



Mr John Petrakos
Victorian Planning Authority
c/- Wonthaggi North East PSP
amendments@vpa.vic.gov.au

RE: Wonthaggi North East Precinct Structure Plan – Community consultation and submission

Dear John,

LandGipps would like to thank the Victorian Planning Authority (VPA) for affording us the opportunity to make a submission on the proposed Wonthaggi North East PSP and DCP. We would also like to state that we strongly support the VPA taking these documents through the fast-track process, for streamlined approval and implementation into the Bass Coast Shire Council planning scheme. Further, we support the proposed timeline for completion, which has the capacity to take the PSP and DCP through to the Minister's Standing Advisory Committee for further exploration.

Currently, there are some issues and inconsistencies within the document, which we believe can be easily fixed, however, these issues could create significant problems in the future, particularly around how the PSP is interpreted and applied once implemented into the planning scheme.

As land development stakeholders in the Wonthaggi region, we would like to put forward our strong support for the proposed Wonthaggi North East PSP and DCP to be reviewed by the Minister's Standing Advisory Committee, to further investigate any inconsistencies in the document; inconsistencies which as stated, we believe can be easily be corrected during the planning and review stage, and before their implementation into the planning scheme.

It is at this point we raise the following issues as a sample, for your consideration to review, with the mind to resolve them through the Minister's Standing Advisory Committee review process. There are other similar issues that we will need more time to investigate further, which we believe would be appropriate to raise via a Standing Advisory Committee.

Carney's Road Intersection (IN-05)

Currently, the northern leg of the road that is proposed in diagram IN-05 is through retained vegetation noted in the current draft Native Vegetation report. This could set the community expectation that vegetation would be retained and could also make the application of this unclear. There is an opportunity to update the Native Vegetation report to show the removal of the necessary vegetation in the Carney's Road unmade road reserve.

Carney's Road construction from IN-05

Currently, the Carney's Road construction is not included on the road network, nor is its cross section shown in the current documentation. We see this could be rectified by including Carney's Road into the road network, with the inclusion of the cross section.

Constructed waterway DR-01 through Lot C PS818645 ("Botanic Drive" or Parkview Estate)

Currently, part of Lot 3, PS628069 (5261 Bass Highway) would likely be unable to connect to this waterway, due to the site levels. There is a great opportunity to ensure that the drainage required can be constructed by seeking to place a Public Acquisition Overlay on Lot C PS818645.

DCP roundabout IN-07 (McGibbony's Road and Korumburra Road)

Currently, McGibbony's Road / Korumburra Road intersection is proposed as a \$1.7m DCP future project, as this infrastructure sits outside of the PSP boundary and is now constructed, We believe this project and its allocation of funds should be removed from the DCP, therefore the application and use of the DCP will result in a fair and equitable distribution of funds across DCP projects.

Mixed use zone at Lot 2 PS628069 (5261 Bass Hwy)

Currently, there is no schedule included to define planning outcomes for mixed-use zone, this does not allow for certainty or definition in delivery of project in this zone. If there were to be a schedule included to define the mixed-use zone, it would provide greater clarity and define the planning outcomes for Lot 2 PS628069 (5261 Bass Hwy).

PSP boundary at Carney's Road

Currently, the PSP boundary cuts Carney's Road in half. We believe that there is an opportunity in the planning and review stage to include all of Carney's Road within the PSP boundary.

We are open to continuing these conversations and as we look for the best way to work through these issues during this process. We request the opportunity to discuss this in further detail at your pleasure at the through the Minister's Standing Advisory Committee review process, where we can provide further reporting and documentation to support these conclusions.

Thank you for this opportunity to make a submission.

Warmest regards



Our Ref: RC:229/20
Our Contact: [REDACTED]
Your Ref:

30 November 2020

Landgipps VIC Pty Ltd
70 Queen Street
WARRAGUL VIC 3820

By e-mail only: [REDACTED]

Dear [REDACTED]

**Re: Bass Coast Planning Scheme Amendment C152
Wonthaggi North East Precinct Structure Plan**

1. We refer to the above matter and thank you for your instructions to advise regarding the Wonthaggi North East Development Contributions Plan (**DCP**) proposed in proposed amendment C152 (**C152**) to the Bass Coast Planning Scheme (**Planning Scheme**).
2. We note you are preparing submissions on behalf of the owners of 5261 Bass Highway, Wonthaggi (**Land**).
3. The Planning Scheme currently provides that the Land is:
 - a. zoned as a mix of both Commercial 2 and Farming Zone;
 - b. subject to Development Plan Overlay (**DPO**) and Schedule 21 to the Development Plan Overlay (**DPO21**);
 - c. subject to an Environmental Significance Overlay and Schedule 4 to the Environmental Significance Overlay.

Current Status of Developer Contributions

4. As noted at [3] above, the Land is subject to DPO and DPO21. These provisions do not establish a conventional development contributions plan, though they make vague reference to the 'Wonthaggi/Dalyston Structure Plan'. Notably, this plan is not incorporated into the Planning Scheme and is a reference document only.
5. Instead, DPO21 provides for a mandatory permit condition that owners enter into an agreement under Section 173 of the *Planning and Environment Act 1987 (Act)* that they will make unspecified contributions to unspecified on-site and off-site road and traffic improvements required as a consequence of the intended use and development of their land.
6. We note that this requirement is limited strictly to:
 - a. infrastructure required as a consequence of each specific development proposal, rather than precinct wide needs; and,
 - b. road and traffic infrastructure only.

C152 Proposal

7. We note that the DCP includes a number of projects that would appear to directly relate to the Land and would likely be the subject of permit conditions that the landowner complete those works. As you are aware, the landowner will be entitled to works in kind credits towards contributions required under the DCP, based on costings set in the DCP (**WIK Credits**).
8. The DCP separately costs out each project and we are not in a position to comment on this costing. However, we note that:
 - a. development authorities such as Regional Roads Victoria tend to take the position that their infrastructure standards override those contained in the DCP. It would be appropriate to ensure these standards are aligned now, to avoid inconsistencies arising in the future;
 - b. the costing of this project should be reflective of the current cost to deliver this project in accordance with any requirements of other authorities such as Regional Roads Victoria.
9. We also note your instructions that DCP project IN-07, the Korumburra Road/McGibbonys Road Intersection upgrade, has already been completed. Assuming that is the case, there is no basis for IN-07 to be included in the DCP as:
 - a. DCPs are designed for apportioning the cost of new or upgraded infrastructure, rather than retrospectively apportioning the costs of already completed projects;
 - b. Section 46Q(2)(a) of the Act expressly requires that Council must only apply levies raised under the DCP:

for a purpose relating to plan preparation costs or the provision of works, services and facilities in respect of which the levy was imposed;

 which obviously excludes the funds being retained by Council as a reimbursement for previously completed works.
10. On that theme, the DCP seeks to retrospectively amalgamate pre-existing section 173 agreements (**Legacy Agreements**) and associated contributions into the DCP, as described in clause 4.4 of the DCP. It is unclear how Council and the VPA propose to resolve:
 - a. the treatment of levies paid under Legacy Agreements i.e. will they actually form part of the pool of funds administered under the DCP;
 - b. what arrangements will be made for reimbursement of overpaid funds, and what priority (if any) will be applied for refunds;
 - c. the narrow uses available for payments under DPO21 noted at [6(b)], where the DCP also seeks to fund community, drainage and other infrastructure.
11. For completeness, we note that:
 - a. clause 4.4 of the DCP should be redrafted to clarify how payments under Legacy Agreements are treated, as the current drafting appears to say that payment of any sum under a Legacy Agreement means 'no further payment will be required' under the DCP;
 - b. clause 4.5 of the DCP incorrectly refers to section 46QA of the Act - this reference should be to 46Q as Council is the collecting agency for the DCP.

Implementation of the DCP

12. Presuming C152 is gazetted and development of the Land proceeds, the landowners will be required to enter into an agreement under Section 173 of the Act to secure payment of levies under the DCP.

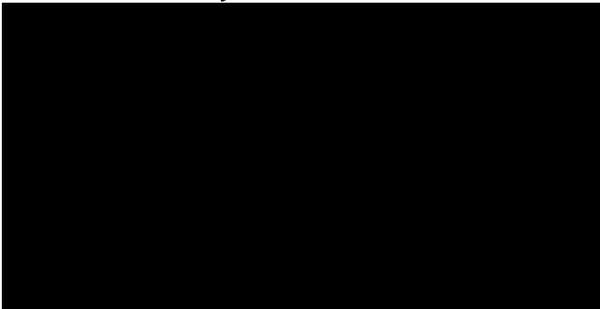


13. The default mechanism for payment is in cash, however Council will accept WIK Credits by agreement, provided that agreement is in writing per clause 4.3.3 of the DCP. This agreement should be incorporated into the section 173 agreement noted above. We recommend that this agreement be executed at an early stage to ensure this procedural requirement for WIK Credits is not inadvertently overlooked.

Recommendations

14. In summary, we recommend:
 - a. further work be done by the landowner's engineers, Council and the VPA's standing committee to ensure that construction costing is accurate and reflects current standards of third-party authorities;
 - b. the inclusion of IN-07 in the DCP be challenged as the infrastructure has already been delivered; and,
 - c. if and when development of the Land proceeds, the landowner ensure that a properly drafted section 173 agreement is promptly registered, including provision for their recovery of appropriate WIK credits.
15. Please do not hesitate to advise us if we can be of any further assistance.

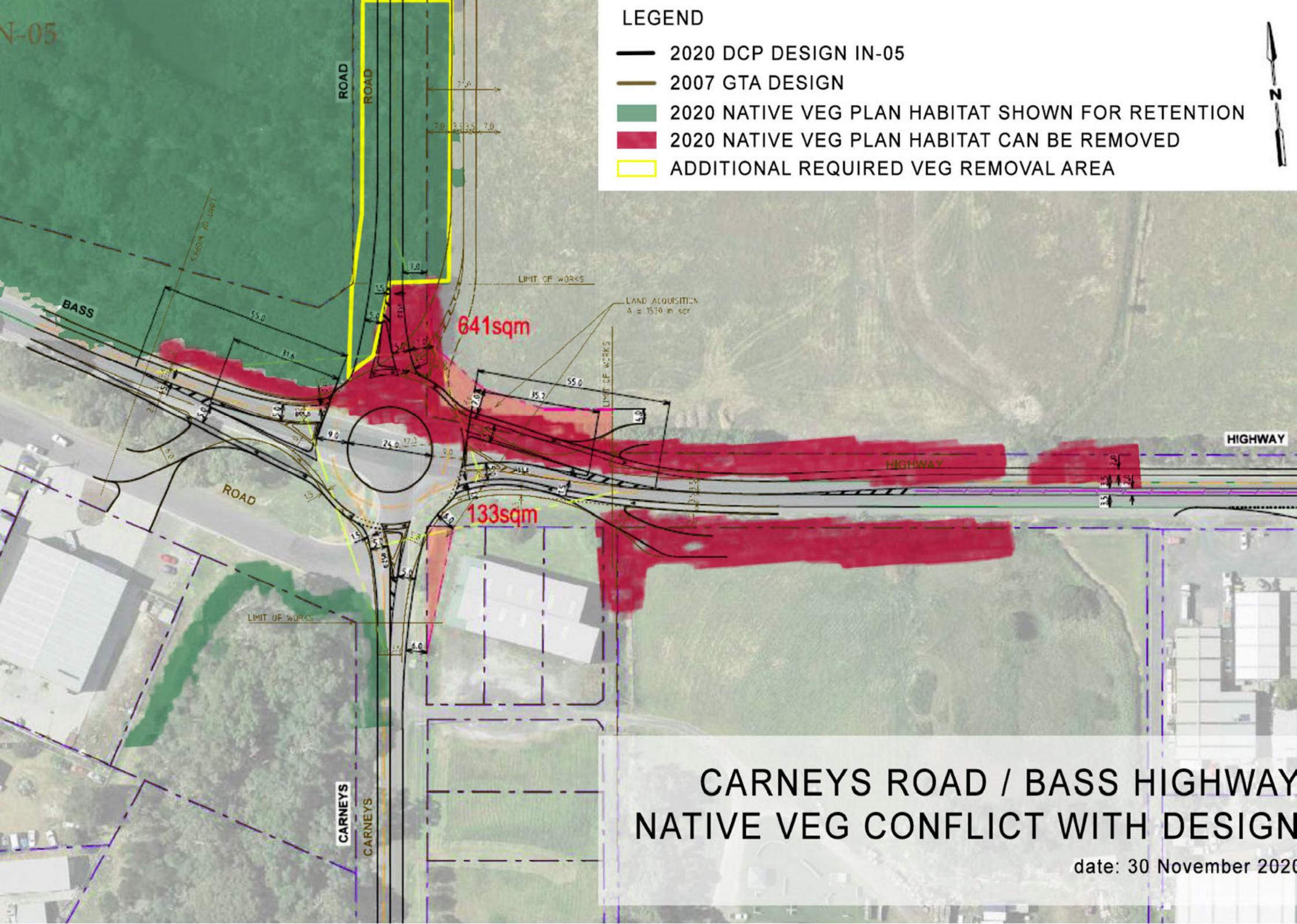
Yours faithfully



N-05

LEGEND

- 2020 DCP DESIGN IN-05
- 2007 GTA DESIGN
- 2020 NATIVE VEG PLAN HABITAT SHOWN FOR RETENTION
- 2020 NATIVE VEG PLAN HABITAT CAN BE REMOVED
- ADDITIONAL REQUIRED VEG REMOVAL AREA



641sqm

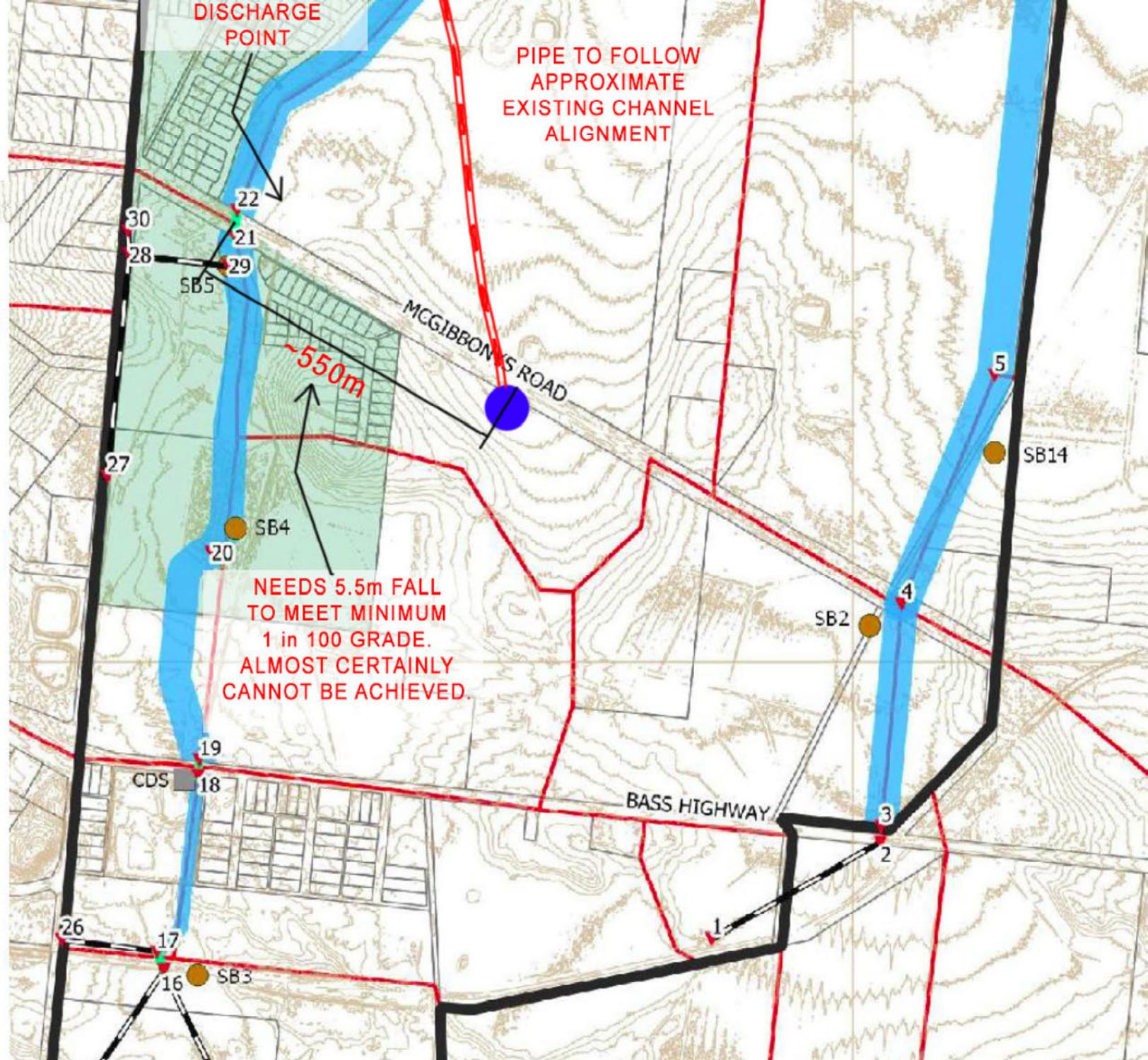
133sqm

CARNEYS ROAD / BASS HIGHWAY NATIVE VEG CONFLICT WITH DESIGN

date: 30 November 2020

- Subject site outlet
- ▬ Proposed pipe (needs PAO)

- ### Legend
- Contour (500 mm interval)
 - Property Boundary
 - ▭ Development Area
 - ▭ Existing/ Approved Residential Development
 - ▭ Sub-catchment Boundary
 - ▼ Node Location ID
 - ▭ Waterway Corridor
 - ▭ Wetland
 - ▭ Retarding Basin
 - ▭ CDS Unit
 - Sediment Pond
 - ▭ Existing Culvert
 - ▭ External Catchment Conveyance Pipe
 - ▭ Upgrade Pipe
 - ▭ Waterway Culvert



STORMWATER MANAGEMENT PLAN
STORMWATER ISSUE FOR 5001 BASS HIGHWAY