

PLANNING PANELS VICTORIA

VPA PROJECTS STANDING ADVISORY COMMITTEE – REFERRAL No.3

**DRAFT AMENDMENT C152 TO THE BASS COAST PLANNING SCHEME
(WONTHAGGI NORTH EAST PRECINCT STRUCTURE PLAN)**

SUBMISSION ON BEHALF OF C, G and A PATERNO L& G CLIFFORD AND (TRANCHE2)

Planning Authority Victorian Planning Authority and Bass Coast Shire Council

Subject Land 37 Carneys Road, Wonthaggi

Date of hearing Commencing 30 May 2022 (Tranche 2)

Introduction

1. This submission is made on behalf of:
 - a. Cheryl and Giovanni Paterno, the registered owners of 37 Carneys Road, Wonthaggi;
and
 - b. Leigh and Gemma Clifford and Alexander Paterno as occupiers of 37 Carneys Road,
Wonthaggi.
2. 37 Carneys Road (**Subject Land**) is described as properties 128 and 129 the draft Wonthaggi North East Precinct Structure Plan (**draft PSP**) and associated Development Contributions Plan (**draft DCP**).
3. The submitters are described as submission 19 in the VPA Part A and B submissions.
4. The exhibited land budget for the draft Wonthaggi North East DCP indicates the following for properties 128 and 129:

Property Number	Area (ha)	Uncredited open space	Credited open space	Net Developable Area (Ha)
128	15.19	1.85	0.90	12.33
129	12.88	0		12.88

5. The Net Developable Hectares (**NDHa**) for these properties has been reduced following release of the amended (November 2021) DCP and PSP.
6. The revised land budget for properties shows 11.9 NDHa for property 128 and 12.86 NDHa for property 129. This reflects an allowance of more land for drainage purposes for Sediment Basin SB-01.

Issues to be addressed

7. These submissions will address the following issues:
 - a. Changes arising from the amended DCP;
 - b. Change to the PSP
 - c. The Native Vegetation Precinct Plan
 - d. The Bushfire buffer affecting the land;
 - e. Uncredited open space
 - f. Land equalisation; and
 - g. Amenity protection.
8. We note that paragraph 25 of the T2 direction indicates that submissions regarding drafting issues will be received following the close of the hearing.

The changes to the DCP

9. The amended rate for employment land is \$264,334 per Net Developable Hectare, compared with the exhibited rate of \$138,678 per hectare.
10. The cost of drainage projects increased from \$53m in the exhibited DCP to \$127m in the November 2021 DCP. That is extraordinary in and of itself.
11. This is well above the standard levy rate for employment land that applies in the urban Growth Zone of Metropolitan Melbourne, and well above rates applied in Armstrong Creek that include drainage rates (as set out in the table below):

Summary of Development Contribution Levies		
Growth Area	Development infrastructure	
	Residential \$/ha	Commercial \$/ha
North East Industrial Precinct	n/a	\$99,598.42
Curlewis Growth Area (also known as Jetty Road Urban Growth Area)	\$106,700.40	n/a
Armstrong Creek East Precinct	\$279,972.06	\$143,602.55
Armstrong Creek West Precinct	\$304,895.45	\$161,808.26
Horseshoe Bend Precinct	\$349,836.14	\$228,877.73

12. By comparison the Ballarat West DCP imposes a DIL rate of \$182,306 for commercial land. This DCP was the subject of a panel report. Contentions regarding the design and cost of drainage infrastructure costs were at the core of that panel hearing. The Ballarat West DCP landowners group fought to allow greater flexibility for distributed drainage infrastructure, to reduce the cost of the more centralised design proposed in that matter. The total value of projects within the final version of the DCP was significantly reduced from the exhibited version of the DCP.
13. The total cost of projects to be funded by the amended DCP has increased significantly. On its face this creates a significant inequity between the rates imposed in existing section 173 agreements and landowners who will be subject to the DCP.
14. In the case of the adjoining land at 35 Carneys Road, the section 173 agreement was executed immediately prior to the exhibition of the DCP. Our clients wrote to Council on 22 December 2020 urging it not to pre-empt the outcome of the DCP process by issuing a subdivision permit before the PSP had been resolved (see copy correspondence provided with this submission).
15. In those circumstances, it is incumbent on the Council to ensure that our clients are not penalised in terms of the rates payable, compared with the owners of 35 Carneys Road.
16. The Council should exercise its power to amend the permit issued and to review the terms of the section 173 agreement for 35 Carneys Road under section 178A(5) of the Act to ensure that the rate payable reflects the benefits it will receive from the DCP.

17. Section 178A(5) provides:

The responsible authority may, on its own initiative, propose to amend or end an agreement.

The circumstances are that the section 173 agreement for 35 Carneys Rd contemplates that the levies are used to fund projects required by the Wonthaggi North-East DCP.

18. It is regrettable that the Council exposed itself to this situation. However, our clients accept that the exercise of any power to cancel or amend the permit or to review the section 173 agreement is not before the Standing Advisory Committee (**SAC**).

The Mesh Options report

19. The Mesh Options Report (October 2021) emphasises repeatedly that in order to achieve equity between landowners subject to the DCP and those subject to existing permits or section 173 agreements, the Council has to fund the shortfall.

20. However, the Mesh Options Report is based on the original version of the DCP (November 2020). It does not reflect the revised project costs or charge rates in the November 2021 version of the DCP.

21. Section 2.1.1 of the Mesh Report states:

The Proposed DCP includes the following charges in 2020 \$'s: -

☐ Community Infrastructure Levy of \$1,116.52; and

☐ Development Infrastructure Levy of \$166,648 per net developable hectare for residential land; and

☐ Development Infrastructure Levy of \$138,678 per net developable hectare for employment land.

22. The recommendations are of limited relevance unless that report is updated to reflect the doubling of the charge rate for Employment land.

23. Of Options 1 -4 it can be said that:

- Option 1 (Echeleon) seeks to remove the s173 agreement land from the DCP (through apportionment);
- Option 2 starts with the premise of removal, but allows for changes where there is an agreement, via a voluntary legal agreement;
- Option 3 (Mesh proposal): seeks to apportion the funding gap by amending or removing existing 173 agreements and review each of the issued permits;
- Option 4 (VPA proposal) seeks to remove the land that is subject of existing section 173 agreements from the DCP and redraft the DCP to apportion contributions to land subject to the DCP and land subject to section 173 agreements based on demand for infrastructure within the PSP area.

24. Option 3 seeks to reduce the funding gap by amending s173 agreements and existing permits, although it does not propose any change to the Carneys Road Estate, on the basis that its contribution is to DCP projects. Critically, however, this does not take into account the subsequent increase in the charge rates and project costs. The position is no longer tenable from an equity point of view.

25. Option 4 has a similar funding gap to Option 1.

26. In relation to Option 2 the Mesh Report assumes that the charge rates will not change. In relation to 'equity' Option 3 is assessed as follows:

☐ Equity in the proposed DCP charge levels is only maintained where the gap (external apportionment) is attributed to Council.

☐ Due to the allocation of external apportionment (funded by Council) the proposed residential and employment levies match those in the exhibited DCP. Therefore, the future land to be developed is not required to pay additional contributions to subsidise the land with existing Section 173 Agreements.

☐ All estates subject to existing Section 173 Agreements are paying lower levels of contributions compared with the balance of the DCP area. The contributions required for Proposed DCP projects under the respective Agreement range from \$58,218 - \$104,724 per NDHa for residential land uses and \$4,276 - \$132,322 per NDHa for employment land uses. These charge rates are lower than the proposed residential development infrastructure levy of \$166,649/NDHa and the employment development infrastructure levy of \$138,679/NDHa.

☐ Option 2 assumes all affected parties honour the existing Section 173 Agreements but it seeks additional contributions from land subject to an existing Agreement for strategically justified projects. The additional charge only applies to land not yet subject to an approved planning permit.

☐ The proposed residential and employment levies match those in the exhibited DCP only where the resultant external apportionment is attributed to Council.

27. Whereas Option 2 contemplates increase dc charges via amendment of existing s173 agreements, page 24 of the report states that Option 3 results in no extra charges to the 35 Carneys Road Estate:

28. It can be seen from the following table that the assumptions for Option 3 are inconsistent with the revised DCP (see p. 24):

The total project cost of all DCP projects remains \$90,279,161.

☐ The residential development infrastructure levy remains \$166,649/NDHa

☐ The employment development infrastructure levy remains \$138,679/NDHa

☐ It is estimated that approximately \$12.9M in contributions towards DCP projects is to be collected under the existing Section 173 Agreements which includes \$843,163 in CIL payments from the Summerfields and Northern Views estates and 173 Wentworth Road.

☐

☐

☐

☐ Carneys Road Estate is not required to make any further contributions as the as the contribution required under the Section 173 Agreement are towards all Proposed DCP projects.

☐

☐ The additional contributions lower the funding gap to approximately \$4.4M.

29. It is of little assistance to the SAC to consider options based on a superseded draft of the DCP, where the DIL rate for Employment land is 50% of what is now proposed. The Mesh Report must be revised, in light of the significant increase to the charge rates.

30. Option 4 is described as the VPA Option in the Mesh Report. Under the heading Equity, page 29 included statements that:

Equity in the proposed DCP charge levels is only maintained where the gap (external apportionment) is attributed to Council.

☐ Due to the allocation of external apportionment (funded by Council) the proposed residential and employment levies match those in the exhibited DCP. Therefore, the future land to be developed is not required to pay additional contributions to subsidise the land with existing Section 173 Agreements.

☐ Notwithstanding allocation of the external apportionment, Option 4 is inequitable in that the sites subject to existing Section 173 Agreements are paying lower levels

of contributions compared with the balance of the DCP area whilst still gaining the benefit associated with the provision of the infrastructure.

☐ This option effectively results in two separate charge areas if it were implemented i.e. one charge for all land not subject of an existing Agreement and lower, varying charges for the areas subject to an existing Agreement.

☐ Council is required to fund approximately \$11.7M which is the gap between the amount apportioned to external demand and the amount to be collected from the various Section 173 Agreements.

31. Section 4 of the Mesh Options Report (Recommendations) commences with the following statement:

Based on the analysis of the four options it becomes evident that the key variable which enables the exhibited DCP rates for residential and employment land to be maintained (such that the proposed charges appear to be equitable) is the extent of 'external apportionment'.

32. It then states:

It is important to note that the four options considered do not seek to reduce project costs or increase charge rates.

33. Clearly, that advice was not adopted in the November DCP, as the employment land DIL rate has effectively doubled.

34. The increase in project costs and overall charge rates for employment land amplifies the need to ensure there is equity. The potential for inequity is much higher now because the extra costs cannot be levied to existing section 173 agreements, unless those agreements are amended.

35. The recommendations state as follows:

In the absence of existing Section 173 Agreements and other existing approvals and in order to ensure that all benefitting land makes an appropriate contribution (toward all of the projects that are included within the DCP) Option 3, in a perfect world, is preferred. However, based on the Proposed DCP charges and project list, the status of development within the Proposed DCP area (including existing Section 173 Agreements and existing planning permits) Option 2 is preferred and recommended, noting that it will require consequential changes and updates to some existing Section 173 Agreements and some planning permit conditions

36. Assuming that its feasible to amend all of those agreements is bold, but ultimately not a realistic basis for planning to progress this PSP and DCP. While the amendment of s173

agreements is a major problem for the Council, it need not result in undue complexity for the DCP. Options 2 and 3 are doing little more than spreading the administrative and financial troubles of the Council to the DCP. Options 2 and 3 are recipes for administrative complexity, uncertainty and undue delay in the resolution of the DCP.

37. Amendment of s173 agreements can't be assumed as an outcome until the Council lodges an application to VCAT to amend the relevant permits and section 173 agreements.

38. This approach will effectively create significant uncertainty for an extended period of time. It is likely to lead to further delays in the approval of the DCP and the PSP.

39. Mesh recommended that the DCP be updated to reflect Option 2. The reality is that the amended DCP does not reflect Option 2. Section 4.3.1 of the amended DCP states:

Despite the separate charge rates established by existing Section 173 Agreements, this DCP apportions the costs for all infrastructure items equally to the MCA, inclusive of parcels affected by a Section 173 Agreement.

40. This is inconsistent with the equity considerations of the Mesh report and long standing guidance regarding the equitable apportionment of DCPs and Melbourne Water Development Services Schemes in Victoria.

41. By contrast, an approach that apportions the cost of projects on S173 agreement land out of the DCP, allows the Council to deal with the issues in its capacity as the Responsible Authority, without holding up the PSP and DCP process.

42. In short the funding gap should be resolved outside of the DCP.

Modified Option 4

43. Options 2 and 3 as recommended by Mesh cannot be seriously entertained or relied on for drafting purposes because:

- a. they are unduly complex;
- b. they depend on whether the Responsible Authority initiates a review of each and every section 173 agreement;

- c. they depend on how litigation is resolved; and
 - d. they do not resolve how the relevant DCP projects will be delivered on the land affected by s173 agreements

- 44. It's a matter for the Council to resolve. Amendment of section 173 agreements is not the SAC's problem. Neither the SAC nor the Minister for Planning have powers to deal with section 173 agreements or to make recommendations about them.

- 45. The Paterno's support a modified version of Option 4 (i.e., the VPA Option), which involves:
 - a. the removal (i.e., external apportionment) of DCP projects on DCP land affected by s173 agreements from the DCP; and
 - b. the consideration of reserving land for critical projects within those landholdings via a public acquisition overlay, in the absence of agreement with the relevant landowners.

- 46. This requires the Council to address the funding gap, but more importantly, it minimises the risk that the remaining landowners subsidise the significant increase in DCP project costs reflected in the November 2021 DCP.

- 47. In order to deliver an equitable outcome, the remaining landowners cannot be subsidising DCP projects on the s173 agreement landholdings.

- 48. This modified option 4 still allows Options 2 and 3 to be pursued, but outside of the PSP and DCP process. This approach recognises that the solution to the funding problem must be resolved by the Council but separately to the PSP and DCP process.

- 49. If the Council is successful in its efforts to reduce the funding gap by having s173 agreements amended, then that will be a better outcome. But it is of little relevance to the equitable structuring of the DCP. If it is successful the DCP can be reviewed periodically to address this.

- 50. In circumstances where the Employment DIL rate has effectively doubled, the SAC's focus should be to ensure an equitable outcome that minimises the charge difference between landowners subject to the DCP and landowners subject to recently executed s173 agreements.

51. In the case of 35 Carneys Road, there is simply no equitable basis to accept that they should pay the former rate, and everyone else should pay double.
52. The Mesh Report is not clear as to whether the DCP projects on the s173 land should remain in the DCP or be funded and delivered separately. The legal reality is that there is no legal mechanism to have those projects delivered as works in kind, if the land is developed subject to a permit that is exempt from the DCP. As such, the projects on the affected landholdings must be removed and delivered by a separate process.
53. If those landholdings remain within the DCP, but are not subject to it, then there must be a mechanism to deliver the land required for DCP Projects and a legal mechanism to secure that land. The Mesh Report does not identify any option to resolve this issue.

Apportionment of DCP Projects on land affected by S173 agreements

54. It is one thing to assess the revenue gap by apportioning out the landholdings, but the SAC must also look at the value of DCP projects that could otherwise be delivered as WIK on those landholdings.
55. The following projects values (based on the November 2021 DCP costs) are identified as being on land affected by section 173 agreements:

Property	DCP Project	Project Cost (unapportioned)
Northern Views Estate	WL-04	\$7,874, 043
Parklands Estate	DR-01	\$18,256, 546
Parklands Estate	CU-04	\$206,066
Parklands Estate	CU-05	\$717,650
35 Carneys Rd	CU-01	\$239,624
Northern Views Estate Bew Family Investments	RD-01	\$4,421,711
Total cost		\$31,715,640

56. Apportioning these DCP Projects out of the DCP (to the extent located on S173 Agreement Land) would reduce the Employment DIL (hopefully) to somewhere between \$138,678 per NDHa and \$228,877 per NDHa. It would be within a range of rates previously accepted by Panels for employment land outside of Melbourne.

57. The projects costs set out above have not been apportioned to reflect the proportional contribution required for the land affected by existing S173 agreements. A simple method would be based on the proportion of the project traversing S173 landholdings. For DR-01, which runs through the entire estate, this would be the project length running through the Parklands Estate divided by the total project length, representing the portion that cannot be delivered as works in kind under the DCP.
58. These projects cannot be delivered as works in kind (WIK) that would usually be credited against DCP liabilities. The Council must, therefore, find a way to fund and deliver these projects outside of the DCP.
59. Removing these projects will simplify the DCP and also assist the balance of landowners in achieving a DIL rate closer to the originally exhibited DCP.

Existing permits that expire

60. The DCP should include text providing that levies are payable if permits issue on existing landholdings with section 173 agreements, if a new permit is sought for a development of a type caught by the DCP.
61. It is reasonable and appropriate for the DCP to capture permits that expire, or stages that are yet to receive a permit.
62. The DCP should provide that such landholdings are subject to the DCP if new permits issue. These levies can be tied to identified projects for those landholdings so the DCP is not overfunded. This will further reduce the funding gap for those projects.
63. This can also be addressed by a periodic review of the DCP that can occur after the PSP has been gazetted. It need not delay the SAC process.

Project apportionment generally

64. The entire DCP apportionment methodology requires revision to ensure equitable apportionment across the DCP area, to reflect the benefits accruing to S173 Agreement Land that is not subject to the DCP.

65. The following projects external to the DCP catchment should be apportioned to reflect the apportionment of significant areas of S173 agreement land out of the DCP:

Project Number	Cost
IN-07	\$824,266
RD-02	\$1,063,958

Updated land valuations

66. Having regard to the ongoing delays, it contended that by the time the SAC reconvenes that the land valuations underpinning the DCP may be out of date. The SAC should recommend that the land valuations in the DCP are updated before the DCP is gazetted.

Changes to the PSP

67. Our clients do not support the following aspects of the revised PSP as it affects their landholdings:

- a. The additional 30m bushfire buffer;
- b. The crediting arrangements for open space shown on their land.

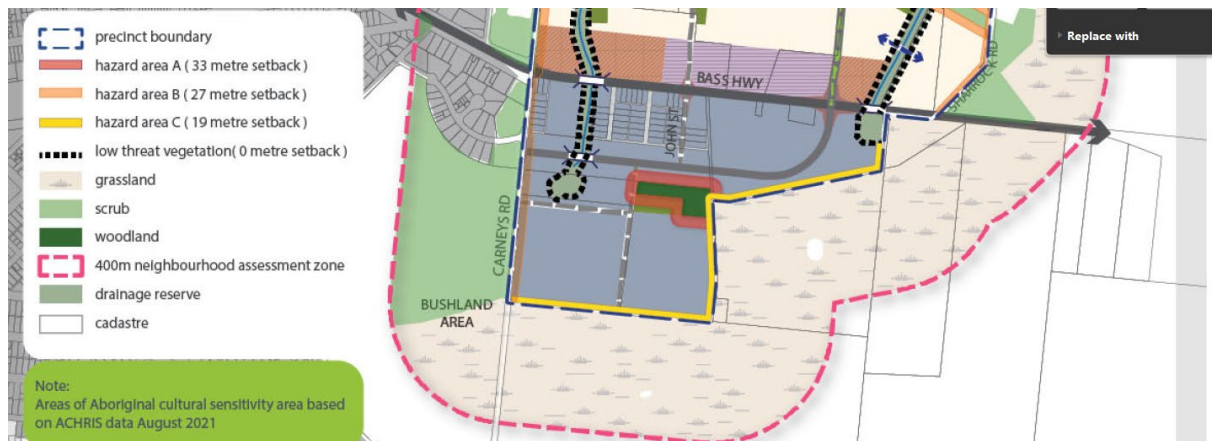
68. At the hearing the Paternos will contend for the following outcomes:

- a. remove the buffer area from their land;
- b. amend the wording of the provisions relating to the bushfire buffer to allow greater flexibility to allow buildings and works associated with commercial or employment land, where there is supported by a Bushfire Management Statement approved by the Responsible Authority;
- c. increase the allowance for credited open space and a reduced allocation for uncredited open space;
- d. provide additional flexibility to allow the location of some of the sediment basin to be varied to include sediment storage capacity within the open space area shown to the north of the existing dwelling, noting the obvious existing function of this area as an area where water flows and can be captured, subject to a catchment analysis.

- e. Strengthen amenity protection for existing dwellings to reflect the amenity objectives of the relevant applied industrial zones.

Bushfire buffer

69. Plan 7 of the amended PSP includes a 30m buffer around the existing dwelling house.



70. The Addendum Report prepared by Terramtrix (August 2021) notes that:

- The entire WNEPSP is within a designated BPA and a small area near the western boundary is covered by the BMO;
- To achieve the BAL-12.5 rating required for settlement growth by Clause 13.02-1S
 - Bushfire Planning, buildings will need to be setback 19m from classified Grassland,
 - 27m from classified Scrub and 33m from classified Woodland. These areas have been identified and mapped.
- Much of the WNEPSP area is likely to be rendered low threat by the planned urban
- development and may become eligible for excision from the BPA as development proceeds.

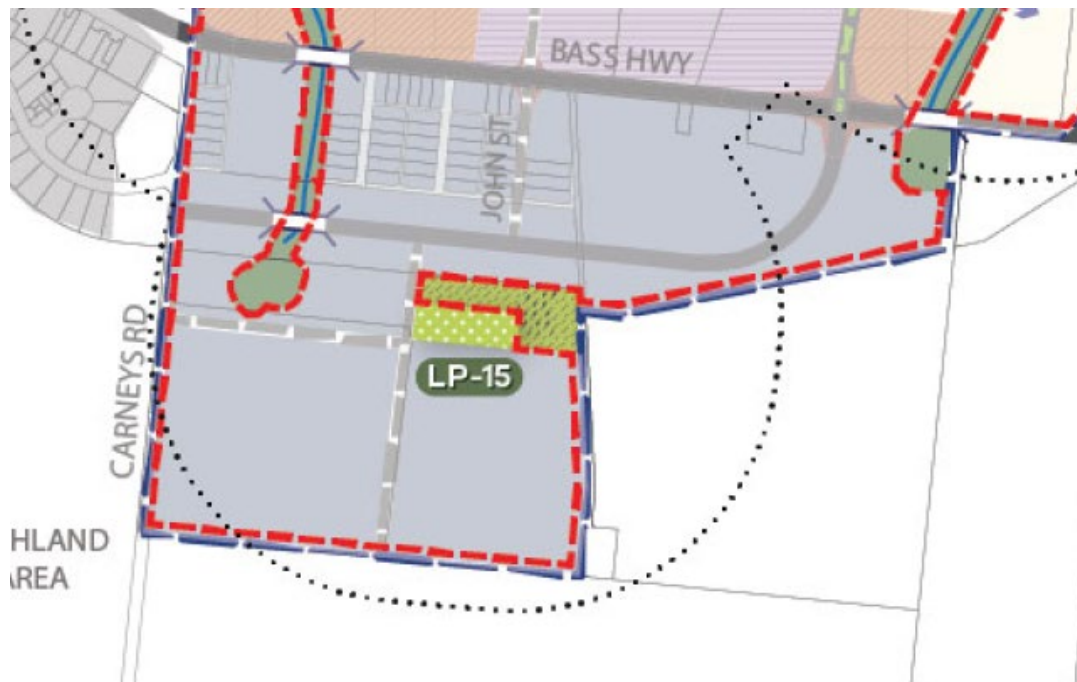
71. Section 5 of the report notes that strips of vegetation less than 20m in width (regardless of length) can be excluded. The vegetation around the perimeter of the farmhouse is not a patch of bushland vegetation, but generally comprises trees in strips of vegetation.

72. While a polygon has been mapped as Woodland, a close analysis will reveal that it largely reflects a mowed lawn with trees around the edges of the farmhouse property. This can be seen in the images previously supplied with the T1 submission.
73. It is not clear that the assessment underlying this 30m buffer has been the subject of a detailed assessment on the ground.
74. The following panorama shows shelterbelt plantings to the south of the dwelling, which can be removed at the time of development without any risk to future built form.



75. This area should not be mapped as being subject to a 33m setback buffer. Even if this area remains mapped in the PSP, appropriate wording should be included in the requirements and guidelines to recognise the flexibility to be afforded by a more thorough ground based risk assessment at the planning permit stage.
76. Further, the eastern portion of the area mapped as a bushfire buffer is not justified as that area is characterised by shelterbelt plantings. It is not woodland in any practical sense.
77. The 33m buffer over 37 Carneys Road also applies to land at 35 Carneys Road. The conditions of planning permit 120054 issued on 30 March 2021 are noted for the land at 35 Carneys Road. Conditions 42 and 43 of that permit reflect the requirements of the Country Fire Authority and do not include any requirement for buildings to be setback from vegetation.

78. The planning authority must be able to explain why it is acceptable to issue a permit after the PSP was exhibited with no setback requirements, but to then impose setback requirements for land outside the Bushfire Management Overlay, via an amendment to the PSP, which was not flagged during the T1 hearing.
79. The requirement does not appear to be justified for land outside the BMO. It is not clear that the CFA requires this setback, and if it does not this requirement should be removed from the PSP.
80. Furthermore, it is reasonable to expect that the land comprising local park LP-15 is landscaped in a manner that does not generate bushfire risk that constrains the development potential of land to its south or west:



81. This is particularly so where the vegetation to the south and west of the dwelling is shelterbelt or exotics that is unlikely to be retained under a future development scenario.
82. The public land manager should not externalising a buffer to protect for shelterbelt plantings.

83. In any event if strips of vegetation are managed to be less than 20m in width then it should be adequate applying the Australian standard referred to by Terra matrix.

84. Plan 7 also includes a hatched line described as “400m Neighbourhood Assessment Zone.’ The purpose of this zone is not defined in the PSP. Unless its purpose is clarified it should be removed from the Employment Areas of the PSP.

Uncredited open space

85. The Paterno’s repeat their original submission which contends that there is too much land shown as uncredited open space.

86. Much of the reserve shown as uncredited open space is cleared land and should be credited open space.

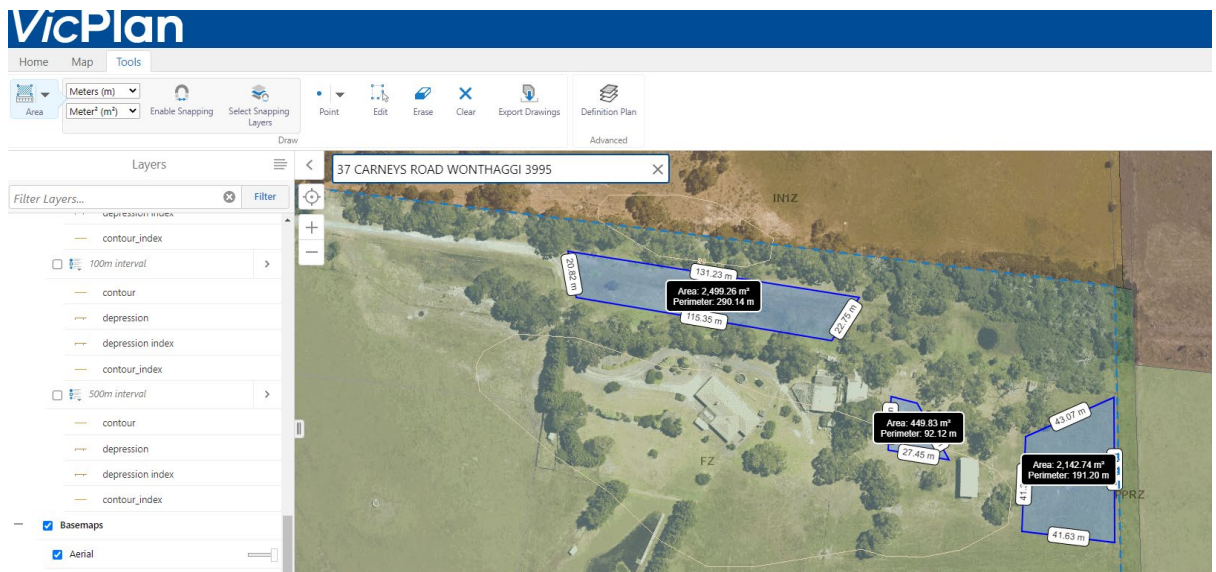
87. The central portion of the reserve operates as a drainage area that captures run-off from the former train line.



88. Having regard to the image above, the cleared portion of the ‘reserve’ should be counted as credited open space.

89. The cleared area is estimated at 0.5 Ha of land that should be credited, as calculated using the VicMap area tool¹ shown below:

¹ <https://mapshare.vic.gov.au/vicplan/>



90. A copy of this map is attached to the submission.

Land equalisation credits

91. For property 128 the PSP shows 0.9 hectares of credited open space for a local park. This equates to 7.3% of the Net Developable Area, which is greater than the open space contribution required by the PSP. A land equalisation payment equal to 5.85% of the land will be required (equivalent to 0.721 NDH).

92. Noting that the ICP legislative machinery for land equalisation credits does not apply in a DCP context, the language of the PSP needs to be clarified to make it clear that where a landowner over-provides open space, it will be entitled to an equalisation payment at the same time as it seeks a statement of compliance, based on a valuation of land that is not more than 12 months old. This is consistent with the requirements for open space valuations under the *Subdivision Act 1988*.

93. Clarity is required to mitigate the potential for disputes regarding the method for valuation in an equalisation context and the timing of equalisation payments.

Sediment basin location and distribution

94. While the need for a sediment basin is not questioned, it is reasonable to allow for a degree of flexibility as to its location and design.

95. Flexible drafting will allow for a series of connected sediment basins that can make good use of constrained land within the drainage lines of the northern boundary of the land, as well as the exiting drainage lines of the western portion of the land.
96. The sediment basin is shown as credited open space. It would be acceptable for some of this encumbered land to be located within the conservation reserve, subject to the further assessment of the Responsible Authority at the time of granting a permit.
97. It is logical and reasonable to minimise the impact of the sediment basin on developable land and to explore opportunities to co-locating any retarding basin near the conservation reserve. This approach has been adopted previously with Hooper's paddocks in Armstrong Creek.
98. Opportunities to capture stormwater and sediment along the northern boundary, within an existing depression should be explored. Aligning drainage infrastructure along the northern boundary will assist in irrigation of soils along the wooded areas and will also be beneficial for faunal habitat purposes.



Existing depression along northern boundary near the main dwelling

99. There is an opportunity for a well-designed drainage outcome that minimises land take in this area, which has not been explored to date.

100. The prevalence of paperbark vegetation evident along the drainage corridors on the land indicates that there is encumbered land well suited to drainage functions. These should be used in preference to developable land.

101. It is appropriate that there be scope in the wording of the PSP to allow for innovative solutions that allow a portion of the sediment basin to be delivered along the northern boundary adjacent to the existing woodland areas.

Amenity protection for existing dwellings at 37 Carneys Road

102. The previous findings of the SAC regarding the application of EPA Guidelines are noted.

103. The owners ask the SAC include the following requirement, applicable to all or specified uses, in the relevant parts of the planning scheme ordinance to reflect what is found 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.

104. This requirement was a stand-alone requirement in the Industrial 1 Zone for many years and now appears as a condition in the Table of Uses for specified uses including Industry, Service Stations, Shipping Container Storage and Warehouses.

105. They are concerned to ensure 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, contrary to the objectives of the Industrial 1 Zone. To this end, they ask that the Incorporated Plan include a requirement that expressly gives effect to the amenity requirements in the applied zone.

106. It would also be appropriate to ensure that the decision guidelines of the applied zone must be considered in any decision to grant a permit, if this is not already captured by the

ordinance. These require consideration of the effects of the proposal on existing sensitive uses.

Drafting changes

107. In accordance with the SAC's directions, submissions regarding drafting changes will be addressed at the appropriate time.

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PE Law

22 December 2020

To: Ali Wastie, Chief Executive Officer
James Stirton, General Manager Place Making
Angela Gleeson, Coordinator Growth Areas
Mayor & Councillors Bass Coast Shire Council
Via email basscoast@basscoast.vic.gov.au

Dear Sir/Madam

Subdivision of 35 Carneys Road, Wonthaggi prior to gazettal of Wonthaggi North East PSP

As owners and occupiers of the land at 37 Carneys Road, Wonthaggi, we write to urge Council not to issue any Planning Permit or subdivision of 35 Carneys Road that would pre-empt the outcome of the Wonthaggi North East PSP process, or that would determine the location of the east-west connector road to abut our property or the north-south access road to traverse our land before the PSP is adopted.

As exhibited, the draft Wonthaggi North East PSP provides for the location of the connector road on the southern boundary of 35 Carneys Road. However, we understand that there is currently a permit application before Council that proposes to locate industrial lots on the south side of the connector road. Furthermore, approval of the current application would pre-empt debate as to the location of any north-south road required to connect through our land in future.

The location and alignment of the road network is a matter that is properly resolved through the precinct structure planning process. This process will also need to resolve issues including the location of tree reserves, drainage infrastructure and the layout of roads across title boundaries.

If Council were to approve the subdivision at this time, it may be acting inconsistently with the draft PSP and at the same time undermine the consultation process that gives the PSP its legitimacy. Such a decision would be very unreasonable. We therefore respectfully urge Council to refrain from approving the subdivision of 35 Carneys Road before the PSP process has run its course.

We are asking that Council adopt a process that does not undermine our right to procedural fairness, or that undermines the PSP process. If Council approved a subdivision of 35 Carneys Road before Amendment C152 has been approved, we must reserve our right to have that decision set aside by VCAT.

Yours faithfully
Giovanni & Cheryl Paterno, Leigh & Gemma Clifford

22 December 2020

To: Ali Wastie, Chief Executive Officer
James Stirton, General Manager Place Making
Angela Gleeson, Coordinator Growth Areas
Mayor & Councillors Bass Coast Shire Council
Via email basscoast@basscoast.vic.gov.au

Dear Sir/Madam

Subdivision of 35 Carneys Road, Wonthaggi prior to gazettal of Wonthaggi North East PSP

As owners and occupiers of the land at 37 Carneys Road, Wonthaggi, we write to urge Council not to issue any Planning Permit or subdivision of 35 Carneys Road that would pre-empt the outcome of the Wonthaggi North East PSP process, or that would determine the location of the east-west connector road to abut our property or the north-south access road to traverse our land before the PSP is adopted.

As exhibited, the draft Wonthaggi North East PSP provides for the location of the connector road on the southern boundary of 35 Carneys Road. However, we understand that there is currently a permit application before Council that proposes to locate industrial lots on the south side of the connector road. Furthermore, approval of the current application would pre-empt debate as to the location of any north-south road required to connect through our land in future.

The location and alignment of the road network is a matter that is properly resolved through the precinct structure planning process. This process will also need to resolve issues including the location of tree reserves, drainage infrastructure and the layout of roads across title boundaries.

If Council were to approve the subdivision at this time, it may be acting inconsistently with the draft PSP and at the same time undermine the consultation process that gives the PSP its legitimacy. Such a decision would be very unreasonable. We therefore respectfully urge Council to refrain from approving the subdivision of 35 Carneys Road before the PSP process has run its course.

We are asking that Council adopt a process that does not undermine our right to procedural fairness, or that undermines the PSP process. If Council approved a subdivision of 35 Carneys Road before Amendment C152 has been approved, we must reserve our right to have that decision set aside by VCAT.

Yours faithfully
Giovanni & Cheryl Paterno, Leigh & Gemma Clifford

Planning Map

Excess uncredited open space

- 10m

100m
- Property

Properties

Parcel

All Zones
- Planning Scheme Zones

Industrial Zones

IN1Z - Industrial 1 Zone

Commercial Zones

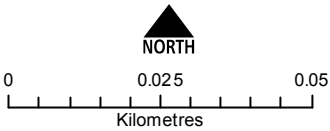
C2Z - Commercial 2 Zone

Rural Zones

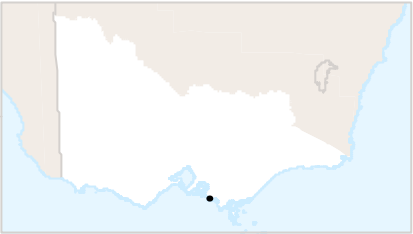
FZ - Farming Zone

Public Land Zones

PPRZ - Public Park and Recreation Zone



Map Projection: GDA 1994 VICGRID94
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