee was not provided with evidence to support the further introduction of requirements or guidelines or

proposed wording (apart from Council's suggestions in closing and VPA's acceptance of Council's changes in their Final version) that it could consider, and for other parties to respond too. Without a foundation municipal policy approach to underpin affordable and social housing targets, including specific requirements for social housing or other specific typologies and associated targets is not strategically justifiable at this time. The lack of such a policy would make it difficult to consider the appropriateness of any social housing arrangement to be negotiated in response to a guideline like that applied in the Beveridge North West PSP. Such consideration needs to be embedded at the early planning stage of the PSP as espoused by the PSP Guidelines including the preparation of a housing needs assessment and a Housing Plan. Ideally these documents should be prepared, identify PSP requirements and guidelines, and be exhibited before finalising the Amendment. This would however further delay the Amendment.

Until the further strategic work required is undertaken by Council or the VPA it is recommended that a general PSP guideline be developed which allows for the provision of a Parcel based Housing Plan or similar for the subdivision of land which provides for affordable housing as defined by the PE Act a range of housing typologies to meet demonstrated local need to the satisfaction of Council. This does not need to be limited to walkable catchments as suggested by the VPA. An appropriate planning scheme implementation enabling provision should be considered mindful of the limited level of local policy in place.

The Committee acknowledges the sustainability and ESD aspirations of Bass Coast Housing Matters. There is little guidance in the PSP relating to building design embedding ESD and even then, it is largely limited to managing commercial interfaces, landmarks or village character. In this regard the PSP could not be said to be cutting edge. This is a missed opportunity, particularly given the challenges of climate resilience. However again in the absence of a municipal wide approach or alternative suggested wording by Council or the VPA the Committee is not in a position to identify specific requirements or guidelines. The VPA should however review the guidelines relating to the open space and street network to embed climate resilience measures and consider the Environmentally Sustainable Development policy directions in the PPF introduced through Amendment VC216.

PSPs are useful in getting the sustainable foundations of our communities in place but site by site development based ESD outcomes are best achieved through other planning scheme mechanisms.

More generally the Committee considers the provision for pedestrian linkages is appropriate. The PSP does not exclude the opportunity for a different approach to supporting the use of open space areas or school site for community gardens.

The Committee finds:

- That the PSP provisions for affordable housing are inadequate.
- An additional Affordable housing guideline should be included in the PSP which allows for the provision of a Parcel based Housing Plan or similar for the subdivision of land which provides for affordable housing as defined by the PE Act and a range of housing typologies to meet demonstrated local need to the satisfaction of Council. An appropriate planning scheme implementation enabling provision should be considered mindful of the limited level of local policy in place.
- Amend the introductory sentence to guideline G13 to read "*Medium-high density residential development, affordable housing typologies, public and social housing and*

specialised housing forms such as retirement living, aged care or co-housing should (subject to limitations imposed by utilities):”

- The VPA should review the guidelines relating to open space and street networks within the PSP against the features and targets of the PSP Guidelines relating to ‘Offer High Quality Public Realm’ and climate resilience and consider the Environmentally Sustainable Development policy directions in the PPF introduced through Amendment VC216 before finalising the PSP.

7.6 Powerlines

(i) The issue

The issue is whether the PSP should provide direction around existing high voltage powerlines.

(ii) Submissions

Mr Trevakis for Stuart Edden identified that Parcel 49 is traversed by approximately 1090 metres of high voltage overhead powerlines (Figure 21).

Figure 21 Existing overhead powerlines extending through Parcel 49



Source: Trevakis submission (Document 310)

The submission requested the PSP include references that would allow for the future incorporation of the overhead powerlines within a widened road. It submitted that this had been achieved in other PSP within 20 metre road reserves. Such a provision it submitted would provide greater certainty for developers, Council and service authorities around future planning and approvals and avoid future uncertainty. Without the inclusion of appropriate direction, it considered any requirement to underground or relocate the powerlines would be commercially unviable and constrain development of the land. Council submitted that one option to address the concern of Mr Edden was to amend the utilities requirement (R54) *“to specifically refer to the existing high voltage power lines and the ability to accommodate them in road reserves wider than set out in the relevant cross section or otherwise placed underground.”*

The VPA did not support changes to the PSP to address the concerns of Mr Edden considering the issue of powerlines best left for the asset owner at time of development because the asset owner had not been engaged in the Amendment process and should be consulted to determine an appropriate outcome. It considered this issue best left for negotiation and allow for flexibility in the PSP using the ‘generally in accordance’ approach rather than being precise about an outcome in the PSP or locking out the opportunity for undergrounding.

(iii) Discussion and finding

The Committee agrees with the VPA to a point that being too specific about a requirement can have unintended consequences. This is a situation however where existing conditions provide a design challenge that requires some direction or guidance so as to avoid compromising good planning outcomes. While undergrounding or relocating the asset would have the best urban design outcome there is no doubt such a requirement would be costly particularly on a site already burdened with the delivery of other community assets.

The Committee thinks Council's suggestion to amend requirement R54 is a sensible one. But there may well be other solutions besides allowing for wider road reserves which could be considered such as providing open space or pathway linkages in the proximity of such infrastructure. The Committee agrees with the VPA that there is some risk in developing a requirement on the run resulting in unintended consequences, constraining other innovative solutions or not being implementable if the asset owner is not supportive. A new guideline might be an appropriate alternative which would provide more flexibility. Regardless the asset owner should be engaged in any process of amending R54 or developing an alternative requirement or guideline.

The Committee finds that:

- Requirement R54 should be amended or a new requirement or guideline developed that assists in managing the existing high voltage powerlines extending through Parcel 49. The final wording should be developed in consultation with the powerline asset owner and provide sufficient flexibility for a range of design treatments consistent with the PSP's vision and objectives.

7.7 Bass Coast Highway Business/Mixed Use precinct

(i) The issues

The issues are whether:

- the PSP should be amended to identify an alternative Commercial/Mixed Use precinct arrangement along Bass Coast Highway
- DPO21 should apply to Parcel 66-R.

(ii) Interim Report

The Committee heard from submitter 10 (Birdwood Pty Ltd) supported by the economic evidence of Mr Brian Haratsis of Macroplan during its Tranche 1 Hearing. The submission sought the extension of the Commercial/Mixed Use precinct east of proposed St Clair Boulevard (to Mixed Use Zone (MUZ)).

The initial submissions of LandGipps and Clive and Julie Kilgour (submission 26) sought further detail to be included in the PSP about the planning outcomes for the Mixed Use precinct. LandGipps did not make its substantive submission on this issue at the Tranche 1 Hearing.

The Committee's Interim Report did not make findings on this issue as some submissions and evidence remained to be heard. It did however make the following observations:

- That the VPA Tranche 1 Final changes to the Business/Mixed Use precinct in response to the Birdwood submission appear reasonable and justified.
- There appears to be no strong reason at this stage to suggest that the PSP is deficient in its guidance for the Mixed Use area's land use and development outcomes and requires further guidance.

(iii) Amended PSP

The Amended PSP identifies a mixed use area and business area extending along the north side of Bass Highway including an expanded MUZ area in response to Birdwood's submission (refer Figures 1 and 3).

(iv) Submissions

LandGipps expressed concern about the application of the C2Z to property Parcels 66-E and 64-E given what it considered to be a restrictive zone and unlikely to be delivered in the medium term thereby blighting the land. The submission supported the application of the MUZ instead to provide for a variety of uses and flexibility. The submitter's addendum submission⁶¹ advised that they no longer disputed the proposed zoning of properties 66-E and 64-E.

LandGipps further submitted that the DPO21 should remain on Parcel 66-R (Lot 2 PS628069) as this created an inconsistent approach to the planning of the commercial-mixed use precinct where the western portion would need to prepare a development plan and the eastern portion would not.

The VPA submitted that it supported the D-DPO map being updated to indicate the removal of the DPO21 from Parcel 66-R, identifying this anomaly as a mapping error and included the requested change in its updated Day 1 ordinance mapping documents.

(v) Discussion and finding

The Committee adopts its discussion and observations relating to the underlying zoning regime proposed Business/Mixed Use precinct. It supports how the precinct is designated in the Day 1 version of the PSP.

The Committee supports the D-DPO map being updated to indicate the removal of the DPO21 from Parcel 66-R as proposed by the VPA in its Day 1 changes. This provides for a more coordinated approach to the planning of the commercial-mixed use precinct.

The Committee finds:

- That the VPA's Day 1 changes to the D-DPO map appropriately provide for the removal of DPO21 from Parcel 66-R (Lot 2 PS628069).

7.8 Industrial precinct

(i) The issues

The issues are whether:

- sufficient land has been identified for light industry
- alternative uses and zoning could be applied
- the existing industrial area is appropriately integrated into the PSP
- additional buffer or amenity provisions are required in the IPO or PSP to manage impacts on sensitive uses.

⁶¹ Document 217

(ii) Interim Report

The Committee's Interim Report considered the following submissions:

- submission 1 (Mr Brotheridge) about the lack of guidance in the PSP and DCP relating to the provision of water and sewerage infrastructure to the industrial precinct and overall guidance to existing industrial properties
- submission 19 (Paterno & Clifford) which sought an alternative housing/employment mix and zoning for the southern extension of the precinct to provide appropriate buffers to an existing dwelling
- submissions 16 and 17 which supported the directions and need for industrial land supply.

The detail of submissions and the Committee's discussion in the Interim Report is not repeated here and can be referred to for background.

The Committee's Interim Report findings were:

- Sufficient land has been identified in the PSP for industrial use.
- The application of the IN3Z to the Industrial precinct is appropriate.

(iii) Amended PSP

The amended PSP has not altered the 2020 PSP directions for employment which include:

- on Plan 3 an industrial precinct south of Bass Highway which is proposed to apply to land currently zoned C2Z and INZ and extended to the south (Parcels 128 and 29) on land currently within the Farming Zone
- no objectives, land use or built form requirements or guidelines for the industrial precinct.

The Amendment proposes to rezone the entire industrial precinct to IN3Z.

(iv) Submissions

Mr Brotheridge's concerns about the role of John Street and the existing industrial estate are set out in Chapter 5.2.

Paterno & Clifford sought the inclusion of an additional requirement in the PSP and IPO2 that gives effect to the decision guidelines and amenity requirements in the applied zone and which reflects a condition for certain uses in industrial zones:

Must not adversely affect the amenity of the neighbourhood, including through the: Transport of materials, goods or commodities to or from the land. Appearance of any stored goods or materials. Emission of noise, artificial light, vibration, odour, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.

This was sought because the dwelling residents at 37 Carneys Road were concerned that any future permits issued on 35 Carneys Road might expose them to a lower level of protection than is reflected in the permit for the asphalt batching plant approved for that land.

The VPA submitted that 37 Carneys Road was to be rezoned IN3Z not UGZ and the changes sought did not provide any practical differences to the provisions that currently apply in the scheme including Clause 53.10 and the decision guidelines of the IN3Z.

(v) Discussion and findings

The Committee agrees that the industrial estate should be within the PSP to encourage and support its integration with the extended employment precinct. The existing industrial precinct offers a range of smaller lots that are unlikely to be offered in the extended industrial precinct as well as the opportunity to consolidate vacant sites. As identified in Chapter 5.2 it may be some time before John Street and other industrial estate streets can be upgraded and provided with services in a coordinated and cost-effective manner. This is likely to stymie its development and integration without intervention and support and represents a lost opportunity to achieve a cohesive appearance and functionality of the Bass Highway employment precinct area.

The Committee does not support the changes sought by Paterno & Clifford to include additional requirements in either the PSP or IPO2 that effectively replicate existing decision guidelines or provisions relating to amenity considerations in the Planning Scheme.

The Committee finds:

- Its discussion and findings relating to the industrial precinct in its Interim Report are appropriate.
- There is no need for additional requirements to be included in the PSP or IPO2 to manage amenity impacts on sensitive uses.

7.9 Land included within the Precinct Structure Plan

(i) The issues

The issues are whether the PSP:

- should apply to the existing Bass Highway industrial estate and Regency Drive
- should apply to sites with existing development plans and planning permits
- should be amended to reflect approved development plans.

(ii) Interim Report

The Committee's Interim Report considered submissions BEW and Wentworth which sought the exclusion of the Northern Views and Summerfields Estates from the PSP on the basis that it had approved development plans, planning permits for which works had commenced and section 173 Agreements in place to provide for development contributions. The summary of those submissions, background to approved development plans and the Committee's discussion is set out in the Interim Report and not repeated here.

Submissions 13, 28, Wentworth and Wallis Watson raised concerns that the PSP arrangement of some roads and open space areas identified in the PSP did not align with those identified in approved development plans or planning permits. The summary of those submissions, background to approved development plans and the Committee's discussion is set out in the Interim Report and not repeated here.

The Committee's Interim Report findings were that the PSP:

- should apply to all property parcels as proposed including parcels with existing development plans and planning permits
- the PSP should align with approved development plans where they are generally consistent with the PSP and consistent with the vision and objectives of the PSP.

(iii) Amended PSP

The amended PSP makes a number of changes to align open space and internal roads with those identified in existing approved development plans and in response to the Committee's Tranche 1 Interim Report findings as summarised in Chapter 2.

(iv) Submissions

Mr Brotheridge confirmed that while the application of the PSP to John Street was acceptable, it was preferable that the DCP did not apply to John Street properties unless providing for the construction of John Street including provision of services.

Submission 33 and Ross and Judy Wise raised concerns about the rezoning of Regency Drive from LDRZ to GRZ1. Submission 33 felt that the proposed rezoning was not properly communicated to residents in November 2020 but was a later change to the Amendment in June 2021.

Ross and Judy Wise opposed the rezoning and suggested that landowners in Regency Drive not be faced with the costs of upgrading infrastructure to accommodate future development. The submission identified that the lots within Regency Drive were lifestyle lots with relatively new dwellings centrally located and limited opportunity (and appetite) for further subdivision. They were concerned with the cost and inconvenience of developing Regency Drive in a conventional manner (wider pavement with kerb and channel and other services) and the impact on Council rates.

The VPA considered the GRZ1 was the most appropriate zone to apply to the Regency Drive properties. The zone reflected existing and anticipated residential densities surrounding the land, adjoining land zoning and facilitated the long term development of the land. It submitted that DCP contributions would only be triggered if the properties in Regency Drive were further developed or subdivided.

(v) Discussion and findings

As identified above the Committee support the inclusion of the existing industrial estate within the PSP noting its other comments about its future development.

While the PSP provides no particular strategic vision or direction for the Regency Drive estate, for example the provision of future pedestrian links to Oats Road to assist its integration with the wider PSP area, this largely reflects its built state. Regency Drive should however be included in the PSP and zoned GRZ1 (with DPO21 applied) so that it can ultimately be integrated into the wider growth area that surrounds it, whether that be through future transport networks, and street works including landscaping, footpaths and street lighting. In the short term the estate offers an alternative range of lot sizes. In the short-medium term it is likely that subdivision of this estate will be limited to the lots fronting Wentworth and Oats Road. More conventional subdivision within Regency Drive is likely to be a longer term prospect requiring a level of coordination and planning from Council.

The Committee finds that:

- The extent of the PSP area is appropriate and should include Regency Drive and the Bass Highway industrial estate.
- The application of the GRZ1 and DPO21 to the Regency Drive area is appropriate.
- The application of the IPO2 to the existing Bass Highway industrial estate is appropriate.

7.10 Other issues

(i) The issue

The issue is whether the PSP should be amended to respond to a range of other submission issues.

(ii) Submissions

Parklea/Krastoy requested a school site be shown on Parcel 65 consistent with the approved development plan for that site which identified land for a non government school and queried the removal of requirement R31 which related to non government schools.

The VPA submitted that this change was not necessary to designate a non government school site on Parcel 65 given the PSP was a high-level plan and development of a school was allowed for in the GRZ1 and that future development of the land for housing would be more difficult if it was shown but the school did not eventuate.

(iii) Discussion and finding

The Committee agrees with the VPA that it is unnecessary for the PSP to be amended to designate a non government school site on Parcel 65 unless approval for it has been issued and construction confirmed. There were no submissions made to support a position that its designation was required so as to confirm particular land use directions or impact street or open space networks.

The Committee finds:

- It is unnecessary to amend the PSP to designate a non government school site unless there is a clear indication that it is to be constructed and its footprint confirmed.

8 Native Vegetation Precinct Plan

(i) The issues

The issues are whether the NVPP should:

- permit the removal of all vegetation associated with all DCP infrastructure items
- provide exemptions for the removal of vegetation for personal use.

(ii) NVPP

The NVPP identifies native vegetation in the precinct and whether the vegetation is to be retained or removed to accommodate key infrastructure items. The primary objective of the NVPP is to retain native vegetation where practical and manage high biodiversity value areas within open space, drainage and/or road reserves. The NVPP proposes that there is 'no net loss' of vegetation across the precinct and identifies offset requirements for any permitted removal.

The NVPP includes the following pertinent Tables and Plans:

- Table 2 Native vegetation to be removed
- Table 3 Information about trees to be removed
- Table 4 Off set requirements
- Table 5 Native vegetation to be retained
- Table 6 Information about trees to be removed
- Table 7 Land to which the NVPP applies
- Plan 2 Existing Conditions
- Plans 4 to 6 showing vegetation identifying individual trees, scattered trees and habitat zones to be retained or removed.

(iii) Flora and Fauna Assessment

The Flora and Fauna Assessment⁶² underpins the NVPP. It identifies:

The site predominantly comprised large agricultural lots which supported introduced pasture, and/or were being used for the production of hay or cattle grazing. Native vegetation recorded throughout the PSP area predominantly comprised Swamp Scrub (EVC 53) though also consisted of vegetation from the following Ecological Vegetation Classes (EVCs):

- Damp Sands Herb-rich Woodland (EVC 3);
- Lowland Forest (EVC 16);
- Grassy Woodland (EVC 175);
- Tall Marsh (EVC 821); and
- Swampy Woodland (EVC 937).

Swamp Scrub was common throughout the site, primarily along roadsides, and was distinguishable by a dense canopy and mid layer of Swamp Paperbark. Woodland vegetation was present in both the northern and southern sections of the site, primarily in linear remnants, and was distinguished by a canopy of Swamp Gum (in areas of Grassy Woodland, which was mostly recorded in the north) and Coast Manna-gum (in areas of Damp Sands Herb-rich Woodland, in the south). Patches of Swampy Woodland, Lowland Forest and Tall Marsh were recorded either side of Bass

⁶² Document 16

Highway, near the intersection of Carneys Road. A total of 61 remnant patches of native vegetation comprising the above listed EVCs were recorded in the PSP area. A total of 14 large trees were recorded within patches. In addition, 122 scattered indigenous canopy trees occurred throughout the site, of which 24 were large and 98 small scattered trees.

Fauna habitat included agricultural, treed and aquatic habitats. Roadside vegetation provided the main habitat corridors throughout the site, connecting with other adjoining treed habitats. Aquatic habitats were largely limited to farm dams, however, one large wetland existed amidst the scrub north west of the intersection of Bass Hwy and Carneys Road. This wetland comprised a large area of water and was heavily vegetated in part with Narrow-leaf Cumbungi.

...

The Native Vegetation Removal (NVR) report prepared by DELWP documents a total extent loss of 7.540 hectares of native vegetation for the North East Wonthaggi PSP. It is important to note that the extent loss (7.540ha) includes the loss of 71 scattered trees (10 large and 61 small) which have been converted to an area as per DELWP's required data standards. Overall 14 large trees are proposed to be removed including 10 large scattered trees and 4 large trees in patches of native vegetation.

The 61 remnant patches are referred to as 'habitat zones'. The assessment mapped large and small scattered trees, large trees in habitat zones and EVCs.

(iv) Amended NVPP and VPA Day 1 version

The amended NVPP and VPA Day 1 version changes relating to the NVPP are summarised in Tables 1 and 5 of this Report.

(v) VPA agreed changes

The VPA set out its further agreed changes in its Final version of the NVPP. The VPA confirmed it had not received any objections from DELWP Environment on its proposed edits to Section 5.2.1 of the NVPP.⁶³

The Committee supports the VPA changes identified in Table 14 below.

Table 14 VPA Final proposed changes to the NVPP supported by the Committee

Section	Change	Submitter
NVPP Plans	<ul style="list-style-type: none"> Amend 'Plan 2 Existing conditions' to correct errors: <ul style="list-style-type: none"> the area of native vegetation shown as removable for IN-04 to align with that identified at 'Plan 4 Native Vegetation Retention and Removal' correctly represent the extent of drainage infrastructure including realignment of DR-01 through Parcel 65 and 66-R 	VPA error correction
	<ul style="list-style-type: none"> Amend 'Plan 6 Native Vegetation Retention and Removal' to reflect realignment of DR-01 through Property Parcel 65 and 66-R 	VPA update, LandGipps
	<ul style="list-style-type: none"> 'Habitat zones to be retained' overlapping with the proposed location of SB-01 to be recategorized to 'habitat zones that can be removed' on Plans 2 and 6 	Paterno & Clifford

⁶³ Document 327b

Section	Change	Submitter
NVPP Section 5.2.1	<ul style="list-style-type: none"> Clarify that removal of ‘to be retained’ vegetation is contemplated where the vegetation overlaps with the land take for an infrastructure project identified in the DCP at detailed design phase as follows (new text underlined): <i>The native vegetation shown in Table 5 and Table 6 or elsewhere that are [is] to be retained, should not be removed, with the exception of native vegetation that overlaps with the land required to deliver infrastructure projects identified in the incorporated Wonthaqqi North East Development Contributions Plan at detailed design phase. A landscape-wide approach to the retention and removal of native vegetation has been adopted in the preparation of this Native Vegetation Precinct Plan rather than a site by site approach.</i> 	LandGipps

(vi) Submissions

LandGipps submitted that the construction of infrastructure items in the DCP should not trigger a permit requirement to remove vegetation identified in the NVPP to be retained. While acknowledging VPA changes to respond to concerns about impacts on IN-05, it considered the use of ‘absolute language’ ignored the potential for unintended consequences which could cause future lengthy delays and disputes regarding vegetation removal. To minimise these consequences, it sought a range of changes to the NVPP:⁶⁴

- in the commentary at ‘Section 5.1 Description of native vegetation to be removed’ delete the words “*Any future removal of native vegetation which has been identified as ‘to be retained’ may undermine the strategic approach adopted for the preparation of this NVPP.*”
- in the commentary at ‘Section 5.2.1 Native vegetation to be retained’:
 - in the first sentence of paragraph one add: “*unless removal is required to achieve a purpose or outcome generally consistent with the PSP or Planning Scheme*”
 - delete the last sentence of paragraph two: “*The ad-hoc removal of native vegetation which is identified as to be protected may undermine the holistic and landscape-wide approach adopted in the preparation of this Native Vegetation Precinct Plan*”
 - add the following sentence to paragraph four: “*Equally, given the landscape-wide approach to the retention and removal of vegetation in this NVPP, as a result of final detailed design at the planning application stage, it may be necessary to remove some discrete areas identified for retention, subject to approval*”
- in relation to the offsetting requirements:
 - retaining the NVPP2020 note:

Note: There are a range of mechanisms for offsetting loss of native vegetation including an on-title agreement, transfer of land to public land, or Crown land. Examples of on title agreements are: a Section 173 Agreement under the Planning and Environment Act 1987, a Section 69 of the Conservation Forest and Lands Act 1987 or a Trust for Nature Covenant under the Victorian Conservation Trust Act 1972.
 - deleting the last two dot points and retaining the previous simplified wording.

⁶⁴ Document 327

LandGipps' original submission to the Amendment, along with the submission of Kilgour sought the removal from the NVPP of the vegetation identified for retention within the unmade portion of the Carneys Road reservation. This position was not pursued by LandGipps at the Tranche 2 Hearing.

The initial submission of Stuart Edden identified an overlap with intersection IN-09 and IN-04 and vegetation to be retained in the NVPP. Similarly, Parklea/Krastoy submitted that Tree 22 (to be retained) coincided with WL-02. It also identified that there were errors in drafting and format within the NVPP that required correction.

Paterno & Clifford's submission included details of Flora and Fauna Assessment Figure 33 relating to Parcel 128 (Figure 22) which identified individual and scattered trees (yellow, orange and green dots) and two native trees able to be removed (circled in red). The Figure also identifies six remnant patches to be retained (green) on Parcel 128:

- CA(1-4) - Swamp Scrub (EVC 53): Swamp Scrub dominated by Swamp Paperbark and also comprising other native shrub species namely Blackwood. Includes Spike Sedge and Sword Sedge in wetter section. High recruitment of Swamp Paperbark and high weed cover
- BZ2 and CB - Damp Sands Herb-rich Woodland (EVC 3): Linear patches of woodland dominated by Coast Manna gum. Understorey is made of a sparse shrub layer including Blackwood, and few graminoids including Small Grass-tree. Four large trees are in HZ BZ. Four large trees are in HZ CB
- BY and BW(1 and 2) - Swamp Scrub (EVC 53): Swamp Scrub patches composed exclusively of Swamp Paperbark. High recruitment of Swamp Paperbark and high weed cover
- BX(1-3) Swamp Scrub (EVC 53): Swamp Scrub patches dominated by Swamp Paperbark and also comprising other native shrub species namely Tree Violet and Blackwood. High recruitment of Swamp Paperbark and high weed cover.

Figure 22 Extent of vegetation to be retained on Parcel



Source: Document 321b

The submission supported by photographs of existing site conditions, requested the following changes to the NVPP:

- a reduction of the proposed conservation area to exclude the cleared area to the north (drainage depression) and west of the existing dwelling, or alternatively identify those areas as credited open space
- removal of the habitat zone around trees 57, 133 to 136 so they are mapped as scattered trees rather than a habitat zone given their proximity to the existing industrial area and use of the area for grazing until the land is developed
- include an exemption *“to allow lopping of reasonable amounts of vegetation for personal use, in association with the ongoing use of the dwelling”*.

The VPA submitted that the ultimate objective of the NVPP is to ensure no net loss to biodiversity and that it intentionally identifies vegetation that is important to be retained for habitat values. Because there was no way of knowing what the ultimate extent of vegetation clearing would be required for each DCP project, it is only appropriate to show known vegetation overlaps as removable under the NVPP.

The VPA did not support the further changes sought by LandGipps, responding:

There would be no strategic basis to nominate an extended area of vegetation removal that may be required under ultimate DCP project designs, and this would be contrary to the outcomes in Clause 12.01-2S. Further, the lodgement of a planning permit for vegetation removal involves the assessment of vegetation clearing in finer-grain detail, which in and of itself is consistent with the strategies to avoid the removal, destruction or lopping of native vegetation contained within Clause 12.01-2S.

The VPA advised that its approach had been to ensure clear overlaps between areas of vegetation able to be removed and anticipated DCP project extents but that the full extent of vegetation removal in some cases would not be known until the detailed design phase. In some instances (such as Tree 22) vegetation was on the fringe of an asset and the need for removal had not been demonstrated. In these instances, permits would be required for vegetation approval which was standard facet of how NVPPs operate in Victorian Planning Schemes.

The VPA in relation to Paterno & Clifford’s submission agreed to update the NVPP to ensure vegetation overlapping with SB-01 be categorised as removable. It did not support the other changes requested identifying that the NVPP relied on the Nature Advisory Flora and Fauna Assessment and there was no supporting evidence put forward to support the changes.

(vii) Discussion and findings

The Committee considers that the NVPP is an appropriate tool to manage the impacts of development on vegetation in the PSP by identifying vegetation that can be removed to facilitate delivery of key infrastructure or is to be retained to maintain areas of higher biodiversity value. It reflects policy changes such as those introduced by Amendment VC138 (which introduced changes to the Native Vegetation Framework) and it appropriately responds to the recommendations of the Flora and Fauna Assessment. It appropriately proposes that there is ‘no net loss’ of vegetation across the precinct and identifies offset requirements for any permitted removal.

The Committee agrees with the VPA that it is not always possible to know what vegetation will be impacted by infrastructure projects until the detailed design is undertaken. Where vegetation is located on the fringe of a project it may not ultimately need to be removed. It is clear through this Amendment that interim drainage solutions may impact the sizing of downstream assets and also reduced vegetation that might otherwise have needed to be removed. The NVPP provides a coordinated approach to managing vegetation but it does not represent a carte blanche approach

to allow the removal of all vegetation that might stand in a project works envelope. This would run counter to its purpose and the objective for a no net less outcome consistent with state policy. While this means that permits maybe required to remove some additional vegetation it also encourages alternative design approaches that can work with and enhance existing vegetation. The Committee does not support the additional changes requested by LandGipps.

In relation to Parcel 128 the Committee notes that Flora and Fauna Assessment was prepared using existing mapping, aerial images and field assessment. For a precinct wide assessment conducted over a short period of on site investigation there are likely to be some errors. This was borne out by some extent by the site photographs produced by Mr McIlrath at the Hearing. The Committee does not support his contention however that because the VPA did not call the Fauna and Flora author to give evidence the Committee is not in a position to endorse the NVPP or make findings about the distribution of vegetation. It is of the view that the NVPP has been prepared based on a sound assessment of both flora and fauna values and extends beyond just the extent of individual trees. While it is apparent that areas to the west of the driveway dog leg adjacent to the dwelling is free of vegetation it is not appropriate to make off-the-cuff changes to identified habitat zones without supporting evidence or taking a more holistic approach. This is an issue best determined at the development approval stage.

The Committee agrees with the submissions of the VPA and Council that an exemption for removal of vegetation for personal use is not required or appropriate.

The Committee notes the comments of parties that the NVPP needs to be reviewed to correct format and grammatical errors before being finalised and that version should be reflected in all other related Amendment documents.

The Committee finds:

- The NVPP is generally appropriate and is underpinned by an appropriate level of assessment.
- The NVPP should be amended to reflect the VPA's Day 1 version (Document 234e) and agreed changes as set out in Table 14 of the Committee's Report and reviewed to correct format and grammatical errors.
- The Schedule to Clause 52.16 Native Vegetation Precinct should be amended to reflect the VPA's Day 1 version (Document 233b) and be updated to refer to the final amended version of the NVPP.

9 Implementing the Precinct Structure Plan

9.1 Zones and overlays

(i) The issues

The issues are whether the Amendment:

- applies the right zone and overlay tools to implement the PSP.

(ii) Interim Report

The Committee's Interim Report findings were that:

- At the broad strategic level the PSP is the appropriate tool to guide the future development of the Wonthaggi North East growth area and its application is strategically justified subject to a number of changes to respond to submissions.
- The application of the UGZ1, GRZ1, IN3Z, EAO, IPO2 and DPO21 are broadly appropriate and strategically justified subject to suggested changes.

(iii) VPA agreed changes

The VPA's Final changes identified a range of changes to respond to the submissions or other consequential changes to the PSP and DCP and the provisions of the UGZ1.

The changes supported by the Committee are set out in Table 15 below.

Table 15 VPA Final proposed changes to the UGZ1 supported by the Committee

Change	Submitter
<ul style="list-style-type: none"> • Update the 'Section 1 Permit not required': <ul style="list-style-type: none"> - to include 'the use of land as a local park, local sports reserve or community facility where generally in accordance with the PSP' - to reference Clause 62.01 	Council
<ul style="list-style-type: none"> • Include at 'Section 2.5 Specific provisions – Buildings and works': <ul style="list-style-type: none"> - that a permit is not required to construct a local park, local sports reserve or community facilities where generally in accordance with the PSP - a permit trigger for buildings and works, including demolition, within 53.5m of the transmission pressure gas pipeline 	"
<ul style="list-style-type: none"> • Include at 'Section 3.0 Application requirements': <ul style="list-style-type: none"> - a requirement to provide a Public Infrastructure Plan for an application to use or subdivide land or construct a building or carry out works (Council's Opening submission included detailed suggested wording) - a requirement to provide a Stormwater Management Strategy for subdivision (Council's Opening submission included detailed suggested wording) - add '<i>prepared by a suitably qualified professional</i>' to the Construction Site Management Plan condition on management of bushfire risk during subdivision works - add '<i>in the incorporated Wonthaggi North East Precinct Structure Plan</i>' where requiring a bushfire management plan for subdivisions adjacent to hazard areas shown in PSP Plan 8 	"
<ul style="list-style-type: none"> • Amend wording at 'Section 7 Signs' to: '<i>The advertising sign category for the land is the category specified in the zone applied to the land at Section 2.2 of this schedule.</i>' 	VPA/Council

(iv) Submissions

Council identified a number of concerns relating to the Amendment tools being used to implement the PSP:

- applying the DPO21 and IPO2 rather than the UGZ and schedule over all the PSP area as the normal planning tool
- the DPO21 concept plan is replaced with the PSP Future Urban Structure Plan but is not accompanied by the requirements and guidelines of the PSP
- the IPO2 is not accompanied by the requirements and guidelines of the PSP.

It considered this situation unworkable and proposed a more streamlined approach that would apply the PSP to all parcels:

- applying the UGZ1 to all of the land in the growth area and nominating the relevant applied zones which would require a review of the UGZ1 to ensure the necessary changes are made in relation to application requirements, specific provisions, permit conditions that apply and background documents identified
- deleting the DPO21 and IPO2 as they would be covered by the UGZ1 provisions.

Its alternative to this position was to retain the existing zoning but apply the PSP using the IPO2 rather than the DPO21, and amending it to ensure consistency with the PSP by transferring to it the same UGZ1 controls for buildings and works and subdivision. This would ensure all land within the growth area was subject to the same planning provisions.

The VPA did not support the Council approach. While acknowledging that not applying the UGZ1 to a growth area was unusual this reflected the extent of land already zoned and developed for urban purposes within the PSP area. It considered that the approach adopted by the Amendment well-resolved and understood by submitters and landowners, was consistent with *Planning Practice Note 47: Urban Growth Zone* and to depart from it could have unintended consequences.

The VPA however agreed to amend the IPO2 to:

- include at Section 2.0 a statement requiring a permit granted to be generally in accordance with the PSP, and a corresponding decision guideline at Section 4.0
- copy the relevant application requirements/conditions for development contained within UGZ Schedule (Public Infrastructure Plan, Management of bushfire risk during subdivision works, Bushfire Management Plan, Traffic Impact Assessment Report, Stormwater Management Strategy and Hydrogeological Assessment).

Parklea/Krastoy did not support Council's submission to apply the UGZ1 and IPO2 rather than the GRZ1 and DPO21 that currently applied to its land considering this a 'back zoning'. Neither did it support the IPO2 changes proposed by the VPA to require consistency with the PSP and apply the requirements and conditions of the UGZ.

It submitted that it was not in a position to call evidence or properly prepare a response given the proposition was received only a few days before the Hearing. It questioned the procedural fairness of this approach when the informally exhibited amendment had not proposed such a suite of planning controls.

Parklea/Krastoy further submitted that the DPO21 was inconsistent, with the fourth objective "*Encourage development staging to be coordinated with the key delivery of infrastructure*" which were end-of-line assets at odds with the 'Section 4 requirements for development plan' providing for development fronts which among other considerations "*form a logical extension to the existing*

urban area". It suggested an alternative objective: *"Encourage development fronts that form a logical extension to the existing urban area with appropriate infrastructure provision"*.

Ms Kaczmarek's response to the VPA's proposed changes raised similar procedural concerns to Parklea/Krastoy.

Council's opening submission⁶⁵ sought various minor changes, corrections or consequential changes to the Amendment's PSP and DCP implementing planning scheme provisions that weren't supported or responded to by the VPA and not discussed elsewhere in this report:

- UGZ1
 - include the Transport Zone in 'Table 1: Applied zone provisions for the Korumburra-Wonthaggi Road'
 - add to 'Section 1.0 – Permit not required' Table to add *"any use listed in Section 1 in the Table of uses of the applicable applied zone"* as it was unnecessary
 - include as a 'Section 3.0 Application requirement' for subdivision a plan showing the extent of fill
- include as a condition of UGZ1 and DPO21 the note on PSP 'Plan 11 Integrated Water Management' to avoid it being missed and to give it effect. The note reads:

Note:

All lots identified as 'subject to existing flood extent' will need to be filled to 600mm above the 1% AEP flood level for this area.

The exact location and configuration of wetland 1, the surrounding retarding basin and the location of the eastern waterway may be adjusted in the future, to the satisfaction of the responsible authority.

The VPA submitted that because the Korumburra-Wonthaggi Road was already zoned Transport Zone 2 (Principal road network) it was not proposed to include it in the UGZ1 and did not need to be identified as an applied zone. In any event applied zones are not applied to arterial roads controlled by DoT through PSP implementing amendments.

The VPA did not support transferring the PSP Plan 11 note to the UGZ1 or DPO21 considering it was not written as an ordinance provision in form or content and that the ultimate configuration of stormwater was a matter for negotiation between the Council and permit applicants. It identified the extent of fill plan requested by Council was already reflected in requirement R53.

(v) Discussion and findings

The Committee agrees with the observations of Council and the VPA that the Amendment's application of the UGZ along with the GRZ, IN3Z and retrofitting of the IPO2 and DPO21 to apply elements of the PSP is not the usual approach to greenfield growth area planning. The adopted approach is complex and implements the PSP in different ways in different locations creating inconsistencies in application and potential outcomes.

A first principles approach to planning for greenfield growth areas would involve implementation of a PSP via the UGZ (identifying applied zones) and a DCPO or Infrastructure Contributions Plan Overlay, with any DPO or IPO removed. Such an approach is more streamlined and transparent and provides for a more coordinated approach to implementing a PSP on the ground. However, the Wonthaggi North East Growth area is unusual in that significant parts of it are already zoned

⁶⁵ Part A submission Annexure C and E (Document 264)

and extensive urban activity has already taken place under the existing zoning and overlay framework. While DPO21 will be substantially replaced by this Amendment, the overlays and GRZ1 are in place and this is not a situation where a change in zone was required within the GRZ1 areas to support development consistent with the growth area concept plan. In such circumstances applying the UGZ1 to the entire growth area is problematic. While the Committee considers it a stretch to suggest such an approach represents a back zoning, it would entail significant rewriting of the UGZ schedule to ensure it reflects the nuances of the existing IPO2 and DPO21. The Council approach has not had the benefit of being tested through submissions and evidence and was not even contemplated in submissions at the Tranche 1 Hearing as reflected in the Committee's Interim Report findings. If such an approach was to be contemplated by the VPA the Committee would recommend a further exhibition process be undertaken.

The challenge of how the PSP is consistently applied across the growth area using the UGZ1, IPO2 and DPO2 remains a potential impediment to its successful and consistent implementation.

The Committee notes there is nothing specific within the UGZ1 to require any consideration of the PSP aside from conditions for certain uses, a subdivision response plan application requirement to respond to the "*precinct structure plan*" and condition references for gas pipeline construction management. There is no decision guideline requiring its consideration which is unusual in a UGZ schedule.

The DPO21 in its amended form only provides for the preparation of development plans which are required to describe how they "*generally accord with the Wonthaggi North East Growth Area Concept Plan*" (effectively PSP Plan 3 Future Urban Structure) and have "*regard for the*" PSP.

The IPO2 despite the schedule name, makes no mention of the PSP.

The Committee agrees with Council that this is not an effective approach to implementing the PSP. There would be some utility in a single overlay control (without the wider application of the UGZ1) that merges the elements of the IPO2 for the industrial precinct and the DPO provisions applying to the GRZ1 land within the PSP along with changes to the UGZ1. This approach would reduce the complexity of current arrangements and provide for more consistent outcomes across the whole growth area.

This begs the question of which overlay is the most appropriate - the DPO, IPO or another overlay, and should it be done as part of this Amendment?

The Committee considers that the DPO or IPO are the most relevant and appropriate planning tools available absent the application of the UGZ1 to the whole precinct. The two overlays have similar purposes:

- the DPO:
 - To identify areas which require the form and conditions of future use and development to be shown on a development plan before a permit can be granted to use or develop the land.
 - To exempt an application from notice and review if a development plan has been prepared to the satisfaction of the responsible authority.
- the IPO:
 - To identify areas which require:
 - The form and conditions of future use and development to be shown on an incorporated plan before a permit can be granted to use or develop the land.
 - A planning scheme amendment before the incorporated plan can be changed.

- To exempt an application from notice and review if it is generally in accordance with an incorporated plan.

The two overlays however have different implementation mechanisms. The DPO includes objectives (the IPO does not), the IPO has provision for including decision guidelines (a DPO does not). Both have requirements before a permit is granted, conditions and requirements for permits and requirements for preparing either an incorporated plan or a development plan. Applying the IPO has the advantage of using the PSP as the relevant incorporated document, while the DPO would continue the process currently applied to the UGZ1 area of preparing development plans. This might be useful for the larger residential precincts but more challenging for the smaller commercial and industrial land holders.

Planning Practice Note 23: Applying the Incorporated Plan and Development Plan Overlays provides some guidance. It identifies the differences between the overlays decide where they should be used:

- The IPO requirement for a planning scheme amendment to incorporate or change the plan enables third parties to be involved in the process of making or changing the plan. For this reason, the IPO should normally be used for sites that are likely to affect third-party interests and sites comprising multiple lots in different ownership. Most redevelopment of existing urban land will fall into this category, particularly where the surrounding land use is residential.
- Because the DPO has no public approval process for the plan, it should normally be applied to development proposals that are not likely to significantly affect third-party interests, self-contained sites where ownership is limited to one or two parties and sites that contain no existing residential population and do not adjoin established residential areas.
- In some situations, on large self-contained sites, both overlays can be used. The IPO can be used to manage the strategic development framework, and the DPO can be used to specify the conditions and require a plan to specify the form for the detailed development of parts of the site or individual development stages.

This would suggest the IPO would be the appropriate tool using the PSP as the relevant incorporated plan. This would avoid a situation where landowners of smaller parcels like Mr Brotheridge would need to prepare incorporated plans to enable the development of land. This would however require the careful transfer of the key elements of DPO21 and relevant application, conditions and decision guidelines of the UGZ1 as identified by Council and supported by the VPA. It would also need to differentiate between those provisions that apply to the residential and commercial precincts. Ideally it would also involve further consultation with land owners given the nature of the change and to ensure no unintended consequences. For this reason, a two staged approach is recommended:

- stage 1 implemented through this Amendment:
 - amend the UGZ1:
 - consistent with VPA's Day 1 version and changes identified in Table 15 of this report
 - to include an application requirement that identifies how a subdivision responds to the PSP requirements and a decision guideline requiring consideration against the PSP
 - to include a 'Section 3.0 Application requirement' for subdivision, a plan showing the extent of fill
 - to include the additional Committee recommended changes set out below
 - amend the DPO21:

- consistent with VPA's Day 1 version
- amend the last Section 1.0 Objective to: *"Encourage development fronts that form a logical extension to the existing urban area with appropriate infrastructure provision"*
- in 'Section 3.0 Conditions and requirements for permits' include the 'Management of bushfire risk during subdivision works' condition for a Site Management Plan from Schedule 1 to Clause 37.07 Urban Growth Zone 'Section 4.0 Conditions and requirements for permits'
- in 'Section 4.0 Requirements for development plan' replace the requirement that a development plan must describe how it: *"has regard for the Wonthaggi North East Precinct Structure Plan"* with it *"is generally in accordance with the Wonthaggi North East Precinct Structure Plan"*
- amend the IPO2:
 - consistent with VPA's Day 1 version
 - to include at 'Section 2.0 Permits not generally in accordance with incorporated plan' a statement requiring a permit granted to be generally in accordance with the PSP, and a decision guideline at 'Section 4.0 Decision guidelines' that provides for the consideration of whether an application is generally in accordance with the PSP
 - in 'Section 3.0 Conditions and requirements for permits' include the 'Management of bushfire risk during subdivision works' condition for a Site Management Plan from Schedule 1 to Clause 37.07 Urban Growth Zone 'Section 4.0 Conditions and requirements for permits'
- stage 2 to be implemented through a further amendment process that provides for a revised IPO2 prepared for the entire PSP area if Council is of the view that there is a clear benefit in doing this. A separate planning scheme amendment process would enable landowners to have a greater level of into an alternative suite of controls.

In relation to the changes above proposed by the Committee, it notes the Council/VPA proposal to copy the relevant application requirements contained within UGZ Schedule (Public Infrastructure Plan, Management of bushfire risk during subdivision works, Bushfire Management Plan etc) into the IPO2 cannot be achieved. This is because the IPO structure does not allow for application requirements to be identified. Council did not explain why the UGZ1 application requirements were not also relevant to the DPO21. The condition relating to the provision of a Site Management Plan is relevant to the IPO2 and DPO21. Neither the IPO2 or DPO21 areas extend within the transmission gas pipeline buffer so the related UGZ1 condition is not relevant to the overlays.

The Committee supports the revised DPO21 objective wording suggested by Parklea/Krastoy as this reflects the current pattern of activity extending out from existing urban areas.

The Committee agrees with the VPA that it is unnecessary to identify the Korumburra-Wonthaggi Road as an applied Transport Zone in the UGZ1. It also agrees that it is not necessary to apply the note from cross section 14 into the UGZ1 or DPO21. However, it agrees that there is some value in a condition being included in the UGZ1 to show the extent of fill as not having a clear understanding of this has implications in the broader implementation of the drainage strategy.

The Committee observes there are other changes that should also be considered in preparing the final version of the UGZ1 including:

- clarifying the description at 'Section 1.0 The Plan' to explain the difference between PSP Plan 3 Future Urban Structure and the non UGZ shaded out areas
- general edits to consistently refer to the Wonthaggi North East Precinct Structure Plan by its full title (rather than Precinct Structure Plan or PSP) and not use the abbreviated 'CFA' form of the Country Fire Authority.

The Committee finds:

- The Amendment's application of the UGZ1 to the undeveloped residential portions of the growth area along with the application of the DPO21 and IPO2 (as amended) to the GRZ1 and IN3Z areas respectively to undeveloped portions of the growth area is not optimal.
- Changes proposed in the VPA's Day 1 versions of the UGZ1, DPO21 and IPO2 along with the further recommendations of the Committee will provide for the adequate management of the growth area.
- The VPA changes to the UGZ1 identified in Table 15 of the Committee's Report are appropriate.
- All proposed Amendment documents must be reviewed to ensure consistent language and terminology in the final versions of documents.

9.2 Other Planning Scheme changes

(i) The issue

The issue is:

- whether other draft Amendment provisions require further changes to support the implementation of the PSP, DCP and NVPP.

(ii) Submissions

Parklea/Krastoy identified that the Mesh options report served no future purpose and should be removed from the schedule to Clause 72.08. It also identified that the reference to the *Pipeline Act 2005* required a date correction. This change was included in the VPA's Day 1 version. The VPA's Final changes proposed to remove the Mesh Options report.

(iii) Discussion and findings

The Committee agrees that the Mesh options report has little ongoing value beyond informing this Amendment and the approach to managing existing s173 Agreements in the DCP and should not be a background document.

The VPA changes to Clause 66.06 are appropriate.

The application of the PAO5 to identified intersections should be abandoned consistent with the proposed VPA Day 1 changes.

The Committee observes that the schedules to Clause 72.04 and 72.08 should be updated to refer to the final version dates of the relevant documents, noting only one version of the Alluvium and Engeny reports.

The Amendment makes changes to other Clauses of the Planning Scheme that were amended by VPA Day 1 changes to which no submissions were made. The Committee makes the following comments about them:

- Clause 21.07 (Document 233f) – as this policy provision has now been translated into Clause 11.01-1L-02 the exhibited PSP related changes should be made to that Clause
- Clause 34.01 (Document 233g) – the floor area provisions appear appropriate and consistent with the PSP.

The abandonment of the application of PAO5 to specific intersections in the amended PSP Day received no submissions. The Committee has not considered the implications of this.

The Committee finds:

- Clause 11.01-1L-02 should be amended consistent with the VPA Day 1 changes to Clause 21.07 (Document 233f).
- the Schedule to Clause 34.01 Commercial 1 Zone should be amended consistent with the VPA Day 1 changes (Document 233g).
- Amend Bass Coast Planning Scheme D-DPO Map No. 61, 63 and 64 consistent with the VPA's Day 1 changes (Document 232d) to provide for the removal of DPO21 from Parcel 66-R (Lot 2 PS628069).
- the application of the PAO5 to identified intersections should be abandoned consistent with the proposed VPA Day 1 changes.
- Schedule to Clause 66.06 Notice of permit applications under local provisions should be amended consistent with the Day 1 version (Document 233l).
- Schedule to Clause 72.04 Documents incorporated into this planning scheme should be amended consistent with the VPA Day 1 changes (Document 233n) and to update final PSP, DCP and NVPP version dates.
- Schedule to Clause 72.08 Background documents should be amended consistent with the VPA Day 1 changes (Document 233m) and to delete the Mesh options report and include the final version dates of the Bushfire development report (with the addendum consolidated), Traffic Impact Assessment (Stantec), Drainage strategy (Engeny) and Functional Design report (Alluvium).

10 Findings and recommendations

10.1 Reasons for findings

Chapters 3 to 9 of the Committee's Report set out the basis of its findings regarding the Tranche 2 Hearing issues.

(i) Strategic basis for amendment

The Committee's Interim Report following the Tranche 1 Hearing found that at a strategic level:

- the PSP with changes provides the appropriate tool to guide the future development of the Wonthaggi North East growth area and its application was strategically justified
- the application of the UGZ1, GRZ1, IN3Z, EAO, IPO2 and DPO21 were broadly appropriate and strategically justified subject to a number of changes to respond to submissions or address concerns of the Committee
- the Amendment can proceed without waiting on the completion of the DAL project.

The Committee maintains this view. The draft Amendment is supported by, and implements, the relevant sections of the PPF, is consistent with the relevant Ministerial Directions and Planning Practice Notes. It is well founded and strategically justified and should proceed subject to addressing a number of fundamental issues relating to practical implementation.

Most of the Committee's Tranche 1 findings relating to changes to the PSP (aligning with existing development plans, road and path networks) have been appropriately accommodated in the amended PSP, some such as housing affordability require some further work (as discussed in this Final Report) while others have been overtaken with legislative changes such as the application of the EAO and related changes to DPO21 and IPO2.

The Committee acknowledges the efforts of the VPA to incorporate the document changes it identified at the Tranche 1 Hearing in response to submissions, to take on board the interim findings of the Committee and to undertake the necessary additional technical work to address the remaining outstanding issues particularly relating to the gas pipeline and associated safety and risk management considerations, bushfire and drainage and prepare the amended PSP, DCP and NVPP. This required a substantial body of additional work to be undertaken in a relatively short period of time and to accommodate further notification and engagement with submitters. This work has however resulted in a more robust set of strategic documents that, with necessary changes, will guide the future development of Wonthaggi. It is not however without its challenges for landowners and developers and Council in its multiple roles as planning authority, responsible authority and drainage authority.

The draft Amendment is appropriate subject to the changes recommended by the Committee and based on the Day 1 version of Amendment documents.

(ii) Key challenges

The key focus of Tranche 2 submissions and evidence was on whether the amended Drainage Strategy could be achieved and implemented on the ground to enable growth to occur and whether existing s173 Agreements affecting development contributions across extensive parts of the PSP area could fairly and equitably (and legally) addressed to provide a workable mechanism for collecting development contributions through the DCP.

The current situation where extensive parts of the PSP area are covered by approved development plans, subdivision has occurred and continues to occur within the existing GRZ area, there is an inconsistent approach to collecting contributions through s173 Agreements and an unresolved delivery of an end-of-line stormwater strategy is far from ideal. It has created a complex set of implementation challenges which the parties have acknowledged are difficult, but in the main not unmanageable if a more nuanced and flexible approach is adopted.

These challenges will remain as there is no simple solution to the delivery of the drainage scheme, it is unlikely all parties will completely agree on the best way to manage these issues and it is not practical to 'go back to the drawing board'. This is not in the best interests of the community. However, without a practical and implementable strategy the strategic growth sought is unlikely to be achieved in the short-medium term. The Committee is of the view that the time taken by the VPA to review the Stormwater Strategy and Functional Design through additional strategic assessment and analysis and the extensive involvement of various drainage and costing experts has resulted in a solution that can be implemented. It remains complicated and will need to be delivered over a long time frame and accordingly requires more explanation and guidance to be included in both the PSP and DCP than might ordinarily not be the case for such documents. The potential solutions first put forward by Council and largely embraced by VPA have resulted in a significant step forward. Council as the drainage authority will need to be proactive in assisting developers to provide appropriate interim solutions or in facilitating critical downstream connections to help connect the missing pieces of the puzzle required to unlock development and Wonthaggi's growth aspirations.

(iii) Drainage

The Stormwater Strategy is an appropriate response to the existing conditions and topography of the PSP area and no material change to the strategy is needed. Undertaking the actions identified in the Additional information list will be important and will expand and clarify the description and explanation of the design assumptions and parameters used in the Stormwater Strategy and Functional Design reports.

The progressive implementation of the drainage strategy with the construction of interim assets some of which may become permanent will inevitably occur as development of the precinct proceeds in stages. Appropriate acknowledgement and guidance of progressive implementation needs to be included in the PSP and DCP.

The Committee considers that the design of the stormwater management assets is based appropriately on managing stormwater flows from internal and external catchments and the treatment of internal flows to meet BPEMG targets.

The design and costings of drainage assets are appropriate. Some modifications to the location, design and costings of some assets will occur at the detailed design stage during the permit application process in response to circumstances at the time including the prospect of some interim and potentially permanent assets being constructed on the upstream reaches of DR-01 and DR-02. Provisions in the PSP and DCP will allow for alternative designs for drainage assets including WL-01, SB-01 and SB-02 at the detailed design stage.

The Day 1 and Final version changes to the PSP and DCP proposed by the VPA provide an appropriate approach to allow for and guide delivery of Possible Permanent Integrated Water Management Projects which will facilitate staged implementation of the ultimate drainage strategy.

(iv) Traffic and transport infrastructure

The Committee considers that the amended PSP sets out appropriate arrangements for the necessary transport infrastructure to support the growth of the PSP area. The VPA's Day 1 version of the PSP and Final changes (including to the DCP) made in response to submissions are appropriate and pragmatic.

The final DCP should be amended to include the contingency rates agreed by the Drainage and Costing conclave and final transport infrastructure project costings.

(v) Open space infrastructure

The PSP provisions for open space are generally appropriate. The Committee supports the Day 1 changes to the PSP relating to open space and Clause 53.01 to correct the public open space percentage rates. It broadly supports the VPA's Final changes in relation to the location and size of LP-12, LP-13 and LP-15. It agrees that more direction was required in relation to the role of tree reserves and the suggestions of VPA and Council are considered appropriate.

The final DCP should be amended to reflect any changes to land budgets or public open space rates as a result of its proposed changes.

(vi) Development Contributions Plan

The Committee supports the apportionment proposed in the DCP for transport and drainage projects and considers it appropriate and strategically justified.

The application of the DCPO over land with existing s173 Agreements is appropriate. The VPA's Final proposed changes to the DCP provide for an appropriate mechanism to manage projects within existing s173 Agreements and projects identified in the DCP using the concept of reasonable match and substantial change projects as a methodology to avoid double dipping. The DCP however requires more context for the methodology and should be clear on how the approach of the collecting authority and the methodology comply with all relevant sections of the PE Act.

Following the recommended sweep of all Amendment documents it is likely the DCPO1 will require amending to reflect changes to indexation and to land budgets as a result of changes to land takes for a range of drainage projects.

(vii) Native Vegetation Precinct Plan

The NVPP is generally appropriate and underpinned by a sufficient level of assessment. It should be amended to reflect the VPA's Day 1 version and changes as set out in Chapter 8 of this Report. The NVPP should be reviewed before it is finalised to correct format and grammatical errors.

(viii) Bushfire

The requirements and guidelines of the PSP and proposed provisions for the UGZ1 and DPO21 appropriately provide for the management of bushfire risk consistent with Clause 13.02 and underpinned by the Bushfire Report. Minor changes are required consistent with the VPA's Day 1 changes and further changes identified in Chapter 8.2.

(ix) Cultural heritage

The PSP provides for an adequate mechanism to avoid or mitigate disturbance in areas identified with moderate or high Aboriginal archaeological potential.

(x) Contamination

The proposed wider application of the EAO and inclusion of preliminary investigation requirements in the IPO2 are consistent with the advice of the EPA and recent EP Act changes and the Preliminary Site Investigations. The VPA's Final changes are supported.

To avoid the unnecessary application of the EAO the VPA in consultation with Council and affected landowners should confirm whether site investigations have been undertaken to an equivalent PRSA standard for any land parcels within the proposed EAO before finalising its application.

(xi) Affordable housing and sustainability

The existing PSP directions relating to affordable housing are inadequate. In the absence of a municipal or settlement approach to affordable housing an additional Affordable housing guideline should be included in the PSP. This would allow for the provision of a Housing Plan with an application for subdivision of land and which provides for affordable housing and a range of housing typologies to meet demonstrated local need. An appropriate planning scheme implementation enabling provision should be considered mindful of the limited level of local policy in place.

The VPA should further review the guidelines relating to open space and street networks within the PSP against the features and targets of the PSP Guidelines relating to 'Offer High Quality Public Realm' and climate resilience before finalising the PSP.

(xii) Employment precinct

The Committee considers that the PSP directions for the industrial and commercial employment precincts are appropriate with the proposed Day 1 changes including removal of the DPO21 from areas to be included in the UGZ1. The inclusion of the existing industrial estate within the PSP and DCP is appropriate, however this is not without challenge for land owners who own small lots within the estate and who are unlikely to be able to deliver road and infrastructure upgrades to support their development. This is not a particularly fair or good planning outcome. The Committee is of the view that there is a role for Council, potentially with the VPA, to assist with local scale planning for the existing industrial estate area and to explore coordinated opportunities for staged infrastructure delivery.

(xiii) Powerlines

The Committee considers there is a need for a requirement or guideline that acknowledges the existing high voltage powerlines extending through Parcel 49 and provides for suitable design treatments. The final wording should be developed in consultation with the powerline asset owner and provide sufficient flexibility consistent with the PSP's vision and objectives.

(xiv) Implementing the PSP

The Amendment's application of the UGZ1 to the undeveloped residential portions of the growth area along with the application of the DPO21 and IPO2 (as amended) to the GRZ1 and IN3Z areas respectively to undeveloped portions of the growth area is not optimal.

However, with the changes proposed in the VPA's Day 1 versions of the UGZ1, DPO21 and IPO2 along with the further recommendations of the Committee to strengthen the PSP's relationship within DPO21 and IPO2 provide for the adequate management of the growth area.

The VPA changes to the UGZ1 identified in Table 15 of this Report are appropriate.

All proposed Amendment documents must be reviewed before being finalised to ensure consistent language and terminology and references to the VPA Final versions of documents.

The extent of the PSP area is appropriate and should include Regency Drive and the Bass Highway industrial estate. The application of the GRZ1 and DPO21 to the Regency Drive area is appropriate. The application of the IPO2 to the existing Bass Highway industrial estate is appropriate.

The other Planning Scheme tools proposed to be used in implementing the PSP, DCP and NVPP not discussed above are appropriate with the changes identified in the VPA's Day 1 versions:

- Schedule to Clause 34.01 Commercial 1 Zone
- Schedule to Clause 66.06 Notice of permit applications under local provisions
- Schedule to Clause 72.04 Documents incorporated into this planning scheme, and further updated to reflect the final version dates of the Wonthaggi North East Precinct Structure Plan, Wonthaggi North East Development Contributions Plan and Wonthaggi North East Native Vegetation Precinct Plan
- Schedule to Clause 72.08 Background documents, consistent with the Day 1 version (Document 233m) and further updated to reflect the final version dates of all documents, providing for a single Drainage Strategy and Functional Design report and deletion of the reference to the Wonthaggi North East DCP – Options Report.

The proposed changes to Clause 21.07 are no longer relevant in the context of the more recent translation of the Local Planning Policy Framework into the PPF format. As a result, related mapping changes and references should be transferred to Clause 11.01-1L-02.

10.2 Recommendations

The Committee recommends that draft Bass Coast Planning Scheme Amendment C152basc be amended to:

- 1. Update the Functional Design Report (Alluvium 2022)(Document 222):**
 - a) consistent with the action items in the Additional information list (Appendix H).**
 - b) to include the changes in Table 7 of the Committee's Report.**
- 2. Update the Drainage Strategy (Engeny 2021)(Document 184):**
 - a) consistent with the action items in the Additional information list (Appendix H).**
 - b) include updated drainage pipe detail and a plan consistent with the Additional information list.**
 - c) to include the changes in Table 7 of the Committee's Report.**
- 3. Update the Transport Impact Assessment (Stantec 2022)(Document 188) consistent with the changes in Table 9 of the Committee's Report.**

4. Update the Bridge Concept and High-Level Cost Estimate (Document 189) consistent with the cost changes in Tables 8 and 9 of the Committee's Report.
5. Amend the Wonthaggi North East Precinct Structure Plan consistent with the Day 1 version (Document 234f) and including the following further changes:
 - a) the Victorian Planning Authority Final changes supported by the Committee as set out in Tables 7, 9, 10 and 13 of the Committee's Report.
 - b) the Committee's preferred Wonthaggi North East Precinct Structure Plan Section wording as set out in Appendix I.
 - c) amend the introductory sentence to guideline G13 to read "*Medium-high density residential development, affordable housing typologies, public and social housing and specialised housing forms such as retirement living, aged care or co-housing should (subject to limitations imposed by utilities):*"
 - d) introduce an additional Affordable Housing Guideline (G#) which requires for the subdivision of land the provision of a Property Parcel based Housing Plan or similar and which provides for affordable housing as defined by the Planning and Environment Act 1987. The affordable housing should provide for a range of housing typologies to meet demonstrated local need to the satisfaction of the Bass Coast Shire Council.
 - e) changes resulting from a review of the guidelines relating to open space and street networks against the features and targets of the *Precinct Structure Planning Guidelines: New Communities in Victoria, October 2021* including 'Offer High Quality Public Realm' and climate resilience and climate resilience and the Environmentally Sustainable Development policy directions in the Planning Policy Framework introduced through Amendment VC216 before finalising the PSP.
 - f) amend requirement R54 or develop a requirement or guideline that assists in managing the existing high voltage powerlines extending through Property Parcel 49. The final wording should be developed in consultation with the powerline asset owner and provide sufficient flexibility for a range of design treatments consistent with the Precinct Structure Plan vision and objectives.
 - g) amend 'Plan 3 Proposed Urban Structure' to move the southern access road on property parcel 49 northwards by 35 metres as identified in the Victorian Planning Authority Final changes (Document 344) and make related changes to 'Figure 2 Village Hub Concept Plan'.
 - h) amend Plan 3 and 'Plan 7 Open Space' to:
 - show the reduce of the southern tree reserve extent by 0.21 hectares and associated increase in LP-15 consistent with Figure 14 of the Committee's Report and the dimensions of the eastern patch shown in Figure 13 of this Report
 - relocate LP-12 to align with the open space provided for in the subdivision planning permit 120348-2
 - reduce the area of LP-13 to 0.51 hectares.
 - i) amend Plan 7 to change the legend item 'tree reserve' in Plan 7 to 'Tree Reserve - Conservation Area (encumbered open space).'
 - j) in 'Table 6: Open Space Delivery Guide':
 - amend the size of LP-12 (1.088 hectares) and LP-13 (0.51 hectares)

- amend the size of LP-15 to reflect the increased extent (total of 1.4 hectares)
 - amend the Precinct Structure Plan and Development Contributions Plan land budgets to reflect the amended land budgets for LP-12, LP-13, LP-15 and the southern tree reserve.
- k) amend the 'Plan 8 Bushfire Plan' to reduce the 'hazard area A' setback around the southern tree reserve reduced to 20 metres and its designation over LP-15 (as amended) removed.
- l) amend 'Section 14 - interface: waterway & wetland' be amended to include the following note: *"The infrastructure within the waterway corridor width (i.e. channel, embankments, paths, maintenance tracks, etc) can be incorporated within defensible space and bushfire setbacks"*.
6. Amend the Wonthaggi North East Development Contributions Plan consistent with the Day 1 version (Document 234g) and with the following further changes:
- a) the Victorian Planning Authority Final changes as set out in Tables 7, 9 and 11 of the Committee's Report.
 - b) the Committee's preferred Wonthaggi North East Development Contributions Plan Section wording as set out in Appendix J (and associated notes) and to:
 - include additional background context in 'Section 5 Implementation & Administration' to explain why the Reasonable Match and Substantial Change Project tables have been included and how (potentially in an Appendix) the translation from the existing s173 Agreements has occurred
 - provide clarity that Section 5.3.1 provides that the Collecting Agency will be following established practice and acting reasonably to ensure there is no 'double dipping' and ensuring drafting appropriately acknowledges Section 46P of the Planning and Environment Act 1987.
 - c) amend 'Plan 7 Integrated Water Management Projects' consistent with the Victorian Planning Authority Final changes (Document 344) and Figure 8 of this Report and to identify a 70 metre waterway width for Parcel 52 for areas C and D on DR-01.
 - d) include an updated plan identifying which drainage pipelines are funded by the Development Contributions Plan and which are funded by developer works.
 - e) final project costs to be updated to reflect the contingency rates agreed by the Drainage and Costing conclave in Table 8 of the Committee's Report and revised infrastructure project costings.
 - f) any changes associated with indexing costings to 2022 dollars and amended land takes associated with changes to drainage projects.
7. Amend the Wonthaggi North East Native Vegetation Precinct Plan consistent with the Day 1 version (Document 234e) and the Final Victorian Planning Authority agreed changes supported by the Committee as set out in Table 14 of the Committee's Report.
8. Amend Clause 11.01-1L-02 consistent with the proposed Victorian Planning Authority Day 1 changes to Clause 21.07 (Document 233f).
9. Amend the Schedule to Clause 34.01 Commercial 1 Zone consistent with the Victorian Planning Authority Day 1 changes (Document 233g).
10. Amend Schedule 1 to Clause 37.07 Urban Growth Zone consistent with the Day 1 version (Document 233a), and with the following further changes:

- a) the Final Victorian Planning Authority changes supported by the Committee as set out in Tables 13 and 15 of the Committee's Report.
 - b) amend the description at 'Section 1.0 The Plan' to more clearly distinguish between the Wonthaggi North East Precinct Structure Plan's Plan 3 referred to and 'Map 1' which shades out the 'area not zoned UGZ'.
 - c) amend 'Section 3.0 Application requirements' under the dot point: 'For an application to subdivide land' to add the following requirements:
 - *"identify how a subdivision responds to the Wonthaggi North East Precinct Structure Plan objectives, requirements and guidelines;"*
 - *"a plan showing the extent of fill;"*
 - *"the provision of a Housing Plan which provides for affordable housing as defined by the Planning and Environment Act 1987 and a range of housing typologies to meet demonstrated local need", or similar drafting prepared in consultation with the Bass Coast Council.*
 - d) amend the 'Section 4.0 Conditions and requirements for permits' condition requiring preparation of a Site Management Plan as follows:

"Prior to the commencement of works in an area adjacent to a Bushfire Hazard Area shown on Plan 8 of the Wonthaggi North East Precinct Structure Plan [date], a Site Management Plan prepared by a suitably qualified professional that addresses bushfire risk during, and where necessary, after construction must be approved by the Responsible Authority. The plan must specify:

 - *The staging of development and the likely bushfire risks at each stage;*
 - *An area of land between the development edge and non urban areas consistent with the separation distances specified in AS3959-2018, where bushfire risk is managed to enable the development, on completion, to achieve a BAL-12.5 construction standard in accordance with AS3959-2018;*
 - *The land management measures to be undertaken by the developer to reduce the risk from fire within any surrounding rural or undeveloped landscape to protect residents and property from the threat of fire;*
 - *How adequate opportunities for access and egress will be provided for early residents, construction workers and emergency vehicles.*

All to the satisfaction of the Responsible Authority."
 - e) include under 'Section 6.0 Decision guidelines' the following consideration:
 - *"How an application is generally in accordance with the Wonthaggi North East Precinct Structure Plan".*
11. Amend Schedule 2 to Clause 43.03 Incorporated Plan Overlay consistent with the Day 1 version (Document 233h) and with the following further change:
- a) amend the 'Section 3.0 Conditions and requirements for permits' to reflect current Environment Protection Act 2017 standards and to only apply to sites identified as having a high potential for contamination in the *Phase 1 Preliminary Site Investigation Wonthaggi Precinct Structure Plan – North East Growth Area* (GHD, 9 May 2020).

- 12. Amend Schedule 21 to Clause 43.04 Development Plan Overlay consistent with the Day 1 version (Document 233i) and with the following further changes:**
 - a) in 'Section 1.0 Objective' amend the last objective to: *"Encourage development fronts that form a logical extension to the existing urban area with appropriate infrastructure provision"*
 - b) in 'Section 3.0 Conditions and requirements for permits':
 - replace the requirement that a development plan must describe how it: *"has regard for the Wonthaggi North East Precinct Structure Plan"* with *"is generally in accordance with the Wonthaggi North East Precinct Structure Plan"*
 - include the 'Conditions – Management of bushfire risk during subdivision works' condition for a Site Management Plan from Schedule 1 to Clause 37.07 Urban Growth Zone 'Section 4.0 Conditions and requirements for permits' consistent with the changes in recommendation 10d of this report).
- 13. Amend Schedule 1 to Clause 45.06 Development Contributions Plan Overlay consistent with the Victorian Planning Authority's Day 1 changes (Document 232j) and to reflect any changes to the final version of the Wonthaggi North East Development Contributions Plan.**
- 14. Amending Map Nos. 61D-DPO, 63D-DPO and 64D-DPO consistent with the VPA's Day 1 changes (Document 232d) to provide for the removal of DPO21 from Parcel 66-R (Lot 2 PS628069).**
- 15. Abandon the application of the Public Acquisition Overlay (PAO5) to intersections identified.**
- 16. Amend the Schedule to Clause 52.16 Native Vegetation Precinct Plan consistent with the Day 1 version (Document 233b) and to refer to the final version of the Wonthaggi North East Native Vegetation Precinct Plan.**
- 17. Amend the Schedule to Clause 53.01 Public open space contribution and subdivision consistent with the Victorian Planning Authority Day 1 version (Document 233k)) and update as required to reflect any changes in land budget and changes to Wonthaggi North East Precinct Structure Plan requirement numbering.**
- 18. Amend the Schedule to Clause 66.06 Notice of permit applications under local provisions consistent with the Victorian Planning Authority Day 1 version (Document 233l).**
- 19. Amend the Schedule to Clause 72.04 Documents incorporated into this planning scheme consistent with the Victorian Planning Authority Day 1 version (Document 233n) and to update the final version dates of the Wonthaggi North East Precinct Structure Plan, Wonthaggi North East Development Contributions Plan and Wonthaggi North East Native Vegetation Precinct Plan.**
- 20. Amend the Schedule to Clause 72.08 Background documents consistent with the Victorian Planning Authority Day 1 version (Document 233m) and delete reference to the Wonthaggi North East Development Contributions Plan – Options Report and update the final version dates of the Bushfire development report for the Wonthaggi North East Precinct Structure Plan with the addendum included, Drainage strategy for the Wonthaggi North East PSP, Wonthaggi North East Precinct Structure Plan - Functional**

Design Report, Wonthaggi North East PSP Bridge Concept and High-Level Cost Estimate, Wonthaggi North East Precinct Structure Plan flora and fauna assessment and the Wonthaggi North East Precinct Structure Plan Transport Impact Assessment.

- 21. The Victorian Planning Authority in consultation with the Bass Coast Council and affected landowners, should confirm whether site investigations have been undertaken to an equivalent Preliminary Risk Screen Assessment standard for any Precinct Structure Plan Property Parcels within the proposed Environmental Audit Overlay before finalising its application.**
- 22. All Amendment documents must be reviewed to ensure consistent language and terminology and references to the final versions of documents.**

Appendix A VPA Projects SAC Terms of Reference



VPA Projects Standing Advisory Committee

Version 1: July 2020

Standing Advisory Committee appointed pursuant to Part 7, section 151 of the *Planning and Environment Act 1987* (the Act) to advise the Minister for Planning and the Victorian Planning Authority (VPA) on referred projects and plans and associated draft planning scheme amendments.

Name

The Standing Advisory Committee is to be known as the 'VPA Projects Standing Advisory Committee'.

1. The Committee is to have members with the following skills:
 - a. Strategic planning
 - b. Statutory planning
 - c. Civil engineering (infrastructure planning)
 - d. Development contributions
 - e. Road and transport planning
 - f. Biodiversity
 - g. Social planning
 - h. Urban design
 - i. Heritage (post contact and Aboriginal)
 - j. Planning law.
2. The Committee will include a Chair, Deputy Chairs and not less than ten other appropriately qualified members.
3. The Committee may seek advice from other experts where it considers this necessary.

Purpose

4. The purpose of the Committee is to provide timely advice to the Minister for Planning and the VPA on specific matters referred to it related to various proposals, including but not limited to structure plans, infrastructure and development contribution plans, framework plans, development plans and any associated draft planning scheme amendment and planning permits.

Background

5. The VPA is responsible for preparing development plans and other proposals in identified metropolitan, growth areas and regional cities and towns. Some of these plans are to be approved through the planning scheme amendment process using the provisions of section 20(4) of the Act.
6. This Committee process allows submissions to be made to the VPA on a draft plan and associated draft planning scheme amendment, with any unresolved issues to be considered by the Committee before the final planning scheme amendment is submitted to the Minister for Planning for approval.
7. The Committee will provide a targeted and timely process to assess the merits of discrete unresolved issues associated with State and regionally significant projects.

Method

8. The Committee may meet, and depending on the nature of the referral and the issues raised, undertake consultation that is fit for purpose. This may be on the papers; through round table discussions or forums;

or Hearings. There must be a quorum of at least two Committee members, including either the Chair or a Deputy Chair.

9. The Committee may apply to vary these Terms of Reference in any way it sees fit.

Notice

10. As directed by the Minister, the VPA will prepare and give notice of a 'draft Amendment' and receive submissions. The VPA will consider all submissions and where possible seek to resolve issues with submitters prior to referring matters to the Committee.
11. The Committee is not expected to carry out additional public notification or referral of matters but may seek the views of any relevant referral authority, responsible authority or government agency.

Referral

12. Once all submissions are considered, the Chief Executive Officer, VPA (or delegate) will provide a letter of referral to the Committee Chair, seeking its advice on particular matters or unresolved issues raised in the submissions and/or any other relevant matter. The letter of referral will be a public document.
13. The letter of referral must be accompanied by:
- The relevant plan and associated draft planning scheme amendment and planning permit documentation
 - The referred submissions
 - Any supporting background material.

Committee Assessment

14. The Committee may inform itself in anyway it sees fit, but must consider:
- The relevant components of the referred plan and associated draft planning scheme amendment and any associated planning permit (if relevant) that relate to the submissions or issues referred to it
 - The referred submissions
 - Plan Melbourne*
 - Any relevant Regional Growth Plan or Growth Corridor Plan
 - The applicable Planning Scheme
 - Relevant State and local policy
 - Any other material referred to it.
15. Depending upon the nature of the referral, the Committee can conduct its proceedings through round table discussions, on the papers or, a public hearing, including by video conference if unable to conduct this 'in person'.
16. The Committee will be provided with the written submissions and other supporting material by parties, and may:
- Direct that parties meet, to discuss and further resolve issues, or
 - Act as a mediator to seek to resolve issues in dispute.
17. The Committee may direct the VPA and relevant parties to provide additional information on specified matters.
18. The committee must not consider submissions or evidence on a matter that a planning authority is prevented from considering by operation of ss 22(3) and 22(5) of the Planning and Environment Act 1987.
19. The written submission of the VPA is to include:
- an overview of the draft amendment and/or any relevant planning permit and the relevant Plan, including a detailed explanation of the referred elements.

- b. a written response to each referred submission and how the draft plan, amendment or permit might be changed to respond to the submission.

Outcomes

20. The Committee must produce a written report for the VPA and the Minister for Planning, providing the following:
 - a. Whether the referred element(s) of the draft amendment or planning permit is appropriate
 - b. A summary and assessment of the issues raised in submissions referred to the Committee.
 - c. Any other relevant matters raised in the course of the Committee process.
 - d. A list of persons who made submissions considered by the Committee.
 - e. A list of tabled documents.
 - f. A list of persons consulted or heard, including via video conference.
21. Following the completion of the report the Committee may deliver an oral briefing to the Minister for Planning or the VPA. The briefing may be in person, by video conference or telephone.

Submissions are public documents

22. The Committee must retain a library of any written submissions or other supporting documentation provided to it until a decision has been made on its report or five years has passed from the time of its appointment.
23. Any written submissions or other supporting documentation provided to the Committee must be available for public inspection until the submission of its report, unless the Committee specifically directs that the material is to remain 'in camera'. A document may be made available for public inspection electronically.

Timing

24. The Committee is required to commence its process by issuing a written notice of the referral of a matter from the VPA to all referred submitters no later than 10 business days from the date of any specific letter of referral received.
25. The Committee is required to submit its report in writing as soon as practicable but no later than 20 business days from the last day of its proceedings, tabling of submissions or consultation process.
26. The VPA must release the report of the Committee within 10 business days of its receipt.

Fee

27. The fee for the Committee will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.
28. The costs of the Committee will be met by the VPA.



Richard Wynne MP
Minister for Planning

Date: 17 / 07 / 2020

Appendix B Letters of referral

B1 30 January 2021 Tranche 1 referral



Hon Richard Wynne MP

Minister for Planning
Minister for Housing

8 Nicholson Street
East Melbourne, Victoria 3002

Mr Nick Wimbush
Lead Chair
Victorian Planning Authority Projects Standing Advisory Committee
Planning Panels Victoria
planning.panels@delwp.vic.gov.au

Ref: MBR044126



Dear Mr Wimbush

AMENDMENT C152 TO THE BASS COAST PLANNING SCHEME – DECISION ON SUBMISSIONS FOR THE WONTHAGGI NORTH EAST GROWTH AREA

I refer to draft Amendment C152 to the Bass Coast Planning Scheme, which proposes to create new residential and employment neighbourhoods around Wonthaggi. To achieve this, the amendment proposes introducing a precinct structure plan, development contributions plan and native vegetation precinct plan with associated zoning, overlay and other scheme changes.

The VPA has committed to delivering a fast-track planning program to assist with Victoria's post coronavirus (COVID-19) economic recovery over the next financial year.

On 17 July 2020, I established a streamlined planning process, including the establishment of the VPA Projects Standing Advisory Committee (SAC) to independently review unresolved submissions, including discrete issues, received through the VPA streamlined engagement process.

Between 2 November and 1 December 2020, the VPA, in conjunction with Bass Coast Shire Council, undertook a targeted public consultation process for the draft planning scheme amendment. The consultation included direct notice to landowners and occupiers within 50 metres of, and within, the amendment area; Commonwealth and Victorian Government agencies; Ministers prescribed under section 19(1)(c) of the *Planning and Environment Act 1987*; and Bass Coast Shire Council. The VPA and Bass Coast Shire Council held a virtual drop-in session and responded to phone calls and emails during the consultation period.

I have decided to refer all unresolved submissions to the VPA Projects SAC for advice and recommendations in accordance with the SAC's terms of reference (17 July 2020).

I have enclosed a submissions summary table, prepared by the VPA, which provides an analysis of each submission, including summaries of the issues raised and a significance rating to assist the SAC with its proceedings.

The SAC should consider the submissions in the manner it sees fit in accordance with its terms of reference. I note the terms of reference enable the committee to adopt an approach that is 'fit for purpose' and that this could involve consideration of issues 'on the papers' as appropriate.

I am advised the VPA will continue to seek to resolve matters with submitters and it will advise the SAC if further matters are resolved.

Please find enclosed some of the supporting documents required by clause 13 of the terms of reference for the VPA Projects SAC. The VPA will provide the remaining documents in due course.

I encourage the SAC to undertake its work in the most efficient way and to act promptly in light of the significance of the proposed project and its role in assisting Victoria's post coronavirus (COVID-19) economic recovery.

If you would like further information, please email Dr Jane Homewood, Executive Director, Statutory Planning Services, DELWP, at jane.homewood@delwp.vic.gov.au.

Yours sincerely



HON RICHARD WYNNE MP
Minister for Planning

31 / 01 / 2021

Encl. Amendment C152 Submissions Summary Table
Wonthaggi North East Public Consultation Report

B2 4 March 2022 - Tranche 2 referral



Hon Richard Wynne MP

Minister for Planning
Minister for Housing

8 Nicholson Street
East Melbourne, Victoria 3002

Ms Sarah Carlisle
Lead Chair
Victorian Planning Authority Projects Standing Advisory Committee
Planning Panels Victoria
planning_panels@delwp.vic.gov.au

Ref: MBR047122



Dear Ms Carlisle

DRAFT AMENDMENT C152 TO THE BASS COAST PLANNING SCHEME – WONTHAGGI NORTH EAST PRECINCT STRUCTURE PLAN – REFERRAL OF TRANCHE 2 SUBMISSIONS TO THE VICTORIAN PLANNING AUTHORITY PROJECTS STANDING ADVISORY COMMITTEE

I refer to draft Amendment C152 to the Bass Coast Planning Scheme, which proposes to facilitate the use and development of north-eastern Wonthaggi for residential, industrial and commercial development generally in accordance with Wonthaggi North East Precinct Structure Plan (PSP).

The Victorian Planning Authority (VPA) has committed to delivering a fast-track planning program to assist with Victoria's post COVID-19 economic recovery over the next financial year.

On 17 July 2020, I established a streamlined planning process, including the establishment of the VPA Projects Standing Advisory Committee (SAC) to independently review unresolved submissions, including discrete issues, received through the VPA streamlined engagement process.

I previously referred unresolved submissions to the SAC from a public consultation process undertaken in November 2020. In 2021, the draft amendment's SAC proceedings commenced, including a Tranche 1 hearing which heard matters relating to strategic planning, road network planning, bushfire hazard and vegetation. Between 22 November 2021 and 20 December 2021, the VPA undertook a second targeted public consultation process for the Wonthaggi North East PSP, Development Contributions Plan (DCP) and Native Vegetation Precinct Plan (NVPP) and the associated draft planning scheme amendment at the direction of the SAC. The consultation included landowners and occupiers within the precinct area, Commonwealth and Victorian Government agencies, Ministers prescribed under section 19(1)(c) of the *Planning and Environment Act 1987* and Bass Coast Shire Council. A total of 24 submissions were received during the public consultation process.

I have decided to refer all new unresolved submissions received during the 2021 (Tranche 2) public consultation to the VPA Projects SAC for advice and recommendations in accordance with the SAC's terms of reference. I have also enclosed a submissions summary table, prepared by the VPA, which provides an analysis of each submission, including summaries of the issues raised and a significance rating to assist the SAC with its proceedings.

The SAC should consider submissions in the manner it sees fit, in accordance with its terms of reference. I note the terms of reference enable the committee to adopt an approach that is 'fit for purpose' and that this could involve consideration of issues of lesser significance 'on the papers'. I am advised the VPA will continue to seek to resolve matters with submitters and it will advise the SAC if further matters are resolved.



Please find enclosed a supporting document required by clause 13 of the terms of reference for the VPA Projects SAC. The VPA will provide the remaining documents in due course. I encourage the SAC to undertake its work in the most efficient way and to act promptly in light of the significance of the proposed project and its role in assisting Victoria's post COVID-19 economic recovery.

If you have any questions about this matter, please contact Dr Jane Homewood, Executive Director, Statutory Planning Services, Department of Environment, Land, Water and Planning, on email jane.homewood@delwp.vic.gov.au.

Yours sincerely



HON RICHARD WYNNE MP
Minister for Planning

3 14 22

Encl. Draft Amendment C152 Submissions Summary Table

Appendix C Submitters to the Amendment

- (i) **Submissions referred to the Committee in January 2021. Includes new submissions from these original submitters in April 2022 identified by submission number suffix 'a'**

No.	Submitter
1 & 1a	Sam Brotheridge
2	VicTrack (not considered by Committee)
3 & 3a	West Gippsland Catchment Management Authority (not considered by Committee)
4	South Gippsland Water
5 & 5a	Department of Education and Training
6	David Norton
7, 7b & 7c	Department of Environment, Land, Water and Planning (Environment)
8	Alan Miller
9	Jan Redmond
10	Project Planning & Development Pty Ltd (Birdwood Pty Ltd)
11 & 11a	Department of Transport
12	Daryl Hoey
13	J Milne
14	Spiire
15	Wentworth Pty Ltd (submission 1)
16 & 16a	Wonthaggi Lifestyle Precinct
17	Sargeants Conveyancing
18 & 18a	Parklea Developments Pty Ltd (Krastoy Pty Ltd in Tranche 2)
19 & 19a	Giovani & Cheryl Paterno and Leigh & Gemma Clifford
20 & 20a	BEW Family Investments Pty Ltd (Larnay Pty Ltd in Tranche 2)
21 & 21a	Summerfields Wonthaggi Pty Ltd
22 & 22a	Wentworth Pty Ltd further submissions
23 & 23a	Wallis Watson Industrial Pty Ltd
24 & 24a	Carbora Nominees Pty Ltd (BW Projects St Clair Pty Ltd in Tranche 2)
25 & 25a	Robert John Edden
26	Clive and Julie Kilgour
27 & 27a	LandGipps Vic Pty Ltd/David Sowerby
28	A1 Group
29	Country Fire Authority (late submission)

(ii) New submissions referred to the Committee in April 2022 from submitters who were not submitters in 2020

No.	Submitter
30 & 30a	Environment Protection Authority
31	A Sice and A Wagenaar
32	Bunurong Land Council Aboriginal Corporation
33	Luigi and Rhonda Destefano
34	Ross and Judy Wise
35	Bass Coast Shire Council
36	Multinet Gas Networks (supportive submission - not considered by Committee)
37	Stuart Edden
38	Bass Coast Housing Matters
39	Sunny Side Up Development Pty Ltd (information submission only – not considered by Committee)
40	Ocean Rise Pty Ltd

Appendix D Parties to the Hearing

Submitter	Represented by
Victorian Planning Authority and Bass Coast Shire Council	James Lofting of HWL Ebsworth at the Tranche 1 Hearing James Lofting and Sonia Turnbull of HWL Ebsworth represented the VPA only at the Tranche 2 Hearing and called evidence from: <ul style="list-style-type: none"> • Caroline Carvalho of Alluvium on drainage • Warwick Bishop of Water Technology on drainage • Chris DeSilva and Jo Fisher of Mesh on Development Contributions
Bass Coast Shire Council	Terry Montebello of Maddocks represented Council at the Tranche 2 Hearing and called evidence from: <ul style="list-style-type: none"> • Peter Coombes of Urban Water Cycle Solutions on drainage • Chris McNeill of Ethos Urban on development feasibility • Chris Dale of Safe System Solutions Pty on costings
Country Fire Authority	Anne Coxon at Tranche 1 Hearing only
South Gippsland Water	Lucy Allsop at Tranche 1 Hearing only
Regional Roads Victoria and Department of Transport	Written submission only to Tranche 1 Hearing
Department of Education	Written submission only to Tranche 1 Hearing. Did not participate in Tranche 2 Hearing as issues resolved
Parklea Developments Pty Ltd/Krastoy Pty Ltd	Tranche 1 Hearing - Juliet Forsyth SC assisted by Jennifer Trewhella of counsel instructed by Ellen Tarasenko of Herbert Smith Freehills Tranche 2 Hearing - Juliet Forsyth SC assisted by Jennifer Trewhella of counsel instructed by Ellen Tarasenko of Polis Legal and who called evidence from: <ul style="list-style-type: none"> • Michael Mag of Stormy Water Solutions on drainage • Mark Woodland of Echelon Planning on strategic planning and Development Contributions • Alex Hrelja of HillsPDA Urbis on Development Contributions
LandGipps Vic Pty Ltd	Tranche 1 Hearing - Scott Edwards of Planning & Property Partners Tranche 2 Hearing – Nick Sutton and Jacqueline Plant of Norton Rose Fulbright who called the evidence from: <ul style="list-style-type: none"> • Ms Nina Barich of Incitus on drainage

Submitter	Represented by
Giovani & Cheryl Paterno and Leigh & Gemma Clifford	Barnaby McIlrath of PE law at Tranche 1 and 2 Hearings and who called evidence from: <ul style="list-style-type: none"> • Marc Noyce of Noyce Environmental Consulting Pty Ltd on drainage • Phillip Walton of XWB Consulting on Bushfire Planning
J Milne	John McCaffrey at the Tranche 1 Hearing only
Birdwood Pty Ltd	Trevor Ludeman of Project Planning & Development Pty Ltd who called evidence from : <ul style="list-style-type: none"> • Brian Haratsis of Macroplan on economics at the Tranche 1 Hearing only Ian Pridgeon of Russell Kennedy at the Tranche 2 Hearing only
Wentworth Pty Ltd Robert John Edden Carbora Nominees Pty Ltd/ BW Projects St Clair P/L Wallis Watson Industrial Pty Ltd Summerfields Wonthaggi Pty Ltd Ocean Rise P/L	Fiona Wiffrie of Beveridge Williams at Tranche 1 Hearing (with exception of Ocean Rise P/L which did not make a submission to the Tranche 1 Hearing) Saraid Mitten of Beveridge Williams represented Robert John Edden, Wentworth P/L and Ocean Rise P/L at the Tranche 2 Hearing Jess Kaczmarek of S&K Planning Lawyers represented BW Projects St Clair P/L (formerly Carbora Nominees P/L), Wallis Watson Industrial Pty Ltd and Summerfields Wonthaggi at the Tranche 2 Hearing Ms Mitten and Ms Kaczmarek called evidence from: <ul style="list-style-type: none"> • Aram Manjikian of Beveridge Williams on drainage • Mark Fleming of Spiire on costings
BEW Family Investments Pty Ltd/Larnay Pty Ltd	Not heard during the Tranche 1 Hearing Larnay P/L (formerly BEW Family Investments Pty Ltd) represented by Jess Kaczmarek of S&K Planning Lawyers at the Tranche 2 Hearing
A1 Group/Carney's Road Development	Joey Whitehead of Beveridge Williams who provided a written submission only to the Tranche 1 Hearing
Sam Brotheridge	Attended Tranche 1 and 2 Hearings
Wonthaggi Lifestyle Precinct	Greg Bursill at Tranche 1 Hearing only
Bass Coast Housing Matters	Michael Nugent, Maddy Harford and Donald Ellsmore at Tranche 2 Hearing only
Ross and Judy Wise	Ross Wise at Tranche 2 Hearing only
National Pacific Properties P/L (Stuart Edden)	Tom Trevakis of National Pacific Properties Land Development at Tranche 2 Hearing only

Appendix E Document list

No.	Date	Description	Provided by
Tranche 1 Hearing documents			
1	31/1/2021	VPA Projects SAC Referral	Minister for Planning
2	“	VPA Submissions Summary Table	“
3	“	Public Consultation report, December 2020	“
Amendment documents			
4	10/2/2021	Wonthaggi North East Precinct Structure Plan, November 2020	VPA
5	“	Wonthaggi North East Development Contributions Plan, November 2020	“
6	“	Wonthaggi North East Native Vegetation Precinct Plan, November 2020	“
7	“	Draft Planning Scheme Amendment documents including policy changes, Zone and Overlay schedules and Maps, clause schedules, instruction sheet and Explanatory Report	“
Background documents			
8	“	Background Report, VPA, November 2020	“
9	“	Bushfire Management Report, Terramatrix, October 2018	“
10	“	Commercial and Industrial Land Assessment, Urban Enterprise, June 2017 and Addendum, 2019	“
11	“	Community Infrastructure Needs Assessment, November 2020	“
12	“	Contaminated Land Investigations Report, GHD, April 2016 including Figures and Appendices (A-J)	“
13	“	Phase 1 Preliminary Site Investigation, May 2019	“
14	“	Drainage Strategy Storm Water Management Plan, Engeny, October 2019	“
15	“	Wetland 3 and 4 Design Work, Engeny – February 2020	“
16	“	Flora and Fauna Assessment, Nature Advisory, May 2020	“
17	“	Targeted Growling Grass Frog, Swamp Skin and Latham’s Snipe Surveys, Nature Advisory, November 2020	“
18	“	Aboriginal Cultural Heritage Survey, Triskel Heritage	“

No.	Date	Description	Provided by
		Consultants, May 2017	
19	“	Public Land Equalisation, Estimated Land Valuations, Westernport Property Consultants, September 2020	“
20	“	Statutory Strategy, October 2020	“
21	“	Transport Assessment, GTA Consultants, October 2020	“
22	“	Precinct Structure Plan Implementation Map, VPA, November 2020	“
23	“	Public Consultation Brochure, VPA, November 2020	“
24	“	Submissions	“
Directions Hearing and Hearing documents			
25	12/2/2021	Notification Letter to submitters advising of referral to VPA SAC and details of Directions Hearing	VPA SAC
26	9/3/2021	Submission A1 Group (owners 35 Carneys Road)	Mr J Whitehead, Beveridge Williams
27	“	Letter to Chair advising of questions pre-Directions Hearing and request for DELWPs attendance at Directions Hearing on behalf of Parklea Developments Pty Ltd	Ms H Asten & Ms E Tarasenko, Herbert Smith Freehills
28	10/3/2021	Letter to Chair advising response to questions from Parklea Developments Pty Ltd made on behalf of the Victorian Planning Authority and Bass Coast Shire Council	VPA & Bass Coast Shire Council
29	“	Letter to parties advising of high-pressure gas pipeline and high-pressure desalination water pipeline situation in proximity	VPA & Bass Coast Shire Council
30	15/3/2021	Directions, Distribution List and Timetable (version 1)	VPA SAC
31	17/3/2021	Letter to Chair requesting drainage modelling information from Herbert Smith Freehills on behalf of Parklea Developments Pty Ltd	Ms E Tarasenko, Herbert Smith Freehills
32	19/3/2021	Letter to Chair advising response to request for documents from Parklea Developments Pty Ltd made on behalf of the Victorian Planning Authority and Bass Coast Shire Council	VPA & Bass Coast Shire Council
33	22/3/2021	Email to all parties including letter from Herbert Smith Freehills on behalf of Parklea Developments Pty Ltd	VPA SAC
34	“	Email to all parties advising Committee is satisfied with response from VPA / Council to Directions sought by Parklea Developments Pty Ltd	“
35	“	Letter to Chair noting issues with conclave arrangements and request for permit information from	Ms E Tarasenko

No.	Date	Description	Provided by
		Herbert Smith Freehills on behalf of Parklea Developments Pty Ltd	
36	“	Email to parties with response to Direction 3(a), (c) and (d)	VPA & Bass Coast Shire Council
37	“	Email to all parties including letter from Herbert Smith Freehills on behalf of Parklea Developments Pty Ltd regarding conclaves and request for information	VPA SAC
38	23/3/2021	Letter to all parties sent on behalf of Mr S Brotheridge	VPA SAC
39	“	Letter to Chair advising response to request for documents from Parklea Developments Pty Ltd made on behalf of the Victorian Planning Authority and Bass Coast Shire Council	VPA & Bass Coast Shire Council
40	24/3/2021	Letter to Chair further noting issues with conclave arrangements a from Herbert Smith Freehills on behalf of Parklea Developments Pty Ltd	Ms E Tarasenko
41	“	Letter to all parties regarding conclaves and request for documents	VPA SAC
42	“	Letter to all parties with response to Direction 3 (c) Pipeline Action Plan	VPA & Bass Coast Shire Council
43	“	Email to all parties regarding conclave arrangements	“
44	25/3/2021	Letter to Chair with response to letter sent from Mr S Brotheridge dated 23 March 2021	“
45	26/3/2021	Letter to all parties with response to Direction 3 (e), (f) and (g) and response to further information	“
45a	“	Drainage Conclave – Agreed Statement	VPA & Bass Coast Shire Council
46	“	Letter to all parties sent on behalf of Mr S Brotheridge including attachment a) Emails to Bass Coast Council	VPA SAC
47	29/3/2021	Letter to all parties sent on behalf of Mr S Brotheridge (dated 26 March 2021) including attachment a) Bass Coast Shire Council Minutes for Ordinary Meeting Wednesday 21 June 2017	VPA SAC
48	“	Letter to all parties sent on behalf of Mr S Brotheridge (dated 28 March 2021)	“
49	“	Letter to all parties advising of incorrect section 173 agreement	Mr S Brotheridge
50	30/3/2021	Email to all parties correcting section 173 agreement	VPA & Bass Coast Shire Council
51	“	Email to all parties advising of SAC position on matters raised by Mr S Brotheridge	VPA SAC

No.	Date	Description	Provided by
52	“	Email to all parties advising of DCP conclave arrangements	VPA & Bass Coast Shire Council
53	“	Email to all parties in response to letters from Mr S Brotheridge	VPA & Bass Coast Shire Council
54	“	Letter to all parties with response to request for documents	Ms L Allsop, South Gippsland Water
55	“	Letter to all parties requesting information including attachment a) Letter from Bass Coast Shire Council	Mr S Brotheridge
56	31/3/2021	Letter to all parties requesting hearing be put on hold and notes regarding discussions with South Gippsland Water including attachment a) South Gippsland Water to Mr S Brotheridge	“
57	“	Email to all parties with response to letters of Mr S Brotheridge	VPA & Bass Coast Shire Council
58	1/4/2021	Email to all parties responding to letters of Mr S Brotheridge	VPA SAC
59	2/4/2021	Letter to all parties advising of material uploaded to file share	VPA & Bass Coast Shire Council
60	6/4/2021	Letter to all parties noting discussions with the VPA including attachments a) Letter from VPA to Mr S Brotheridge b) Ombudsman correspondence	Mr S Brotheridge
61	“	Email to all parties forwarding the email from the Department of Transport (DoT) and requesting additional information as to delayed request to be heard	VPA SAC
62	“	Emails to all parties advising of SAC position on matters raised by Mr S Brotheridge	“
63	“	Evidence Statement – Brian Haratsis	Mr T Ludeman, Project Planning & Development Pty Ltd
64	“	Evidence Statement – Mark Woodland	Ms E Tarasenko
65	“	Evidence Statement – Michael Mag	“
66	“	Evidence Statement – Rod Wiese	“
67	“	Evidence Statement – Darren Powell	“
68	“	Evidence Statement – Alex Hrelja	“
69	“	Evidence Statement – Mark Dawson	“

No.	Date	Description	Provided by
70	“	Evidence Statement – Chris DeSilva and Jo Fisher	VPA & Bass Coast Shire Council
71	“	Evidence Statement – Glenn Ottrey	“
72	“	Evidence Statement – Warwick Bishop	“
73	“	VPA / Bass Coast Shire Council – Part A Submission including attachments a) Modified Subdivision Plan for 35 Carneys Road b) Advice from Engeny to Council in relation 465 Heslop Road Wonthaggi c) Ordinance Changes Log d) PSP-DCP-NVPP Changes Log	“
74	“	Evidence Statement – Nina Barich	Mr S Edwards, Planning & Property Partners
74a	“	DET email advising their withdrawal from the hearing with the following attachments: a) supplementary submission and advice that they will not attend the hearing b) supplementary submission appendix	Katholiki Giordannis, Department of Education and Training (DET)
75	7/4/2021	Email from DoT with request to join as a party to hearing	Mr G Skoien, DoT
76	“	Directions, Distribution List and Timetable (version 2)	VPA SAC
77	“	Letter including hearing link and Zoom instructions	VPA & Bass Coast Shire Council
78	“	Email to all parties seeking leave to provide late evidence statement of John Glossop on behalf of LandGipps Vic Pty Ltd	Mr N Sutton, Planning & Property Partners
79	“	Email to all parties advising late evidence statement of John Glossop to be discussed on Day 1	VPA SAC
80	“	Email to all parties providing undertaking that John Glossop will not review material on behalf of LandGipps Vic Pty Ltd	Mr N Sutton
81	8/4/2021	Submission – DoT	Mr G Skoien
82	“	Letter including hearing link, password and Zoom instructions	VPA & Bass Coast Shire Council

No.	Date	Description	Provided by
83	“	Letter regarding Bass Coast Distinctive Areas and Landscapes Project including attachments: a) Bass Coast Declaration Assessment b) Bass Coast Declaration c) Distinctive Areas and Landscapes: Landscape Assessment Review Stage 1 – Scoping, Department of Environment, Land, Water and Planning, East Melbourne, Victoria d) Phase One Community Engagement Key Findings Report	Andrew Gear DELWP
84	9/4/2021	Letter to all parties advising that DCP requires further investigation	VPA & Bass Coast Shire Council
85	“	Email to all parties advising Carbora Nominees is not intending on calling an expert	VPA SAC
86	“	Email to all parties requesting the hearing be adjourned	Mr S Brotheridge
87	“	Email to all parties responding to DCP matters and request for adjournment	VPA SAC
88	“	VPA / Bass Coast Shire Council – Part B Submission including attachment a) Appendix A	VPA & Bass Coast Shire Council
89	“	Letter to all parties advising of various drainage models, additional information, and request for hearing to be recorded on behalf of Parklea Developments Pty Ltd	Ms E Tarasenko
90	“	Email forwarding Bass Coast Distinctive Areas and Landscapes Project letter and attachment from DELWP	VPA SAC
91	“	Email from Mr S Brotheridge advising he no longer wishes to present at the Hearing	Mr S Brotheridge
92	“	Email to all parties clarifying drainage models and seeking confirmation that all parties agree to Hearing recording	VPA & Bass Coast Shire Council
93	“	Development Contribution Plan (DCP) Conclave – Agreed Statement	VPA & Bass Coast Shire Council
94	“	Email to Mr S Brotheridge acknowledging email advising he no longer wishes to present at the Hearing	VPA SAC
94a	“	Email from VPA forwarding further DELWP (Environment) submission including letter to VPA and VPA submission summary	VPA & Bass Coast Shire Council
95	12/4/2021	Preliminary Issues Submission – Parklea Developments Pty Ltd	Ms E Tarasenko
96	“	Committee Directions dated 12 April 2021	VPA SAC

No.	Date	Description	Provided by
97	13/4/2021	Letter to Chair proposing Tranche 2 dates, deferral of Parklea submission and costs on behalf of Parklea Developments Pty Ltd	Ms E Tarasenko
98	“	Letter to Chair advising of deferral of LandGipps Vic Pty Ltd submission	Mr N Sutton
99	“	Submission – Ms J Milne	Mr J McCaffery
100	“	Distribution List and Timetable (version 3)	VPA SAC
101	“	Submission – Mr T Walsh including attachments a) Memo to SAC b) Appendices	Mr T Ludeman
102	“	Submission – Wallis Watson Industrial Pty Ltd	Ms F Wiffrie, Beveridge Williams
103	“	Email to all parties advising of documents uploaded into file share including attachments a) Pipelines Plan b) Revised Action Plan	VPA & Bass Coast Shire Council
104	14/4/2021	Email to Chair requesting time allocation in Tranche 1	Mr S Brotheridge
105	“	Email to all parties advising of extended Day 3 to accommodate Mr S Brotheridge	VPA SAC
106	“	Submission – Wentworth Pty Ltd	Ms F Wiffrie
107	“	Submission – Wonthaggi Lifestyle Precinct	Mr G Bursill, Bursill Consulting
108	“	Submission – Sam Brotheridge including attachments	Mr S Brotheridge
109	15/4/2021	Submission – South Gippsland Water	Ms L Allsop
110	“	Letter to all parties advising of Parklea Developments Pty Ltd position and draft directions for Tranche 2	Ms E Tarasenko
111	“	Submission – Country Fire Authority (CFA) including attachment: a) Attachment 1	Ms A Coxon, CFA
112	“	Letter to all parties advising of VPA /Bass Coast Shire Council position and draft directions for Tranche 2	VPA & Bass Coast Shire Council
113	16/4/2021	Submission – Mr G & Ms C Paterno and Ms G & Mr L Clifford including attachments: a) Images	Mr B McIlrath, PE Law
114	“	Letter to all parties advising of broad support of VPA position on draft directions	Mr N Sutton
115	“	Closing Submission – VPA & Bass Coast Shire Council	VPA & Bass Coast Shire Council

No.	Date	Description	Provided by
116	“	South Gippsland Water clarifying location of assets including plan of assets a) Plan of assets	Ms L Allsop
117	21/4/2021	Letter to all parties advising of Committee’s Directions for Tranche 2	VPA SAC
118	23/4/2021	LandGipps position regarding evidence of Mr Glossop and the consideration of issues it was yet to present	Mr N Sutton, Planning and Property Partners
119	11/5/2021	Letter from VPA identifying status of discussions with CFA and that the matter should be further discussed at the Tranche 2 Hearing	VPA
120	19/5/2021	Email to parties advising VPA-CFA Amendment changes relating to bushfire will be discussed at the Tranche 2 Hearing	VPA SAC
Tranche 2 Hearing arrangements			
124	6/9/2021	Email to VPA/Council requesting further information relating to proposed amended direction dates	VPA SAC
125	8/9/2021	Letter raising issues relating to VPA/Council’s proposed amended Tranche 2 Hearing dates	Ms E Tarasenko, Polis Legal
126	“	Email responding to VPA/Council proposed dates for circulation of materials and Tranche 2 Hearing date	Mr B McIlrath, PE Law
127	“	Email from VPA SAC to all existing parties advising it will respond to parties comments on VPA/Council revised direction dates	VPA SAC
128	9/9/2021	Letter on behalf of Summerfields and Wallis Watson regarding VPA/Council proposed revised direction dates	Ms J Kaczmarek, S&K Planning Lawyers
129	10/9/2021	Letter on behalf of LandGipps Vic Pty Ltd regarding VPA/Council proposed revised direction dates	Mr Nick Sutton, Norton Rose Fulbright
130	15/9/2021	Letter to existing parties including further directions for VPA/Council response by 30/9/2021 and updated Distribution List	VPA SAC
131	29/9/2021	Letter to VPA SAC from VPA/Council responding to directions of 15/9/2021	VPA and Bass Coast Council
132	1/10/2021	Letter from VPA SAC to VPA/Council requesting VPA/Council engage with existing parties on issues regarding to advocate availability for a revised Tranche 2 Hearing commencement date	VPA SAC
133	18/10/2021	Letter from VPA/Council to VPA SAC and parties including a list of available dates and identifying a proposed draft timetable of key dates for material	VPA and Bass Coast Council

No.	Date	Description	Provided by
		circulation, Tranche 2 Direction Hearing and Hearing	
134	“	Email advising of availability date limitations of advocate	Mr B McIlrath, PE Law
135	19/10/2021	Letter from VPA SAC to existing parties advising that parties respond to the amended VPA/Council timetable of key dates by 30/9/2021	VPA SAC
136	28/10/2021	Letter response to amended VPA/Council timetable of key dates	Ms E Tarasenko, Polis Legal
137	29/10/2021	Letter response to amended VPA/Council timetable of key dates	Mr Nick Sutton, Norton Rose Fulbright
138	5/11/2021	Letter from VPA SAC to existing parties including directions for circulation of materials and Tranche 2 Directions Hearing and Hearing commencement date and updated Distribution List	VPA SAC
139	22/11/2021	Letter from VPA/Council to parties including an overview of the PSP and DCP, link to an updated VPA project page for the Amendment including all updated Amendment materials	VPA and Bass Coast Council
140	“	Correspondence from EPA dated 27/8/2021 (identified by VPA as submission 30)	“
141	“	Misplaced submission (undated or signed) and identified as Submission 31 (A Sice and A Wagenaar)	“
Pre-referral correspondence			
142	22/11/2021	Letter from Mr Brotheridge raising preliminary submission issues regarding amended PSP	Mr S Brotheridge
143	25/11/2021	Email from VPA SAC to Mr Brotheridge advising of arrangements for submissions	VPA SAC
144	14/12/2021	Email from Mr Brotheridge requesting subdivision information for Industrial Zoned last south of Bass Highway	Mr S Brotheridge
145	“	Email from VPA SAC to parties in response to Mr Brotheridge’s request for further documents	VPA SAC
146	“	Email from Mr Brotheridge seeking clarification of VPA SAC correspondence responding to his email (Document 157) requesting subdivision information for Industrial Zoned last south of Bass Highway	Mr S Brotheridge
147	“	Email from VPA SAC clarifying its email (Document 158)	VPA SAC
148	16/12/2021	Email from VPA/Council providing details of contributions for existing and proposed Industrial areas	VPA and Bass Coast Council
149	16/12/2021	Email from Mr Brotheridge seeking further clarification	Mr S Brotheridge

No.	Date	Description	Provided by
		of VPA SAC correspondence responding to his email (Document 157)	
150	20/12/2021	Email from VPA SAC responding to Mr Brotheridge's email of 16/12/2021	VPA SAC
151	"	Copy of further submission to amended draft Amendment	Mr Nick Sutton, Norton Rose Fulbright
152	"	Copy of further submission to amended draft Amendment	Mr B McIlrath, PE Law
153	21/12/2021	Email from Mr Brotheridge seeking further information on permit history from VPA/Council	Mr S Brotheridge
154	"	Email from VPA SAC responding to Mr Brotheridge's request for further information	VPA SAC
155	"	Email to VPA, Council and VPA SAC from Planning Central Pty Ltd for Sunny Side Up Developments Pty Ltd advising of lodgement of proposed subdivision of 10 Oates Road. Includes attachments: copy of Plan of Subdivision, Staging Plan and Design Response Plan	Mr G Kell, Planning Central Pty Ltd
156	"	Email from Mr Brotheridge requesting additional permit history	Mr S Brotheridge
157	22/12/2021	Email from VPA SAC responding to Mr Brotheridge's request for further information	VPA SAC
158	7/1/2022	Email from Mr Brotheridge responding to VPA SAC response of 22/12/2021 seeking further clarification of DCP levy application	Mr S Brotheridge
159	12/1/2022	Email from VPA/Council setting out DCP triggers in relation to existing use and development	VPA and Bass Coast Council
160	14/1/2022	Email from VPA SAC responding to Mr Brotheridge's email of 7/1/2022	VPA SAC
161	8/2/2022	Letter from Mr Montebello of Maddocks for Bass Coast Council advising Maddocks now acts solely for Council	Council
162	16/2/2022	Updated Distribution List Version: February 2022	"
163	15/3/2022	Letter to submitters identifying further drainage and functional design technical work and transport infrastructure usage analysis to be circulated and arrangements for addendum submissions	VPA
164	16/3/2022	Letter identifying issues regarding timing of VPA's identified further work	Ms E Tarasenko, Polis Legal
165	17/3/2022	Response to Krastoy letter and timing of further work	VPA
166	"	Letter to DELWP seeking update on Bass Coast DAL	VPA SAC
167	"	Email to parties advising of VPA Projects SAC position on	"

No.	Date	Description	Provided by
		further work document circulation timing and providing a summary report document and drainage expert briefing	
168	21/3/2022	Request for drainage modelling information used for further work	Ms E Tarasenko, Polis Legal
169	22/3/2022	VPA response to VPA Projects SAC email (Document 166)	VPA
170	25/3/2022	Further advice from VPA regarding availability of modelling	"
Referral to the VPA SAC			
171	4/4/2022	VPA Projects SAC Referral	Minister for Planning
172	"	VPA Submissions Summary Table	Minister for Planning
Directions Hearing and updated Amendment documents			
173	5/4/2022	Email from VPA providing referral documents	VPA
174	"	<i>Wonthaggi North East Precinct Structure Plan, November 2021</i>	"
175	"	<i>Wonthaggi North East Development Contributions Plan, November 2021</i>	"
176	"	<i>Wonthaggi North East Native Vegetation Precinct Plan, November 2021</i>	"
177	"	Updated draft Planning Scheme Amendment documents including policy changes, Zone and Overlay schedules and Maps, clause schedules, instruction sheet and Explanatory Report	"
178	"	<i>Wonthaggi North East Precinct Structure Plan Background Report, November 2021</i>	"
179	"	<i>Wonthaggi North East Changes Report, November 2021 and Appendices A and B</i>	"
180	"	<i>Addendum to the Bushfire Development Report for the Wonthaggi North East Precinct Structure Plan (Terramatrix, August 2021)</i>	"
181	"	<i>Land Use Change & Encroachment Safety Management Study Report (PDA, October 2021)</i>	"
182	"	<i>Wonthaggi North East DCP - Options Report (Mesh, October 2021)</i>	"
183	"	<i>Proof of Concept Report, (Alluvium, September 2021)</i>	"
184	"	<i>Revised Drainage Strategy for Wonthaggi North East PSP (Engeny, November 2021)</i>	"

No.	Date	Description	Provided by
185	“	<i>Wonthaggi North East Precinct Structure Plan Functional Design Report and Appendices (Alluvium, November 2021)</i>	“
186	“	<i>Functional Design Report, Addendum to Main Outfall Design (Alluvium, 2022)</i>	“
187	“	<i>Functional Design Drawings, Addendum to Main Outfall Design (Alluvium, 2022)</i>	“
188	“	<i>Wonthaggi North East Precinct Structure Plan Transport Impact Assessment (Stantec, November 2021)</i>	“
189	“	<i>Bridge Concept and High-Level Cost Estimate, Wonthaggi North East PSP (Cardno, November 2021)</i>	“
190	“	<i>IN-04 Concept Design (Stantec, 2022)</i>	“
191	“	<i>IN-04 Broad Level Cost Estimate (Stantec, 2022)</i>	“
192	“	<i>IN-09 Concept Design (Stantec, 2022)</i>	“
193	“	<i>IN-09 Broad Level Cost Estimate (Stantec, 2022)</i>	“
194	“	Tranche 2 submissions	“
195	7/4/2022	Directions Hearing Letter	VPA SAC
196	8/4/2022	Letter to submitters and parties identifying further technical work available for view on VPA project page and advising of its position on traffic project apportionment	VPA
197	“	Preliminary Drainage Review (Craigie & Daff, December 2021)	“
198	“	Modelling Memorandum (Stantec, April 2022)	“
199	11/4/2022	Letter to parties advising of technical difficulties of finalising the Functional Design Report, April 2022 and advising documents uploaded to VPA website as ‘draft’	“
200	11/4/2022	Letter to submitters and parties identifying availability of updated Functional Design Report and advising of its position on drainage project apportionment	“
201	12/4/2022	Email regarding Council representative to attend drainage briefing and seeking direction for invitation	Council
202	“	Email from VPA setting out why Council officer not invited to drainage briefing	VPA
203	“	Email from Council responding to VPA email (Document 200)	Council
204	“	Direction for invitation to be provided to Council as drainage authority	VPA SAC
205	“	Email seeking Functional Design Report (Alluvium	Ms E Tarasenko

No.	Date	Description	Provided by
		Consulting, April 2022) and related modelling	Polis Legal for Krastoy P/L
206	“	Functional Design Report (Alluvium Consulting, April 2022) with highlighted sections subject to “sensitivity testing”	“
207	“	Email to VPA seeking advice on timing of ‘sensitivity testing’	VPA SAC
208	14/4/2022	Email from VPA regarding sensitivity testing timeframes and availability of requested modelling details	VPA
209	20/4/2022	Proposal to change conclave dates ahead of Directions Hearing	“
210	“	Addendum to Submission 3a West Gippsland CMA	“
211	“	Addendum to Submission 20a Larnay Pty Ltd	“
212	“	Addendum to Submission 31a Summerfields Wonthaggi P/L	“
213	“	Addendum to Submission 22a Wentworth P/L	“
214	“	Addendum to Submission 23a Wallis Watson Industrial P/L	“
215	“	Addendum to Submission 24a Carbora Nominees P/L	“
216	“	Addendum to Submission 25a Robert John Edden	“
217	“	Addendum to Submission 27a LandGipps P/L	“
218	“	Addendum to Submission 35 Bass Coast Shire Council	“
219	“	Addendum to submission 40 Ocean Rise P/L	“
220	28/4/2022	Email to Norton Rose Fulbright regarding consent to a further late submission from LandGipps P/L responding to drainage	“
221	29/4/2022	Updated Functional Design Report, Alluvium, 28 April 2022 and associated Drawings (Parts 1, 2 and 3)	“
222	“	Updated Functional Design Report, Alluvium, 29 April 2022 and summary of changes to 28 April 2022 version	“
223	2/5/2022	Addendum to Submission 18b Krastoy P/L	“
224	“	Further addendum to Submission 35 Bass Coast Shire Council	“
225	“	Further addendum to Submission 27a LandGipps P/L	“
226	“	VPA summary of key events and amended project materials presented at Directions Hearing	“
227	“	Advice from VPA will not call traffic evidence	“
228	“	Advice from VPA confirming evidence it will call	“

No.	Date	Description	Provided by
229	3/5/2022	Amended DCP Table 1	“
230	4/5/2022	Committee Directions and Timetable for Tranche 2 Hearing	VPA SAC
231	“	Letter from DELWP providing update on Bass Coast DAL Project	Mr A Grear, DELWP
232	6/5/2022	Tranche 2 Day 1 Mapping Documents a) Bass Coast C152basc 01zn Maps 57, 61, 63 & 64 b) Bass Coast C152basc 002dpo Map 61 c) Bass Coast C152basc 004dcpo Maps 57, 61, 63 & 64 d) Bass Coast C152basc 005d-dpo Maps 61, 63 & 64 e) Bass Coast C152basc 03eao Maps 57, 61, 63 & 64 f) Bass Coast C152basc 006 ipo Maps 63 & 64	VPA
233	“	Tranche 2 Day 1 Ordinance Documents a) Bass Coast C152 37.07 Schedule 1 b) Bass Coast C152 52.16 Schedule c) Bass Coast C152 72.03 d) Bass Coast C152 Explanatory Report e) Bass Coast C152basc Instruction Sheet f) Bass Coast C152 21.07-Tranche g) Bass Coast C152 -34.01 Schedule h) Bass-Coast-C152-43.03 Schedule 2 i) Bass Coast C152 43.04 Schedule 21 j) Bass Coast C152 45.06 Schedule 1 k) Bass Coast C152 53.01 Schedule l) Bass Coast C152 66.06 Schedule m) Bass Coast C152 72.08 Schedule n) Bass Coast C152 72.04 o) Wonthaggi North East PSP - Ordinance Changes Log - May 2022	“
234	“	Tranche 2 Day 1 Amendment Documents a) Wonthaggi NE Background Report - Tranche 2 Day 1 Version - May 2022 b) Submissions Summary Spreadsheet - May 2022 c) Wonthaggi NE Amendment Changes and Rationale Report - May 2022 d) Wonthaggi North East PSP - PSP-DCP-NVPP Changes Log - May 2022 e) Wonthaggi NE NVPP - Tranche 2 Day 1 Version - May 2022 f) Wonthaggi NE PSP - Tranche 2 Day 1 Version - May 2022 g) Wonthaggi NE DCP - Tranche 2 Day 1 Version - May 2022 h) Wonthaggi North East NVPP Plan Set i) Wonthaggi North East PSP Plan Set j) Wonthaggi North East PSP - DCP Plan Set	“

No.	Date	Description	Provided by
235	10/5/2022	VPA Part A Submission	"
236	11/5/2022	Timetable (version 2)	VPA SAC
237	12/5/2022	Evidence Statement - Chris De Silva and Jo Fischer	VPA
237a	"	Evidence Statement - Aram Manjikian	Ms J Kaczmarek, S & K Planning Lawyers
238	"	Evidence Statement - Alex Hrelja	Ms E Trasenko, Polis Legal
239	"	Evidence Statement - Michael Mag	"
240	"	Evidence Statement - Mark Woodland	"
241	"	Krastoy Pty Ltd v Bass Coast SC [2022] VCAT 511	"
242	"	Evidence Statement - Marc Noyce	Mr B McIlrath, PE Law
243	"	Evidence Statement - Caroline Carvalho	VPA
245	"	Evidence Statement - Warwick Bishop	"
246	"	Evidence Statement - Nina Barich	Mr S Krishnamoorthy, Norton Rose Fulbright
247	"	Evidence Statement - Chris McNeill	Ms C Henry-Jones, Maddocks
248	"	Evidence Statement - Chris Dale	"
249	"	Evidence Statement - Peter Coombes	"
250	16/5/2022	Email enclosing details regarding iManage document sharing and availability of documents	VPA
251	"	Evidence Statement – Mark Fleming	Ms J Kaczmarek, S & K Planning Lawyers
252	"	Evidence Statement – Mark Woodland	Ms E Tarasenko, Polis Legal
253	17/5/2022	Email to SAC regarding drainage conclave participation	"
254	"	Email to VPA regarding drainage conclave participation	VPA SAC
255	"	Email to parties regarding drainage conclave participation	VPA
256	18/5/2022	Evidence Statement – Phil Walton	Mr B McIlrath, PE Law
257	19/5/2022	Email enclosing Zoom hearing link details	VPA
258	21/5/2022	Statement of Facts – Drainage Conclave	"

No.	Date	Description	Provided by
259	23/5/2022	Statement of Facts – DCP Conclave	“
260	“	Email seeking information regarding drainage conclave	Ms E Tarasenko, Polis Legal
261	24/5/2022	Outline of submission – Sam Brotheridge	Mr S Brotheridge
262	25/5/2022	Outline of submission – Krastoy / Parklea	Ms E Tarasenko, Polis Legal
263	“	Outline of submission – Birdwood Pty Ltd	Mr I Pridgeon, Russell Kennedy
264	“	Outline of submission – Bass Coast Shire Council	Ms C Henry- Jones, Maddocks
265	“	Outline of submission – Wentworth Pty. Ltd.	M L Morris, Beveridge Williams
266	“	Outline of submission – Oceanic Rise Pty. Ltd.	“
267	“	Outline of submission – Robert John Edden	“
268	“	Outline of submission – LandGipps Pty. Ltd.	Mr S Krishnamoorthy, Norton Rose Fulbright
269	“	Outline of submission – Wonthaggi Lifestyle Precinct	Mr G Bursill, Bursill Consulting
270	“	Letter detailing outline of submission on behalf of clients	Ms J Kaczmarek, S & K Planning Lawyers
271	“	Outline of submission – Wallis Watson Industrial Pty Ltd	“
272	“	Outline of submission – Summerfields Wonthaggi Pty	“
273	“	Outline of submission – Larnay Pty Ltd	“
274	“	Outline of submission – BW Projects St Clair Pty Ltd	“
275	“	Plan of DR-01 and DR-02 showing the hydraulic and waterway widths	VPA
276	26/5/2022	Email regarding position of Krastoy in relation to former experts	“
277	“	Email response regarding former experts	Ms E Tarasenko, Polis Legal
278	“	VPA SAC position on Krastoy former experts	VPA SAC
279	27/5/2022	Opening Statement - VPA	VPA
280	“	Addendum to the Revised Drainage Strategy for Wonthaggi North East PSP	“

No.	Date	Description	Provided by
281	“	Email to VPA SAC advising of incorrect categorisation of concerns	Mr S Brotheridge
282	“	Email to Mr S Brotheridge in response to categorisation of concerns	VPA
283	“	Email to VPA disagreeing with position of categorisation of concerns	Mr S Brotheridge
284	“	Email to parties advising of VPA SAC position of categorisation of concerns	VPA SAC
285	31/5/2022	Preliminary submission – Krastoy/Parklea a) Sixty-Fifth Eternity Pty Ltd v Boroondara CC [2009] VCAT 2314)	Ms E Tarasenko, Polis Legal
286	“	Evidence presentation of Aram Manjikian	Ms J Kaczmarek, S & K Planning Lawyers
287	“	Evidence presentation of Nina Barich	Mr S Krishnamoorthy, Norton Rose Fulbright
288	“	Annexure D to Council opening submission	Ms C Henry- Jones, Maddocks
289	“	Evidence presentation of Mark Fleming	Ms J Kaczmarek, S & K Planning Lawyers
290	1/6/2022	Planning permit number 120348-2 Endorsed Plan	Mr S Krishnamoorthy, Norton Rose Fulbright
291	2/6/2022	Letter enclosing CFA position on updated bushfire response	Ms A Coxon, CFA
292	“	Submission – Stuart Edden	Mr T Trevaskis, National Pacific Properties Australia
293	3/6/2022	a) Section 173 agreement dated 9 December 2020 (SMEC SWMP) b) Precinct B SMEC SWMP endorsed 14 December 2020 c) Precinct B SMEC SWMP Addendum endorsed 20 September 2021 d) Parklands Precinct C - Council Officer Report e) Precinct B – Planning Permit 170397 dated 5 September 2018	Ms E Tarasenko, Polis Legal

No.	Date	Description	Provided by
294	“	a) Plan 7 - IWMP W table - Amended 2 June 2022 b) 14_Waterway Cross Section-01	VPA
295	“	Memo - Waterway Corridor Widths Alluvium Consulting	“
296	“	Memo – Mr Bishop previous projects in relation to land within the PSP area	“
297	6/6/2022	Evidence presentation - Chris De Silva and Jo Fischer	“
298	“	Questions for the DCP experts	Mr B McIlrath, PE Law
299	“	Timetable (Version 3)	VPA SAC
300	“	a) Council minutes 21 September 2011 b) Council Annual report 2020/21 c) DPO Schedule 21 as at date of Parklands s173 Agreement (2011) d) Email chain regarding Mesh Options Report	Ms E Tarasenko, Polis Legal
301	7/6/2022	VPA Part B Submission Appendix A Submission Summary Table	VPA
302	“	Email seeking response from VPA in relation to outstanding issues	Mr S Brotheridge
303	8/6/2022	Colour coded submitter map	VPA
304	“	Email advising of withdrawal of submission	Mr G Bursill, Bursill Consulting
305	“	Email response to Mr S Brotheridge regarding outstanding issues	VPA
306	“	Bass Coast Shire Council Part B Submission	Ms C Henry-Jones, Maddocks
307	9/6/2022	Amended colour coded submitter map	VPA
308	“	VPA Guidance Note April 2020 'Generally in Accordance'	“
309	10/6/2022	Correspondence VPA and Multinet	“
310	“	Submission Presentation – Stuart Edden	Mr T Trevaskis, National Pacific Properties Australia
311	“	Email clarification on conclave agreed opinion 2 (PSP R49) from Michael Mag	Ms E Tarasenko, Polis Legal
312	12/6/2022	Email from Mr Brotheridge regarding clarification items	Mr S Brotheridge
313	14/6/2022	Agreed opinion of Peter Coombes, Michael Mag and Warwick Bishop	Ms C Henry-Jones, Maddocks

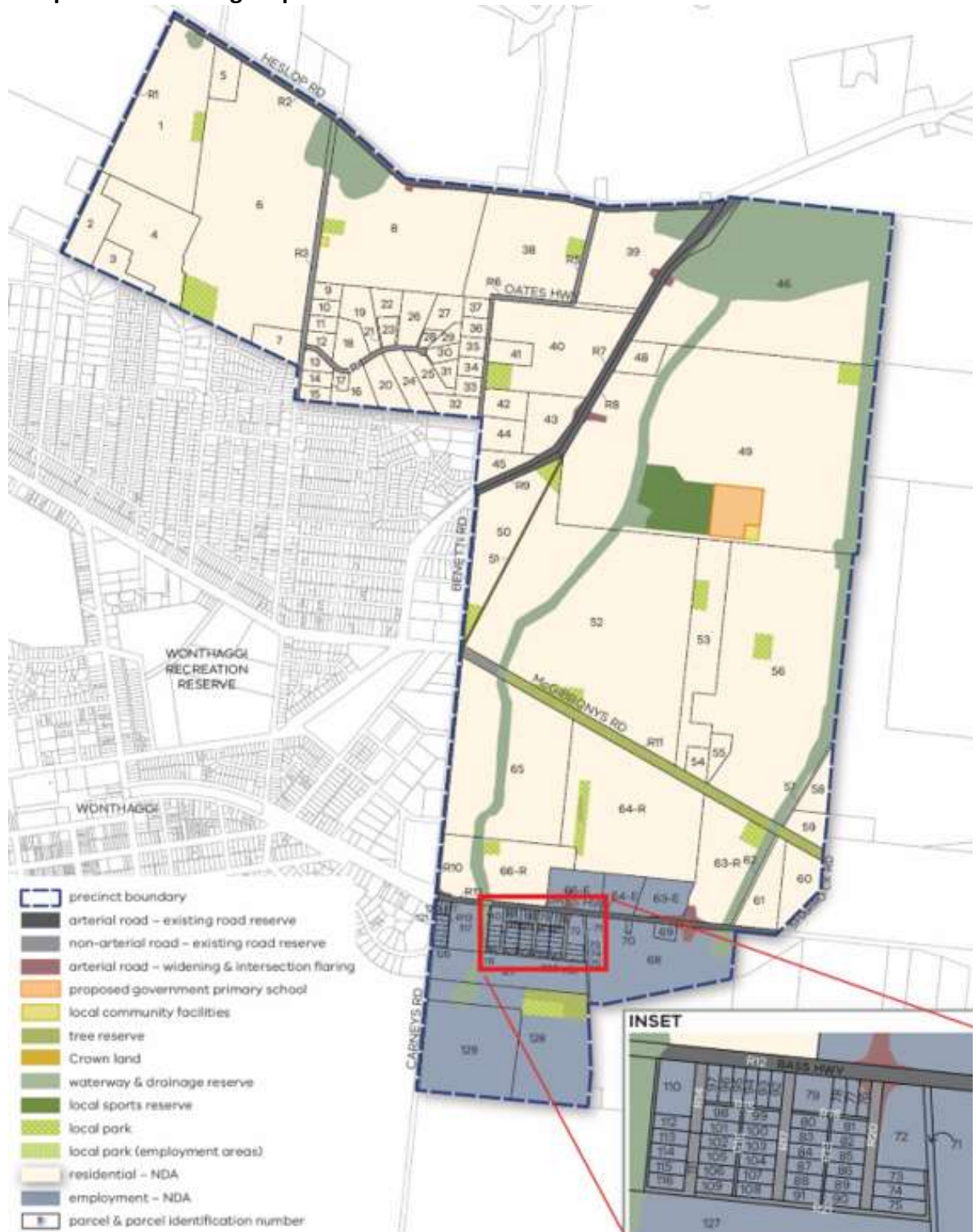
No.	Date	Description	Provided by
314	“	Email response to Mr Brotheridge regarding request for information on electrical supply	VPA
315	“	<ul style="list-style-type: none"> a) Submission - Summerfields Wonthaggi P/L, Wallis Watson Industrial P/L, Larnay P/L, BW Projects St. Clair Pty Ltd, Robert John Edden, Wentworth Pty Ltd and Oceanic Rise P/L b) C113basc - Ministerial reasons for intervention c) <i>Skerdero Pty Ltd v Cardinia SC</i> [2014] VCAT 1334 d) Larnay Pty Ltd - s173 Agreement 	Ms J Kaczmarek, S & K Planning Lawyers
316	15/6/2022	<ul style="list-style-type: none"> a) Submission - Robert John Edden b) Submission - Wentworth Pty Ltd 	Ms S Mitten, Beveridge Williams
317	“	<ul style="list-style-type: none"> a) Submission – Krastoy b) Cases and additional documents c) PE Act Extracts d) Krastoy/Parklea Proposed Changes to Section 3.6 of PSP 	Ms E Tarasenko, Polis Legal
318	16/6/2022	Email chain CFA response to BAL rating in industrial zone	VPA
319	“	<ul style="list-style-type: none"> a) <i>VPA Precinct Structure Planning Guidelines New Communities In Victoria</i>, October 2021 b) <i>Kinchington Estate</i> [2019] VSC 745 c) 2013 Engeny Strategy 	Ms E Tarasenko, Polis Legal
320	17/6/2022	Email seeking clarification of items contained in the Coombes/Mag/Bishop list	VPA
321	19/6/2022	<p>Submission – Mr G & Ms C Paterno and Ms G & Mr L Clifford including attachments:</p> <ul style="list-style-type: none"> a) 37 Carneys Road, Wonthaggi - clarification queries b) Mapped trees 	Mr B McIlrath, PE Law
322	20/6/2022	<ul style="list-style-type: none"> a) Contour Map with light aerial overlay b) Excess uncredited open space map c) Permit Application No. 120054 - 35 Carneys Rd Wonthaggi d) correspondence from Council 22/12/2020 	“
323	“	<ul style="list-style-type: none"> a) 35 Carneys Road Wonthaggi - Planning Permit b) 35 Carneys Road Wonthaggi - s173 Agreement 	Ms C Henry-Jones, Maddocks
324	“	<p>Proposed changes to the Day 1 DCP including:</p> <ul style="list-style-type: none"> a) Section 173 agreements b) Possible Permanent Integrated Water Management Projects 	VPA

No.	Date	Description	Provided by
325	“	Submission Presentation – Bass Coast Housing Matters a) Submission Attachment	Mr M Nugent, Bass Coast Housing Matters
326	“	Submission – LandGipps P/L a) Endorsed Plans for Planning Permit 120348-2	Mr S Krishnamoorthy, Norton Rose Fulbright
327	21/6/2022	Marked up version of the NVPP	“
328	22/6/2022	Closing Submission – Bass Coast Shire Council	Ms C Henry- Jones, Maddocks
329	“	Revised agreed opinion of Michael Mag, Warwick Bishop and Peter Coombes	“
330	“	Closing Submission – VPA a) VPA log of agreed changes	VPA
331	“	Letter – response to Committee questions	Mr S Krishnamoorthy, Norton Rose Fulbright
332	23/6/2022	Email – responding to Closing Submissions	Mr S Brotheridge
333	“	Email – noting vegetation to be removed a) Map showing proposed vegetation that can be removed	Mr B McIlrath, PE Law
334	“	Birdwood Australia Pty Ltd response to LandGipps Pty Ltd	Mr I Pridgeon, Russell Kennedy
335	“	Bass Coast Shire Council clarification of proposed tree reserves	Ms C Henry- Jones, Maddocks
336	4/7/2022	Email identifying proposed changes to PSP Plan 3 for property parcel 49 and land budget a) Plan and land budget proposed changes	Mr T Trevakis National Pacific Properties Australia
337	6/7/2022	a) VPA Agreed Changes to Day 1 documents - 6 July 2022 b) VPA Responses to SAC further questions - 6 July 2022 c) Wonthaggi North East PSP - Advice on ANCOLD received from Richard Rodd	VPA
338	14/7/2022	Bass Coast Shire Council Cover Letter a) VPA agreed changes to Day 1 documents with Council’s comments b) Council’s revised list of Substantial Change Projects and Reasonable Match Projects	Council

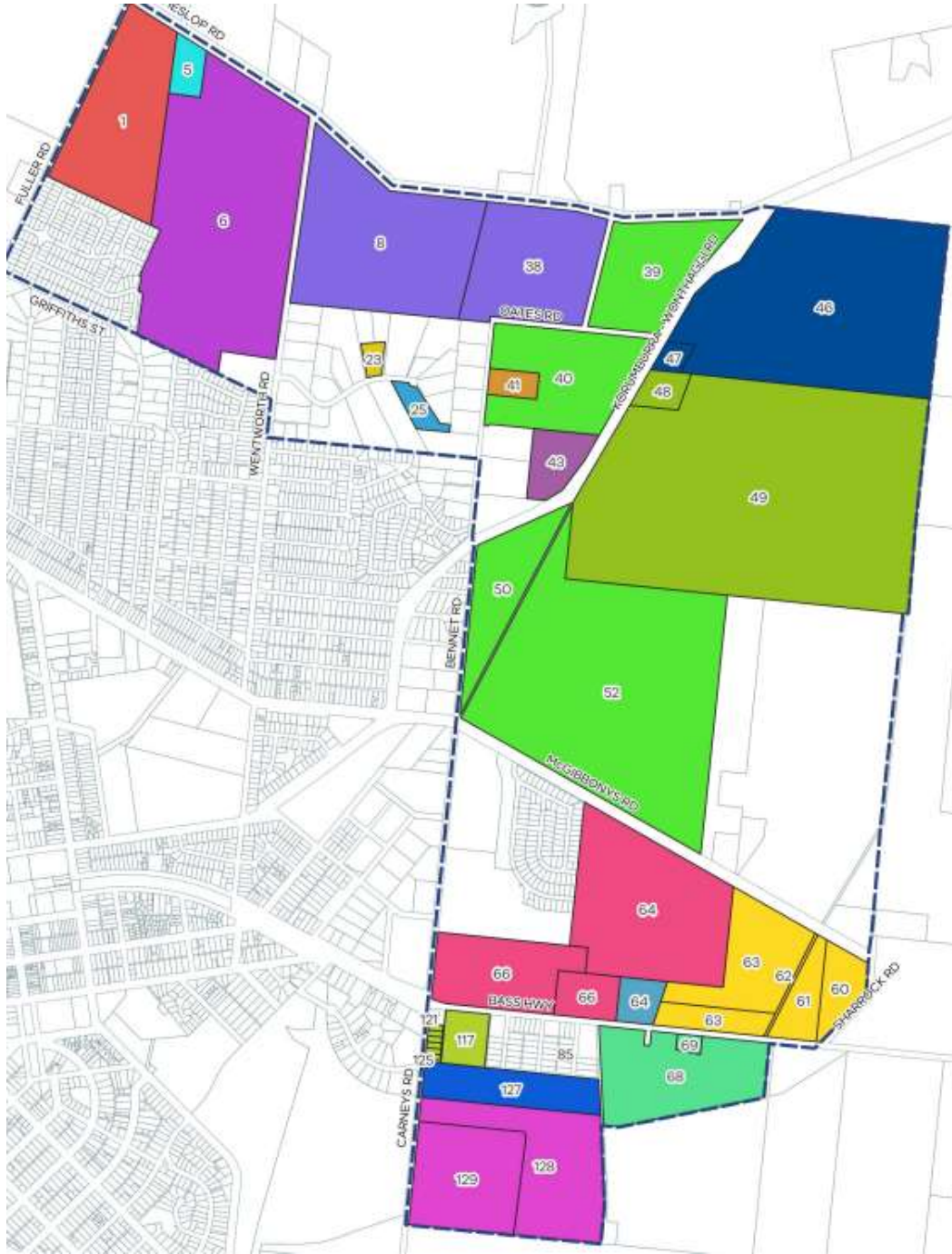
No.	Date	Description	Provided by
339	15/7/2022	Without Prejudice Comments - Birdwood Australia Pty	Mr I Pridgeon, Russell Kennedy
340	"	Without Prejudice Comments - G & Ms C Paterno and Ms G & Mr L Clifford	Mr B McIlrath, PE Law
341	"	Without Prejudice Comments – Krastoy Pty Ltd a) Krastoy Comments on New VPA Information	Ms E Tarasenko, Polis Legal
342	"	Without Prejudice Comments – LandGipps Pty Ltd	Mr N Sutton, Norton Rose Fulbright
343	"	Without Prejudice Comments – Consortium of landholdings	Ms J Kaczmarek, S&K Planning Lawyers
344	22/7/2022	Letter – VPA final response a) VPA agreed changes – final response to all parties	VPA

Appendix F Precinct Structure Plan Property Parcel numbering and submitter site parcel maps

PSP parcel numbering map



Submitter site parcel map



Parcels	Submitter	Parcels	Submitter	Parcels	Submitter
85	Brotheridge	5	BEW	127	A1 Group
117,121-126	Miller	1	Summerfields	25	Destefano
60-62,63-E, 63-R	Birdwood	68-69	Wallis Watson	23	Wise
40-41	McCaffrey	46-47	Carbora	43	Sunny Side Up
6	Wentworth	48-49	Edden	8, 38	Oceanic Rise
39-40, 50, 52	Parklea/Krastoy	64-R, 66-E, 66-R	LandGipps		
128-129	Paterno & Clifford	64-E	Kilgour		

Source: Based on VPA mapping (Document 307)

Appendix G Drainage and Costing conclave statement

Discussions and Agreements

1. All experts discussed the requirements and guidelines of the PSP's section 3.6.1. and the image shown as Plan 11 of the PSP. Generally, the experts are content with section 3.6.1 and Plan 11 of the PSP subject to the following amendments:

Agreed Opinion 1: Final design of constructed waterways (including widths), drainage corridors, retarding basins, wetlands, and associated paths, boardwalks, bridges, and planting, must be to the satisfaction of the catchment management authority and the responsible authority (R48).

Agreed Opinion 2: R49 be amended to read - The proposed development for the PSP must meet or exceed best practice stormwater quality treatment standards in accordance with the Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO, 1999 as amended) prior to discharge to receiving waterways as outlined on Plan 11, unless otherwise approved by the responsible catchment management authority and the responsible authority.

Agreed Opinion 3: R50 be amended to read - For waterways shown on Plan 11, development works must ensure:

- Waterways and integrated water management design maximise land available to be used for multiple recreation and environmental purposes.
- Overland flow paths and piping within road reserves will be connected and integrated across property / parcel boundaries.
- Any freeboard requirements for overland flow paths will be adequately contained within road reserves.

All to the satisfaction of the catchment management authority and the responsible authority.

Agreed Opinion 4: R53 be amended to read – All development areas identified as “subject to an existing flood extent” and/or abutting a drainage reserve on Plan 11, must meet the freeboard requirements above the 1% AEP flood level estimate, as specified by the responsible authority, and in accordance with DELWP safety criteria guidelines.

Agreed Opinion 5: R60 be amended to read - The design and layout of roads, road reserves and public open space should optimise water use efficiency and long-term viability of public landscaped areas through the use of Water Sensitive Urban Design (WSUD) and Integrated Water Management (IWM) initiatives and outcomes.

Agreed Opinion 6: A new additional requirement be added - The proposed development within the PSP must accord with the Australian Rainfall and Runoff Guidelines, 2019 (as amended) and accord with the Urban Stormwater Management Guidance (Publication 1739, EPA 2021).

Agreed Opinion 7: Plan 11 of the PSP should be updated to reflect the proposed catchment boundaries and to clearly identify all assets listed in Table 7 of the PSP.

2. Experts discussed that there are inconsistencies with the naming conventions utilised within the PSP documentation and relevant background reports.

Agreed Opinion 8: Consistency in naming convention of proposed PSP assets between strategy / document iterations should be maintained.

3. The revised drainage strategy has provided justification for the selection of the loss parameters used in the RORB model, however, still has not provided sufficient justification to the selection of the parameters used in the hydrologic model. Adoption of varying loss values, storm durations and a randomly selected routing parameter has the potential to underestimate or overestimate the peak flows.

There is insufficient validation and calibration of the existing conditions hydrology model, and this may result in over-estimation of 10% to 1% AEP flows. These results should be documented. Particularly, the experts have concern with the statement "The flows from the 100 year ARI were matched with flows from the 1% AEP from the local catchment model developed and the flows from the 2 year ARI were matched with flows from the 50% AEP event from the local catchment model".

Agreed Opinion 9: Clarity should be shown within the drainage strategy 2021 and reporting to demonstrate and justify the selection of the parameters used in the hydrologic models.

Agreed Opinion 10: The assumptions and implications around uncertainties of the existing conditions hydrology needs to be clarified in the drainage strategy. We do not consider this is a major barrier to progression of the PSP.

Agreed Opinion 11: The assumptions and implications around uncertainties of the existing conditions hydrology, particularly in relation to the interface of PSP assets and the Powlett River flows needs to be clarified further in the drainage strategy. We do not consider this is a major barrier to progression of the PSP, however this information will inform future design detail.

Agreed Opinion 12: All experts agree that the drainage strategy (report and associated models) and functional design supporting the PSP should be clear and consistent, giving all parties confidence in utilising this information to further progress the drainage designs.

4. Experts discussed that a development staging and implementation plan would be useful to facilitate staged delivery of the PSP. Consideration of appropriate mechanisms and provisions could be established to set aside land for drainage requirements, allowing asset delivery, including consideration of interim solutions as appropriate. A main consideration of experts is the lack of a drainage outfall for staged delivery, and the experts support that a mechanism is required to facilitate appropriate downstream drainage connection. Drainage easements in favour of Council could be appropriate.

Agreed Opinion 13: The engineered solution for the PSP is feasible, however the practical delivery of the engineering solution requires further consideration.

5. Experts discussed that the PSP needs to be flexible enough to allow staged delivery and allow for developers to do works in kind, subject to delivering the PSP objectives. Potentially a flexible approach to staged delivery of localised assets could offset the need for WL-01's current sizing. There is the option to offset contributions if the overarching objectives of the PSP can still be delivered in a staged manner. The PSP should build in a level of flexibility to accommodate this.

Agreed Opinion 14: The PSP and DCP should provide for flexibility to allow staged development or alternative solutions (potentially independent of the main PSP stormwater infrastructure) to accommodate distributed systems that may not be in the same locations as the currently

proposed stormwater infrastructure, subject to achieving objectives of the PSP and State policy requirements.

6. All experts discussed that the two proposed waterways, the wetland-retarding basins and sediment basins are generally an appropriate means of servicing the Wonthaggi NE PSP. However, consideration of safe conveyance of flows through the proposed PSP road networks and piped infrastructure must ensure safety compliance criteria is met.

Agreed Opinion 15: Flows will need to be managed internally through the local road network, open space reserves and/or pipe drainage networks, in accordance with DELWP safety criteria (as amended) and be consistent with ARR2019 (as amended).

7. All experts discussed that a marked-up plan of waterway corridor widths with appropriate cross-sections be provided in PSP and DCP documents, demonstrating the outcomes expected of the corridors, with justification to support proposed widths.

Agreed Opinion 16: The PSP and DCP documents should provide clear guidance on the assumed DR-01 and DR-02 waterway widths and the associated land take which informs land use budgets.

8. There was acknowledgement across the group that climate change sensitivity checks be undertaken on PSP stormwater assets to confirm consideration of such. All experts agreed that this is unlikely to have an impact on proposed PSP stormwater assets, however, should be captured.

Agreed Opinion 17: All experts agree that a climate change sensitivity check on PSP stormwater assets be undertaken, however acknowledge this will unlikely impact the sizing of proposed PSP assets.

9. Experts discussed that drainage alignments and land set aside in subdivisional processes and existing Section 173 agreements should align with proposed PSP waterway corridors and drainage reserves. Currently, these do not align sensibly, particularly in relation to subdivisional processes associated with the western waterway (DR-01) alignment and drainage reserve area for WLRB4 (WL-04).

Agreed Opinion 18: The PSP should have regard to endorsed (approved) development plans.

10. All experts discussed that the WL-02 footprint slightly intrudes into the road reserve and should be adjusted to within the PSP and may affect overall footprint.

Agreed Opinion 19: All experts agree the WL-02 reserve will need to be slightly increased as it currently is not sufficiently offset from the PSP boundary.

11. Error! Reference source not found. Experts raised that pipe diameter changes from upstream to downstream should not add cost burden to downstream landowners. All experts agree the Engeny 2019 (Appendix D) showed internal pipe networks, however in the revised Strategy (2021) these are missing.

Agreed Opinion 20: More clarity is required on where the proposed subdivisional drainage pipes are expected to outfall into the waterways, and which landholdings are affected or serviced by each pipeline (i.e. one or multiple land parcels). These should be shown clearly (refer Engeny 2019, Appendix D).

12. Concerns were raised regarding pipe connections to sediment basins and whether depth of cover for pipe clearances is achievable without resulting in the need for fill.

Agreed Opinion 21: Clarity should be shown within the PSP and DCP regarding the assumed discharge locations and inverts into the waterways.

13. Experts discussed that the accommodation of external catchment flows is critical to ensuring, under the developed scenario, PSP stormwater assets can perform as required. It is appropriate to have considered external catchment flows as these will likely continue to drain through the future PSP roads and drainage networks. All experts agree some external flows will eventually pass through three of the four wetland assets and acknowledge stormwater treatment sizing was based on PSP post developed flows. External catchment flows were appropriately modelled. The treatment of external catchments was then excluded, when calculating BPEM pollutant load reductions for the PSP.

Agreed Opinion 22: Clarity to be provided around internal and external catchment treatment and offsets to meet PSP pollutant load reduction targets.

14. Experts raised that no volume reduction requirements are in place for the proposed industrial area on Carneys Road. Sediment loading appears to be the key driver which may be less of an issue in industrialised catchments versus bushland or agricultural land areas. Depending on future industrial use activities, appropriate alternate treatment options could service the industrial site area and protect downstream PSP assets (waterways and wetlands) from potential toxicity impacts.

Agreed Opinion 23: Alternative treatment options to service the runoff from future industrial development could be implemented to protect the downstream PSP waterways and the integrity of PSP stormwater treatment assets. This may affect a resizing of sediment basins downstream of industrial zones.

15. Regarding the proposed constructed PSP waterways (DR-01, DR-02) all experts discussed that these would be expected to be classed as “designated waterways” under the Water Act by the West Gippsland Catchment Management Authority and their ecological services and function in the landscape requires protection.

Agreed Opinion 24: Consideration for the long term ecological and landscape values of the proposed constructed waterways needs to form part of future design works to align with State policy as it relates to integrated water management, liveability, and water quality outcomes.

Agreed Opinion 25: Consideration needs to be given to the future reach scale design of the waterways that complies with PSP objectives, State policy and liveability outcomes, ensuring unreasonable maintenance impacts are not imposed on the responsible authority.

16. Experts discussed that clarity is needed regarding catchments contributing to WL-01. Flow inputs from the catchments to the east and north of the PSP (catchment ‘C’ in Figure 2-2 of Engeny 2021) appear to be considered in the design of WL-01, however clarity on their effect on the retarding system performance would assist in understanding the WL-01 asset. Input from Engeny is required to clarify design targets for WL-01 and WL-02 (WL-03 and WL-04 are satisfied).

Agreed Opinion 26: Clarity is required on the design criteria, modelling assumptions, and sensitivity testing adopted for WL-01.

17. Refinement of WL-01 could include combining drying out areas, maintenance bypass, reducing 'empty' areas around the asset, and potential consolidation of one sediment basin for WL-01 (a and b). All experts are mindful to resolve this in a timely manner so as not to affect the PSP progression.

Agreed Opinion 27: A further review (testing) and refinement of WL-01 could be undertaken to determine feasibility of alternative design arrangements (for water quality) to achieve potentially better cost outcomes to inform the finalised DCP costs.

18. Concerns were raised over the breakdown of excavation materials and suitability of soil for reuse (fill). A recent geotechnical study (Property ID 6) noted unsuitable silts. A revisit of the earthworks unit rate is required and percentage split of suitable versus unsuitable material for onsite reuse is required to better inform earthworks costs in the DCP.

Agreed Opinion 28: A geotechnical and soil contamination assessment needs to be undertaken to appropriately determine the volume and suitability of site soils for reuse as onsite fill to better inform earthworks costs in the DCP.

19. All experts considered that a direct outfall for the PSP to the Powlett River may be required to minimise downstream impacts. There is still an issue as to access and setting aside a drainage reserve / land available for the outfall. The potential impacts on the downstream environment should be further clarified as to how these will be managed. There is currently uncertainty as to the design objectives of DR-03.

Agreed Opinion 29: The design objectives for the ultimate outfall (DR-03) of the PSP (and all other outfalls) should be clarified. These are likely to include considerations of flow rates, volumes, frequency, and/or the interface with the Powlett River.

COSTINGS

The following experts abstained from providing an opinion on the costings as this topic is outside their relevant area of expertise:

- Michael Mag

20. All experts note the \$100K for maintenance paths is inclusive of shared paths and agree allowance for shared paths and maintenance tracks should be broken down to per m² in the cost estimates.

Agreed Opinion 30: Maintenance tracks / shared path costings to be itemised to per m².

21. Guidance on costings was deferred to the costings experts in the conclave. Costings experts referenced the need for a geotechnical and soil contamination assessment (including acid sulphate soils) to determine soil suitability for reuse on site versus offsite disposal (estimated \$50K approx.), Flora and Fauna studies (\$30K approx.), Cultural Heritage Management Plan (\$50K approx.) and Safety Assessment (\$20K approx.). All experts agree that earthworks cost estimates may be affected where additional technical studies are required to better inform DCP costs.

Agreed Opinion 31: Cost estimates should include allowance for geotechnical and soil contamination, cultural heritage plan, flora and fauna, and safety assessments.

Agreed Opinion 32: At a minimum, the geotechnical and soil contamination assessments are required to clarify the design and costings that underpin the PSP to best inform DCP costs. Comment: This is not a barrier to PSP delivery but does reduce levels of uncertainty about costs (Refer Item 23).

22. Conclave deferred cost recommendations to costings experts. Recommendation is to modify fee percentages as follows:

- Council fees remain at 3.25% (includes supervision)
- Vic Roads fees remain at 1% for WL-01 given works under Korumburra Rd; 0% for other assets)
- Traffic management change from 5% to 2% (as site is greenfield)
- Survey and design remain at 5%
- Supervision and project management change from 9% to 4% (as council supervision is included in above). This would be based on a combined projects basis rather than individually as the contract value for some projects are low and the percentage-based assessment would not cover the appropriate costs for this item
- Site establishment remain at 2.5%
- Contingency (Refer to Item 23)
- Environmental management is too low.

Agreed Opinion 33: Based on the advice of costings experts all experts agreed to the proposed fee adjustments.

Agreed Opinion 34: Apply a nominal \$50K allowance for Environmental Management and reporting, and an additional 0.5% of construction value for erosion control management for each wetland (WL).

23. Costings experts differed on contingency rate applied and discussed adequacy of allowances (indicatively) for Geotechnical (\$50K per wetland), Cultural Heritage (\$50K each project), Flora and Fauna studies (\$30K each), and independent Safety Assessments (\$20K each wetland). Concerns of unmeasured items, site soil conditions, hydrology, and hydraulic model etc creating uncertainty. Drainage experts deferred to costings experts' advice (percentage cost rates not well suited to different sized assets).

Agreed Opinion 35: Should the VPA not provide geotechnical and soil contamination assessments as per recommendation to Items 18 and 23 (above) we recommend contingency to be increased to 35%, subject to confirming degree of risk regarding potential soil contamination / soil suitability / groundwater intrusions / presence of acid sulphate soils / rock etc prior to revising contingency estimate.

24. WL-04 is located across Wentworth Road and two properties (ID 6 and ID 8). Council advises Wentworth Rd will be closed when alternate route is available. Without provision of an alternate road route, WLRB4 cannot be constructed. A road aligned around the wetland is required.

Agreed Opinion 36: To deliver WL-04 a temporary alternate road alignment needs to be provided or Council to confirm that Wentworth Rd can be closed.

Opinions not agreed

Opinion Not Agreed 1: All experts did not agree on proposed corridor widths recommended for the two proposed constructed waterways until confirmation of widths and variations along waterway lengths (cross sections) can be confirmed and justified (Subject to outcomes of Item 7 above).

Appendix H Additional information list

The Need for Additional Information for the Wonthaggi North East Precinct Structure Plan and Development Control Plan

June 2022

During the VPP SAC hearing about the Wonthaggi North East Precinct Structure Plan (PSP) and Development Control Plan (DCP) and on Thursday 2 June, Ms Turnbull for the VPA asked Professor Coombes (representing Bass Coast Shire Council [BCSC]) to provide a list of additional information that would assist in progressing the PSP.

The Planning Panel subsequently requested that the "list of enhancements" include comments and agreement from members of the drainage expert conclave. It is understood that the intent of this report is to recommend improvements to the key documents and supporting information to facilitate continuing with the PSP.

The following reports could be amended as a condition in the planning scheme amendment prior to implementation of the PSP infrastructure to form the essential knowledge base that supports the stormwater management elements of Wonthaggi North East PSP and DCP into the future:

- **Engeny, (2021)**, *Revised Drainage Strategy for Wonthaggi North East PSP prepared by Engeny, November 2021*
- **Alluvium, (2022)**, *Wonthaggi North East Precinct Structure Plan and Development Contributions Plan, functional design report, 29 April 2022*

These reports (as amended) are also supported by models, data and assumptions used to develop the drainage strategy. As a consequence of the substantial body of work that has been completed over a long period of the time, there are some key assumptions, information, data, models and clarifications that are not currently available or cannot be readily accessed.

These reports will need to be enhanced prior to implementation of the PSP, and data, assumptions and models provided to ensure sufficient information and capacity to enable BCSC, developers and the community to confidently progress future development within the PSP area. This adequate knowledge and capacity base will permit the flexibility to address future challenges to the practical delivery of the PSP that are likely to emerge in response to local circumstances.

The Expert Conclave provided the following agreed opinions about the need for flexibility in the delivery of the PSP drainage assets to provide solutions that are practical:

- **Agreed Opinion 13:** *The engineered solution for the PSP is feasible, however the practical delivery of the engineering solution requires further consideration.*
- **Agreed Opinion 14:** *The PSP and DCP should provide for flexibility to allow staged development or alternative solutions (potentially independent of the main PSP stormwater infrastructure) to accommodate distributed systems that may not be in the same locations as the currently proposed stormwater infrastructure, subject to achieving objectives of the PSP and State policy requirements*

The need for consistent and complete information, data, assumptions and models is highlighted by the Expert Conclave as follows:

- **Agreed Opinion 9:** *Clarity should be shown within the drainage strategy 2021 and reporting to demonstrate and justify the selection of the parameters used in the hydrologic models.*
- **Agreed Opinion 10:** *The assumptions and implications around uncertainties of the existing conditions hydrology needs to be clarified in the drainage strategy. We do not consider this is a major barrier to progression of the PSP.*
- **Agreed Opinion 11:** *The assumptions and implications around uncertainties of the existing conditions hydrology, particularly in relation to the interface of PSP assets and the Powlett River flows needs to be clarified further in the drainage strategy. We do not consider this is a major barrier to progression of the PSP, however this information will inform future design detail.*
- **Agreed Opinion 12:** *All experts agree that the drainage strategy (report and associated models) and functional design supporting the PSP should be clear and consistent, giving all parties confidence in utilising this information to further progress the drainage designs.*

It is not anticipated that the need for further information and clarification is a barrier to proceeding with the PSP and DCP, provided that some flexibility is built into the documentation and the enhancement of design documentation occurs prior to implementation of the PSP.

Sufficient information is needed to provide ability to achieve optimum performance into the future. Future detailed designs will require a comprehensive package of information, including the assumptions and models underpinning the current drainage strategy.

The information provided in the PSP report should be sufficient to permit future designer to incorporate contemporary methods to maximise society benefits and minimise uncertainty.

The challenges of ungauged catchments are discussed throughout the various reports with respect to the Australian Rainfall and Runoff (ARR2019) guidelines. These discussions are acknowledged but it is highlighted that in the current ARR2019 guidelines, the Urban Book (Book 9, Chapter 6) provides for mixed methods that also include nearby gauges to improve confidence in hydrology of ungauged catchments.

The Engeny and Alluvium reports with fully available supporting information and models are essential to the future success of the PSP. Further to the above discussion, the **following items should be enhanced prior to implementing the PSP:**

1. Provide consistency and clarity about design objectives utilised for entire system of the drainage strategy and for each element in the strategy. There should be some discussion about the performance objectives for the entire system that is the PSP drainage strategy versus the objectives for the functional design of each asset.

2. Incorporate sufficiently detailed and consistent evidence in the reports to support assumptions made in the drainage strategy (for example, Powlett River hydrograph and time of concentration, details of the Powlett River hydrology model, how the hydrology models were combined in design and clarify any assumptions, clearly identify and provide the hydrology models) in accordance with ARR2019 guidelines. The 2021 Drainage Strategy and 2022 Addendum presents conflicting information about the Powlett River Hydrology and the influence on the PSP drainage strategy and key information is not easily accessed.
3. Provide information and clarity in the reports about the status of the objectives for stormwater discharges to the outfall, the design solution for the outfall, and assumptions about the hydrology relationship with the Powlett River and the PSP catchments. In particular, the status of designs and approvals of the main outfall relationship with the Powlett River should be clarified with respect to ARR2019 guidelines.
4. The internal development 'trunk' drainage pipes within Appendix D of the Engeny 2019 Report should be updated and merged with Appendix D of the Engeny 2021 Report (pipes servicing external catchments) to clearly create a masterplan of all 'trunk' drainage pipes proposed through the PSP region. Once updated, this information should then be included on a new plan that clearly details the following information:
 - a. the 'trunk' drainage pipe alignments,
 - b. where each of these 'trunk' drainage pipe alignments are proposed to outfall,
 - c. what treatment mechanism is proposed at each of the outfalls (i.e. sediment basin or gross pollutant trap),
 - d. the proposed 'trunk' drainage pipe invert level at the outfall,
 - e. the relevant waterway flood level estimates at each of the outfall locations,
 - f. the expected points of stormwater discharge into the PSP trunk infrastructure, and
 - g. Provides the 1%, 10% and 50% AEP peak flows and water depths in the waterway at the locations where the trunk infrastructure outfalls.
5. The climate change sensitivity analysis from the Engeny 2021 Drainage Strategy (Section 4.2.5, pp. 38-42, and Appendix A4) should feature in the final Engeny and Alluvium reports and additional investigation be undertaken as needed for implementation of the PSP.
6. The guiding principle for the enhancement of the reports is to enable other professionals to understand and reproduce the PSP results, to make future amendments if needed, and to approve, with confidence, proposals from developers

without needing to contact the original authors. To achieve this, the following is recommended:

- a. The supporting documentation to the PSP (Engeny and Alluvium) should utilise labelling conventions consistent with the DCP.
 - b. The Alluvium Functional Design Drawings should clearly detail the proposed drainage reserves on all plans and sections (for all asset types).
 - c. The Alluvium Functional Design Drawings should clearly show the 1% AEP flood level estimates, and potential for earth fill, on all plans and sections (for all asset types).
 - d. The final Alluvium Package (Report, Drawings and Models) should be consistent regarding sediment basin proposals. For example; Section S-S of DCP SB-02 (Alluvium labelled SB04) (pp. 24 - 26 of the drawings) should clearly show the waterway if the sediment basin is proposed to be offline to the waterway.
 - e. Clarity should be provided regarding any existing assets which are proposed to be decommissioned across the PSP region.
7. The Engeny and Alluvium reports, and the PSP and DCP documents will need to clearly state the intention of flexibility as guiding principles
 8. The reports should clearly explain the basis for adopted design dimensions, either from engineering (or other) principles and/or in accordance with design guidelines (MWC greenfield waterway widths for example)
 9. Provide a summary of resources used in the development of the drainage strategy and functional designs, and a description of the linkage of the resources to key PSP outcomes

If the above items are actioned, it is expected that the drainage strategy (report and associated models) and functional designs (report, plans and models) supporting the PSP would be clear and consistent, giving all parties confidence in utilising this information to further progress the drainage designs.

Peter Coombes	 _____	Date: 22/06/2022
Michael Mag	 _____	Date: 22/06/2022
Warwick Bishop	 _____	Date: 22/06/2022

Appendix I Committee's preferred version of the Wonthaggi North East Precinct Structure Plan content

(i) Section 3.6 Integrated Water Management and Utilities

Add the following introductory text:

"The PSP anticipates development fronts that:

1. form a logical extension to the existing urban area
2. have convenient and logical access points
3. can be readily serviced
4. contribute to the achievement of sustainable neighbourhood principles
5. avoid isolated pockets of development for an extended period of time.

The PSP and the integrated stormwater management scheme shown on Plan 11 takes an end-of-line approach to the treatment and retardation of stormwater in order to meet Clause 56.07-4 of the Bass Coast Planning Scheme. The stormwater treatment assets have been designed to:

1. convey external flows through the Wonthaggi North East Growth Area;
2. treat post development flows from the Wonthaggi North East Growth Area in accordance with the Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO, 1999 as amended) prior to discharge at the outfalls from the PSP region; and
3. retard flows so as to avoid unreasonable impacts on:
 - a). land downstream of the Wonthaggi North East Growth Area; and
 - b). the Powlett River to the satisfaction of the catchment management authority.

The stormwater assets that are identified in the integrated stormwater management scheme are expected to be delivered over time. Accordingly, downstream stormwater assets within the Wonthaggi North East Growth Area may not have been constructed prior to development progressing upstream. If downstream stormwater assets have not been constructed, upstream development may proceed if suitable interim drainage arrangements are put in place.

The need for interim solutions to treat stormwater to best practice standards or retard to predevelopment levels, will be determined on a case by case basis to the satisfaction of Council.

The stormwater assets shown on Plan 11 have formed the basis of the DCP. The Planning and Environment Act 1987 enables the collecting agency to accept works in kind for all or part of permanent works identified in the DCP and supporting documents.

The PSP encourages a flexible approach to the design and location of those stormwater assets so long as the overall objectives of the drainage strategy are met. The DCP accommodates the flexible approach. Subject to the agreement of the drainage authority, stormwater assets which are designed to remain as permanent drainage assets may be permitted even if they are not shown on Plan 11 if they facilitate the orderly development of the precinct and reduce or replace the need for other permanent stormwater assets shown on Plan 11.

If, as a result of permanent drainage assets being permitted upstream, the need for other integrated stormwater management projects shown on Plan 11 is reduced or removed and less land take is required for a project shown in the DCP, adjustments will be made to that land take and surplus land will become part of the net developable area.”

Committee note: VPA to identify full document title when first using the abbreviations DCP and PSP.

(ii) Requirements

Requirement R48

Amend requirement R48 as follows:

“Unless otherwise agreed by the drainage authority, final detailed design of constructed waterways (including widths), drainage corridors, retarding basins, wetlands, and associated paths, boardwalks, bridges and planting, must be generally in accordance with the drainage strategy (Final Report Alluvium 2022, Final Report Engeny 2021, as amended from time to time) to the satisfaction of the catchment management authority and the drainage authority but subject to R49.”

Committee note: VPA to check wording of highlighted section.

Requirement R51

Amend requirement R51 as follows:

“Development staging must provide for the delivery of ultimate waterway and drainage infrastructure, including stormwater quality treatment. Where this is not possible, development proposals must demonstrate how any interim solution adequately manages and treats stormwater and construction sediment prior to discharge from the development and how the interim solution will enable delivery of an ultimate drainage solution, to the satisfaction of the catchment management authority and the responsible authority.”

(iii) Guidelines

Replace guideline G66 with the following version:

“The Possible Permanent Integrated Water Management Assets (subject to Council approval) identified in Plan 11 may become permanent features of the drainage network if Bass Coast Shire Council as the Drainage Authority is satisfied that:

1. the drainage assets are located along sections of the waterways identified on Plan 7 and Table 5b of the Wonthaggi North East DCP;
2. the drainage assets are designed as permanent drainage assets providing for conveyance, retardation and water quality treatment and constructed in accordance with approved plans;
3. the drainage assets are designed to meet Best Practice Environmental Management Guidelines for Urban Stormwater Management (1999) to the satisfaction of the drainage authority;

4. as part of a Stormwater Management Plan, the proponent should demonstrate the cost and sizing impacts of any possible permanent assets (PP-DR, per Table 5b of the DCP) on the overall drainage network to the satisfaction of the drainage authority;
5. the assets are designed to function as a waterway rather than a drainage corridor.

The Possible Permanent Integrated Water Management Assets must be maintained for 12 months from the date of the issue.”

Committee note: The Possible Permanent Integrated Water Management Assets (subject to Council approval) are not currently identified on Plan 11 and presumably will need to be identified consistent with the proposed wording of guideline G66.

Include the following new guideline (G#) after guideline G66:

“If, as a result of permanent drainage assets being permitted upstream, the need for other integrated Stormwater Management Projects shown on Plan 11 is reduced or removed and less land take is required for a project shown in the DCP, adjustments will be made to that land take and any surplus land will become part of the net developable area.”

(iv) Plan changes:

Plan 12 Utilities – amend the note to read:

“NOTES:

Location, alignment and sizes of utilities shown on this plan are indicative and subject to confirmation by the relevant authority”

Appendix J Committee's preferred version of the Wonthaggi North East Development Contributions Plan sections

(i) Section 2.5 Existing section 173 Agreements

Replace the section 2.5 wording with the following wording:

“There are eight Section 173 agreements made under the Planning and Environment Act 1987 that were executed prior to the approval date of this DCP. The Section 173 agreements affect 21 land parcels within this DCP area and specify development contributions to be paid or infrastructure projects that may be delivered as 'works in kind' ('Prior Agreements'). The 21 affected parcels within the precinct are illustrated on Plan 3.

A summary of PSP land parcels with corresponding Prior Agreements, dealing numbers and permit status is set out in Table 11 in Appendix A of this DCP. Some of the Prior Agreements were based on an earlier 2010 version of a DCP that was not approved. The 2010 version of the DCP included projects that differ from this DCP in terms of scope, location, cost and naming conventions.

This DCP outlines the obligations for landowners who have executed Prior Agreements where those agreements are still operative. Some projects in this DCP were listed in one or more of the agreements and have since been delivered as works-in-kind as per those existing Prior Agreements (i.e. RD-02, IN-07 and part of CU-04). Section 4.2.2 of this DCP addresses how these projects have been dealt with under this DCP.

Section 5.3.1 and 5.3.2 of this DCP provides information on payment of contributions for land parcels subject to a Prior Agreement with respect to:

1. where a planning permit for subdivision or development has been issued
2. where no planning permit for subdivision or development has been issued.”

(ii) Section 3.2.4 Integrated Water Management Projects

Replace the section 3.2.4 wording with the following wording:

“Implementation

The Integrated Water Management system has an emphasis on end of line assets to trap sediment, retard, treat and then release stormwater generated from the PSP. It will also convey existing external flows through the PSP area. In recognition that the cost of the end of line solution is significant and in order to manage staged development pressures in the interim two strategies are supported:

1. interim water management projects (which are developer funded works for which no DCP credit will be possible); and
2. possible Permanent Integrated Water Management Projects (for which a DCP credit in part or in full may be possible under certain circumstances).

In order to facilitate the implementation of the integrated stormwater assets identified by the PSP, the PSP includes:

1. A Precinct Infrastructure Plan at Appendix 5 with supporting Guideline 72;
2. Guideline 66 that provides guidance related to the delivery of interim works being accepted as possible permanent works (Possible Permanent Integrated Water Management Project);
3. Identification of location for Possible Permanent Integrated Water Management Projects (PP-DR) on Plan 7.

If the Development Agency (which is also the drainage authority) and the Collecting Agency agrees to developer works in accordance with G66 which facilitate a Possible Permanent Integrated Water Management Project (PP-DR), this must occur as part of a subdivision application. Information on extending a credit or payment for this arrangement is identified in Section 5.3.4 of this DCP.

The DCP only makes an allowance for the acquisition of land for drainage infrastructure where the land required would be otherwise unencumbered or is not the subject of a section 173 agreement which otherwise deals with the provision of land.”

[Insert following Table]:

Table 5b – Possible Permanent Integrated Water Management Projects”

DCP Project ID	Project Title	Works Description	Charge Area Contributing	Provision Trigger
PP-DR Up to a maximum of two Possible Permanent Integrated Water Management Projects each on DR-01 and DR-02 (total maximum 4 projects) subject to investigation and negotiation between the council and developer.	Possible Permanent Integrated Water Management Asset(s) STCA	Potential uplift of an interim subdivisional drainage project to a Permanent Integrated Stormwater Management Asset contained within DR-01 or DR-02 (as identified on Plan 7)	Residential and Employment	At time of subdivision, or as determined by the Development Agency.

(iii) Section 4.2.2 Calculation of Costs

Replace the section 4.2.2 wording with the following wording:

“Each infrastructure project has been assigned a land and/or construction cost as identified in Table 8 are expressed in 2021 dollars and will be adjusted in accordance with the method specified in Section 4.6.

Road and intersections projects

Road construction costs have been determined by Stantec Consultants (previously GTA) (refer to Appendix C for road cost sheets) in 2021, using a 2020/2021 cost base.

Intersection construction costs (excepting RD-02 and IN-07) have been determined by Stantec Consultants (previously GTA) (refer to Appendix C for intersection cost sheets) in 2021, using a 2020/2021 cost base.

Infrastructure projects RD-02 and IN-07 have been delivered as works-in-kind, to the satisfaction of the responsible authority. Therefore, the construction costs of RD-02 and IN-07 in this DCP have been adopted from the respective Prior Agreements (indexed to 2021 dollars).

Integrated Water Management projects

Integrated Water Management costs for wetlands, waterways and sedimentation basins have been determined by Alluvium Consulting (refer Appendix C for integrated water management and drainage costs) in 2022, using a 2019/2020 cost base (indexed to 2021 dollars). Integrated Water Management costs for drainage pipes and culverts have been determined by Engeny and Cardno (refer Appendix C for integrated water management and drainage costs) in 2019 and 2021 respectively, and subsequently adopted by Alluvium, using a 2015/2016 cost base (indexed to 2021 dollars).

The construction of WL-04 is to be provided as works-in-kind per the Prior Agreement (dealing number AT823177H, PSP parcel ID 6), executed on 1 December 2020, unless otherwise agreed by the drainage authority. This Prior Agreement nominates a minimum construction reimbursement cost of \$1,400,000, adjusted in accordance with the index upwards on 1 July each year after the commencement of the agreement (i.e. 2020). Therefore, the cost of WL-04 in this DCP reflects the cost specified in the Prior Agreement, indexed to 2021 dollars.

Infrastructure project CU-04 has been delivered in part as works-in-kind, to the satisfaction of the responsible authority. Therefore, the cost in this DCP reflects half of the cost of CU-04 as per the Section 173 Prior Agreement (indexed to the year of delivery, i.e. 2020), and half the cost as determined by Engeny.

Community Infrastructure projects

Community facilities costs have been determined by Bass Coast Shire [Council](#) and VPA (refer to Appendix C for community facilities cost sheets) in 2020, using a 2020/2021 cost base.

Active recreation project costs have been determined by Bass Coast Shire Council and VPA (refer to Appendix C for open space cost sheets) in 2020, using a 2020/2021 cost base.”

(iv) Section 4.3.1 Section 173 Agreements

Replace the section 4.3.1 wording with the following wording:

“A number of land parcels within the DCP area are subject to approved planning permits and Prior Agreement as a result of DPO21 in the Bass Coast Planning Scheme. A total of 145 hectares of land within the Main Charge Area (MCA) is subject to a Prior Agreement. The infrastructure projects and charges under the Prior Agreements are in accordance with an earlier draft 2010 DCP which was not incorporated into the Bass Coast Planning Scheme and is now outdated.

This DCP apportions the cost of all infrastructure items equally to the MCA, inclusive of parcels affected by a Prior Agreement. Therefore the cost of all DCP projects is shared equitably among all properties within the DCP. This approach upholds the principle of nexus and ensures that future development in the DCP area is not subsidised by landowners outside the MCA. Section 5.3.1 and 5.3.2 provides information on payment obligations for parcels subject to a Prior Agreement.”

(v) Section 5.3.1 Development Infrastructure

Replace the section 5.3.1 wording with the following wording:

“For parcels subject to a Prior Agreement

Where a planning permit for subdivision or development has been issued:

For land which is or was subject to a Prior agreement that makes provision for development contributions where a planning permit for subdivision or development has been issued before the date the DCP was incorporated into the Bass Coast Planning Scheme, the Development Infrastructure Levy is deemed to have been paid provided the obligations under the Prior Agreement have been or will be fully satisfied in respect of that land. The Collecting Agency will not collect the Development Infrastructure Levies payable under this DCP for that land.

Where no planning permit for subdivision or development has been issued:

For land which is or was subject to a Prior agreement that makes provision for development contributions where a planning permit for subdivision or development has not been issued, as at the date the DCP was incorporated into the Bass Coast Planning Scheme, the Collecting Agency must impose the levies under this Development Contributions Plan to that land unless a Prior agreement prevents the imposition of the levies under this DCP. A permit condition will be imposed on any permit requiring the payment of the Development Infrastructure Levy under this DCP, in accordance with the requirements for reasonable match and substantial change projects identified below. To avoid double payment, the Collecting Agency will recognise (and credit) any payment made under an existing Section 173 agreement as a payment of the development contribution liability under this DCP in relation to those reasonable match and substantial change projects as follows.

Reasonable match projects

What are reasonable match projects and how does the DCP respond?

A reasonable match project is a project identified in a Prior agreement's Infrastructure Project List that is reasonably aligned with the cost and description of a project within Table

9 of this DCP. Where a project is contained in Table 9 below, as a reasonable match project, the full amount paid under the Prior Agreement (indexed to ## dollars) is recognised (and credited) as payment of the Development Infrastructure Levy under this DCP. No contribution is required under this DCP for a reasonable match project if the levy is paid under the section 173 agreement.

[Table 9](#) ~~The following table identifies the R~~reasonable match projects [Table heading]

[Insert amended Table]

Committee note: While the format and structure of Table 9 below is appropriate and supported by the Committee, the Table should be updated to include CI-01, IN-07 and RD-02 and reflect Council's Table of Reasonable match projects (Document 338b).

Contribution amount in Section 173 agreement												
DCP 2022 Project ID	Project Description (2022 DCP)	Estimated project cost in 2022 DCP: Land & Construction (20215)	Draft 2010 DCP Project ID (20215)	Draft 2010 Project cost (indexed to year of delivery)	Summerfield s Estate (AS373799K, Parcel ID 2, 3 & 4)	Bew Family (AUS34369V, Parcel ID 5)	Northern Views Estate (AT823177H, Parcel ID 6)	173 Wentworth Road (AU665007E, Parcel ID 7)	Parklands Estate (AJ338555E, Parcel ID 50, 51 & 52)	Fowlett-Ridge Estate (AJ9135068, Parcel ID 65)	Kilun Properties (AU667735D, Parcel ID 98, 105, 109, 110, 113, 114 & 116)	55 Carneys Road (ATS79796E, Parcel ID 127)
RD-01	Heslop Road (Fuller Road to Korumburra-Wonthaggi Road) 2400m	\$4,421,711 601		\$1,511,180		\$132,444		\$4,220				
RD-02	McGibbons Road	\$289,175 810		\$289,175 *2018 dollars (indexed to year of delivery)		\$62,446						
IN-03	Heslop Road and Korumburra-Wonthaggi Road	\$2,683,898 103		\$1,030,350		\$180,607		\$5,755	\$187,340			
IN-06	Bass Highway and St Clair Boulevard	\$5,394,603 102		\$1,030,350							\$4,748	
IN-07	McGibbons Road and Korumburra-Wonthaggi Road	\$824,280 105		\$242,800 *2020 dollars (indexed to year of delivery)					\$149,871	\$61,689		
CU-03	Bass Highway (East)	\$284,206 C13		\$206,070								
CU-04	McGibbons Road (west)	\$206,048 C10		\$206,070					\$37,468	\$15,422		
CU-10	Heslop Road downstream of WL-03	\$508,227 C5		\$137,380		\$34,081			\$768			
WL-04	Wetland 4	\$3,875,744	WL-04	\$1,400,000 *referenced in Northern Views Estate Section 173 agreement								
CU-01	Community facility within village hub	\$3,865,938 C103		\$4,121,400		\$921,265	\$1,400,000 if delivered as works-in-kind	\$29,354	\$955,608	\$393,940		
CU-02	Land for community facility co-located with north-west local convenience centre	\$27,885 C103		\$41,214		\$9,213		\$394	\$9,556	\$3,933		

Substantial change projects

What are substantial change projects and how does the DCP respond?

A substantial change project is a project identified in a Prior Agreement's Infrastructure Project List that matches the location of an infrastructure project within Table 10 of this DCP, but substantially differs from this DCP in terms of cost and description.

Where an infrastructure project is contained in Table 10 below, as a substantial change project, in addition to the contribution under the Prior Agreement, the contribution under this DCP is the difference between the value of the project in the Prior Agreement (indexed to ## dollars) and the value of the project in this DCP. The total amount will not be greater than the value identified for the project in this DCP.

[Table 10](#) ~~The following table identifies the~~ substantial change projects [\[Table heading\]](#)

[\[Insert amended Table\]](#)"

Committee note: While the format and structure of Table 10 below is appropriate and supported by the Committee, the Table should be updated to include DR-02 as a substantial change project and reflect Council's Table of Substantial change projects (Document 338b).

		Contribution amount in Section 173 agreement										
DCP 2022 Project ID	Project Description (2022 DCP)	Estimated project cost in 2022 DCP: Land & Construction (2021\$)	Draft 2010 DCP Project ID	Draft 2010 DCP Project cost (Indexed to 2021\$)	Summerfields Estate (AS373799K, Parcel ID 2, 3 & 4)	Bew Family (AJ534369V, Parcel ID 5)	Northern Views Estate (AT823177H, Parcel ID 6)	173 Wentworth Road (AU665007E, Parcel ID 7)	Parklands Estate (AJ338595E, Parcel ID 90, 91 & 92)	Powlett Ridge Estate (AJ913506B, Parcel ID 65)	Klun Properties (AJ667735D, Parcel ID 98, 105, 109, 110, 113, 114 & 116)	35 Carneys Road (AT579736E, Parcel ID 127)
WL-01	Wetland 1	\$23,673,779	OS11	\$1,648,560					\$382,242	\$157,336		
WL-03	Wetland 3	\$2,653,816	OS13	\$1,030,350		\$230,316		\$7,339				
WL-04	Wetland 4	\$4,296,300										
DR-01	Western waterway	\$15,643,787	DR1 TR1	\$2,198,080 \$824,280					\$191,122	\$164,503		

(vi) Section 5.3.2 Community Infrastructure Levy

Replace the section 5.3.2 wording with the following wording:

“The Community Infrastructure Levy must be paid by the person applying for a building permit prior to the issue of a building permit.

Community Infrastructure Levies for ‘residential buildings’ will be calculated at the rate for a single dwelling. For all other forms of accommodation, a Community Infrastructure Levy must be paid for each dwelling within the development.

A Community Infrastructure Levy is not payable for a dwelling on a lot which was created prior to the approval date of this DCP.

Where a planning permit for subdivision or development has been issued:

For land which is subject to a Prior Agreement that makes provision for community infrastructure contributions where a planning permit for subdivision or development has been issued before the date the DCP was incorporated into the Bass Coast Planning Scheme, the Collecting Agency will not collect the Community Infrastructure Levies payable under this DCP for that land.

Where no planning permit for subdivision or development has been issued:

For land which is subject to a Prior Agreement that makes provision for community infrastructure contributions where a planning permit for subdivision or development has not been issued, as at the date the DCP was incorporated into the Bass Coast Planning Scheme, the Collecting Agency will impose the Community Infrastructure Levy under this DCP to that land.”

(vii) Section 5.3.4 Credit for Possible Permanent Integrated Water Management Projects

Replace the section 5.3.4 wording with the following wording:

“Under the Wonthaggi North East PSP and this DCP, there is a need to provide for the effective implementation of the integrated water management system over an extended period of time. Therefore the Development Agency (which is also the drainage authority) may agree to provide a credit for a Possible Permanent Integrated Water Management Project (per Table 5b). In doing so, the final specification, cost and land take of WL-01, WL-02, DR-03, SB-02, SB-04 and CU14 - 16 may be modified, subject to detailed design.

The amount to be allowed as a credit for the Possible Permanent Integrated Water Management Project will be calculated by the Collecting Agency having regard to its specification and contribution to the integrated water management system and the extent to which it results in a downgrading and reduced costing of downstream assets.

The amount agreed in relation to the Possible Permanent Integrated Water Management Project works, if provided as a credit in a works-in-kind arrangement, must be set out in an agreement before the commencement of construction of the possible permanent works between Bass Coast Shire Council as Collecting Agency and the Owner of the land concerned.”

Section 5.5 Construction and land value costs indexation

Add the following words to Section 5.5:

“In relation to the costs associated with infrastructure items in Prior Agreements, the costs must be adjusted based on the methodology specified in the Prior Agreement.”