

Matthew Rogers (VPA)

From: [REDACTED]
Sent: Monday, 30 November 2020 2:21 PM
To: amendments
Subject: Wonthaggi North East PSP and DCP
Attachments: VPA submission 30.11.20.pdf; s 173 signed 8.2.12.PDF; 1001632 - Planning Permit No. 170241 (Amended 070520).pdf; s 173 signed 26.11.20.pdf

Dear Sir / Madam,

Please find a submission attached on behalf of our client, Wentworth Pty Ltd.

Yours faithfully,

[REDACTED]

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To Victorian Planning Authority
Email amendments@vpa.vic.gov.au
From [REDACTED]
Email [REDACTED]
Our Ref TPL00666
Subject **Wonthaggi North East PSP and DCP**
Pages 2 (including this page). The information in this email is confidential. If you are not the intended recipient, you must not disclose or use the information contained in it. If you have received this email in error, please telephone us immediately.
Date 30 November 2020

Dear Sir / Madam,

We write to make this submission in relation to the Wonthaggi North East PSP and DCP, and the associated amendment to the Bass Coast Planning Scheme, on behalf of our client, Wentworth Pty Ltd.

Our client is the owner of land located at [REDACTED] identified as Certificate of Title Volume 11591 Folio 793, and identified by parcel identification [REDACTED] in the PSP and DCP.

Our client's primary position is that its land, [REDACTED] should be excluded from the DCP area, and therefore not subject to any DCP obligations. Our client has committed to make development contributions by way of s 173 agreements, on the basis that this land would be excluded from any DCP or the like, and this arrangement has been agreed by Bass Coast Shire Council. Copies of the following documents are provided to demonstrate this:

- s 173 agreement executed on 8 February 2012 and registered as AJ534369V, see especially clause 5.4.
- Planning permit 170241, issued on 21 February 2018, see especially condition 1(n).
- s 173 agreement executed on 26 February 2020 and awaiting registration, see especially clause 2.5.

It is a cause of frustration and difficulty to our client that, despite this long-standing arrangement in relation to the exclusion of the land from any DCP or the like, on the basis of other means of infrastructure contributions having been voluntarily agreed to, the DCP has been drafted in a form which applies to our client's land.

Our client's secondary position is that if our client's land is not to be excluded from the DCP, despite our client's contentions set out above, the DCP should make it clear that the DCP will not impose any levy or the like in respect of our client's land in the event that the contributions are made in respect of our client's land in accordance with the requirements of the s 173 agreement executed on 26 February 2020. Compliance with those provisions of that agreement should be deemed to fulfil the requirements of the DCP, and this must be made clear in the DCP itself, to avoid any risk of uncertainty. This is consistent with the intention of our client and Bass Coast Shire Council, as reflected in clause 2.5 of that agreement.

Even putting aside our client's own interests in this regard, these changes are important for the purpose of ensuring the economic integrity of the DCP and the broader public interest, in relation to the development of North East Wonthaggi. If the DCP is prepared and approved on the basis [REDACTED] will attract the 'standard' level of development contributions, the total anticipated DCP payments will be artificially inflated leading to an inevitable shortfall. The 'standard' DCP contributions will not be made in respect of land [REDACTED] as the development [REDACTED] is already underway in accordance with permit 170241 and the 'bespoke' contributions that are built into that permit and agreement. It would be a failure of public policy if the DCP was to be approved subject to a misapprehension that 'standard' contributions will apply to [REDACTED]. It would also represent a lack of transparency, particularly for the benefit of landowners and other members of the community who have an interest in the levies to be imposed and infrastructure to be delivered under the DCP.

Please do not hesitate to contact [REDACTED] if you would like to discuss any aspect of this matter.

Yours faithfully

TP LEGAL

