

Amendment C296case to the Casey Planning Scheme

CROSKELL (EMPLOYMENT) PRECINCT

Casey City Council Submission

18 October 2024

Introduction

This submission is Casey City Council's submission to Amendment C296case to the *Casey Planning Scheme (amendment)* incorporating the *Croskell (Employment) Precinct Structure Plan (PSP)* and *Croskell (Employment) Infrastructure Contributions Plan (ICP)*, which was publicly exhibited in draft form pursuant to a non-statutory process in September/October 2024.

Council is generally supportive of the Croskell PSP and ICP; however, there are several key considerations that require resolution through this consultation phase.

Key considerations

Development agency for State infrastructure

Opening remarks

1. Council does not support nor agree to, the PSP and ICP specifying the City of Casey as the lead agency (in the case of the PSP) and development agency (in the case of the ICP) for intersection projects and pedestrian signal projects on declared arterial roads within the Croskell precinct.
2. Under the ICP, Council is both the collecting agency and development agency for all infrastructure projects, that is, intersection projects and pedestrian signal projects, on declared arterial roads. There are seven projects on declared arterial roads, all of which are required by the PSP and ICP to be delivered to an "ultimate" standard. Table 21 of the PSP identifies the City of Casey as lead agency with 100% of the funding for each project apportioned to the ICP area.
3. Typically, in the delivery of intersection projects and pedestrian signal projects on declared arterial roads, Council or a developer draft and submit a suite of design plans to the Head, Transport for Victoria (**Head TfV**). As the road authority, the Head TfV is responsible for the approval of the design and the timeliness of approvals for these projects, with either Council or a developer being responsible for the design and construction of the project to the approved standard.
4. Where Council has been specified as development agency for intersection projects located on declared arterial roads in other Contributions Plans, the Head TfV's additional design requirements beyond those specified in or assumed by the Contributions Plan reference design, together with lengthy delays in obtaining those approvals have resulted in Council needing to fund the shortfall in the cost of the delivery of the project as compared to the funds raised by the Contributions Plan. This situation has most recently occurred with the South Gippsland Highway/Ballarto Road intersection upgrade located in the *Cranbourne East Precinct Structure Plan Development Contributions Plan (Cranbourne East DCP)* area, where Council has contributed over \$9.3M of its own funds to deliver the project to date due in part to the additional design requirements of, and delays in obtaining approvals from, the Head TfV, but also unforeseen service location issues.
5. Under the *Local Government Act 2020 (LG Act)*, Council is constrained by rate capping, which limits the ability of Council to increase rates and, in turn, places pressure on Council's ability to

deliver infrastructure and services for our growing community. Council is also required to manage its finances (including its potential liabilities and the amount of debt it takes on) in accordance with the financial management principles in the LG Act. This requires Council to maintain control of its potential liabilities in a manner consistent with the financial management principles. While it will be necessary from time to time for Council to fund shortfalls in the provision of community and recreation infrastructure projects in the context of a capped levy amount, Council submits that it should not be required to fund shortfalls in the cost of providing State infrastructure. Part 3AB of the PE Act does not compel Council to allocate funds from financial reserves other than an ICP to fulfil its responsibility as development agency. Therefore, Council will not be contributing its own funds to these projects in the future and, accordingly, given the likelihood that it will be required to do so based on experience, Council declines to accept responsibility as the development agency for these intersection projects and pedestrian signal projects on declared arterial roads.

Project details

6. The precinct is bound by Thompsons Road, Berwick-Cranbourne Road and Narre Warren-Cranbourne Road, all of which are declared arterial roads managed by the Head TfV. Outlined below are the transport infrastructure projects proposed to be funded by the ICP, to which Council does not agree to being specified as the development agency. To be clear, Council has no objection to being specified as the collecting agency for these transport infrastructure projects:
 - (a) CK-IN-01: Thompsons Road and Industrial Connector Road (southern leg); Construction of the southern leg of a primary arterial to the industrial connector road signalised four-way intersection;
 - (b) CK-IN-02: Thompsons Road and Casey Fields Boulevard (southern leg); Construction of the southern leg of a primary arterial to connector boulevard signalised four-way intersection;
 - (c) CK-IN-03: Thompsons Road and Wheelers Park Drive (southern leg); Construction of the southern leg of a primary arterial to the industrial connector road signalised four-way intersection;
 - (d) CK-IN-04: Narre Warren Cranbourne Road and Industrial Connector Road (eastern leg); Construction of the eastern leg of a primary arterial to industrial connector road signalised four-way intersection;
 - (e) CK-IN-05: Berwick Cranbourne Road and industrial connector road (western leg); Construction of the western leg of a primary arterial to industrial connector road signalised four-way intersection;
 - (f) CK-PED-01: Pedestrian Signals: Narre Warren Cranbourne Road; Construction of a signalised pedestrian crossing; and
 - (g) CK-PED-02: Pedestrian Signals: Berwick Cranbourne Road; Construction of a signalised pedestrian crossing.
7. The above seven ICP transport projects are costed by reference to the VPA *Benchmark*

Infrastructure Report.

Benchmarking and the Head TfV's role in approvals

8. Council is concerned that the benchmark cost estimates for the seven transport projects located on declared arterial roads will lead to a shortfall in the cost of delivering the projects. As an example, when Council planned for and constructed the Berwick-Cranbourne Road/Hardys Road/Linsell Boulevard intersection project, the Head TfV referred the detailed designs to South East Water, who responded by requiring Council to future proof the underground assets by installing larger piping. This additional cost was opportunistic, but Council had no recourse. This additional cost consequently left Council short funded to deliver this intersection project. Reimbursement in that instance was only to the extent of the relevant indexed Development Contributions Plan project and did not cover the shortfall caused by the detailed design approval process. The shortfall had to be funded by Council rates.
9. While the Benchmark Infrastructure and Costs process has significantly improved the accuracy of costing of standardised projects, there is a lack of discipline around ensuring that public authorities do not “up-scope” projects through the detailed design process and consequently add costs to a project unexpectedly. In an effort to minimise costs overall, the Benchmark Infrastructure and Costs do not contain sufficient contingency for such unforeseen circumstances. This includes having to address ground conditions like soil volatility (e.g. excessive ground water) or land contamination, amongst others many of which are latent issues. Furthermore, the Benchmark Infrastructure and Costs do not accommodate for the full process involved in delivering infrastructure projects particularly in relation to preparing plans, sourcing consultants and contractors and having materials delivered to site. Council acknowledges that the current VPA Benchmark Infrastructure and Costs incorporate a contingency rate of 15 percent to the project costs. However, this contingency rate is insufficient, and a higher 25 percent contingency rate should be applied having regard to the above circumstances.
10. Council's experience is that within the Head TfV approval process there are:
 - (a) Additional design requirements above and beyond the initial project scope;
 - (b) Prolonged approval timeframes and inefficient hand-offs between internal teams and partner agencies which have become convoluted, ambiguous, difficult and costly for Council to navigate; and
 - (c) Delays beyond the above which add additional costs and pressures to projects, resulting in, for example, Council having to pay for costly interim traffic management solutions on declared arterial roads for extensive periods of time.
11. As a consequence of the above highlighted issues, Council has experienced significant financial impacts in delivering State infrastructure. This is directly reflected in the experience of Council's most recent design and construction process for the South Gippsland Highway/Ballarto Road intersection upgrade.

An example of the delays, risks and costs to Council

12. The South Gippsland Highway/Ballarto Road intersection upgrade in the Cranbourne East DCP

area is an example of the concerns raised in the paragraphs above. Council acknowledges the Cranbourne East DCP is an older DCP subject to structural underfunding. However, the challenges experienced in project delivery apply across all Contributions Plan areas. The following example demonstrates how delays by the Head TfV significantly impacted on costs to Council in this project:

- (a) Council entered a construction contract in December 2018;
- (b) The Head TfV subsequently withdrew approval of functional design, with revised design submitted and approved 4 July 2022;
- (c) The Head TfV did not permit works to commence for the whole of 2022 due to the delivery of other major projects and potential cumulative traffic impacts on the wider network, with works subsequently deferred to 2023;
- (d) As a result of the time delay, a variation to the contract price incurred additional costs to Council, which was funded by rates; and
- (e) Stakeholder agencies (i.e., APA, Melbourne Water and South East Water) all required underground assets to be either relocated, redesigned, protected or varied.

13. The current project delivery cost is over \$13.5M:

- (a) the Cranbourne East DCP has contributed \$4.2M;
- (b) requiring Council to contribute over \$9.3M of its own funds to deliver the project.

Council's position

- 14. The City of Casey does not agree to be specified as the development agency in the ICP for the seven transport projects identified in paragraph 6 of this submission.
- 15. In view of the constraints imposed by Section 46GH of *the Planning and Environment Act 1987 (PE Act)*, and the purpose evident in the heading to that provision in relation to the funding of State infrastructure projects, an alternative means will be necessary to fund the delivery of these State infrastructure projects. Council submits that an obvious funding source is the Growth Area Infrastructure Contributions (**GAIC**). However, their funding as State projects is a matter for the State. Council submits that there may also be other ways in which the funding of the State infrastructure projects may be secured and would be willing to discuss these with the VPA.
- 16. We note that it is at least implicit in the PE Act that the projects to be funded by a Contributions Plan are local projects normally delivered by a Council and not State projects which are the responsibility of the State. Consequently, it is not consistent with the intent of the provision to impose a responsibility which is not freely assumed by the municipal council. This is especially the case where, as in this case, the planning authority is an agency other than the municipal council. Ultimately, if nominated contrary to this submission, Council will respectfully decline to deliver the State infrastructure projects for which the funding is raised. In that event, the delivery of the projects will depend on a private developer voluntarily agreeing to deliver the works through a capped works-in-kind arrangement in the knowledge of the limited funds available under the ICP.

17. Council does not make this submission lightly. However, the reality is that under the LG Act there are stringent obligations and limits on the ability of a Council to continue to accumulate unfunded liabilities.
18. In the above context, it becomes all the more important for:
 - (a) these particular infrastructure projects to be accurately costed by a quantity surveyor to ultimate standards, with a sufficient industry and market based contingency;
 - (b) more on ground assessments to inform the costings of projects, noting the Benchmark Infrastructure and Costs process assumes a *blank canvas* of no adverse ground conditions or services requiring relocation or replacement, which, where located on declared arterial roads, is an unrealistic situation; and
 - (c) potential stakeholder agencies (APA, South East Water etc.) to be consulted now so that it is not possible for later variations to the project design without that agency accepting responsibility for any additional costs incurred on account of any requested changes.
19. Where no developer or other party or agency comes forward to deliver these projects, some consideration will need to be given to safe access to a development site being provided through developer works if possible. Furthermore, where there are no agencies that accept the responsibility of being development agency for these projects, then the VPA should contemplate the removal of these projects from the ICP, in which case they will become developer funded works. There is a precedent for this approach at Hall Road in the *Cranbourne West Development Contributions Plan* area. Otherwise, it may not be appropriate for a permit to issue.

Concept drainage strategy

20. The following Victorian Government documents provide the strategic policy context for the preparation of the PSP:
 - (a) the *South East Growth Corridor Plan* (2012) identifies the precinct as “Business with Residential”; and
 - (b) the *Melbourne Industrial and Commercial Land Use Plan* (2020) identifies the precinct as a “Regionally Significant Commercial Area – Future Growth Area Business with Residential Precinct”.
21. The development of this employment precinct provides a unique opportunity to contribute to the realisation of the City of Casey’s *Council Plan 2021-25* strategic objective to grow Casey’s current and emerging sectors and attendant strategy to support the creation of new jobs for our residents.
22. The precinct proposes a regionally significant commercial precinct with a vision to create 6,532 jobs in a central commercial area with a residential component to the south. Melbourne Water’s draft concept drainage strategy needs to support the development of the precinct by contributing to the purpose of the PSP at section 2.2 of the PSP:

1. *A diverse, and regionally significant mix of business and industry that will provide a range of job opportunities for Casey residents – helping to reduce the need to commute long distances to work;*
 2. *A network of diverse, walkable neighbourhoods connected by a comprehensive and attractive street and path network;*
 3. *A precinct that protects, manages and celebrates its Aboriginal places and historic heritage sites;*
 4. *A well-integrated network of waterways and open spaces that tell the story of Country, effectively manage and drain stormwater and provide amenity to workers and residents; and*
 5. *A well-connected precinct that integrates seamlessly with surrounding development and provides multi-modal linkages to nearby destinations such as activity centres, open space and rail stations.*
23. Council submits that the draft concept drainage strategy, notably wetland and retarding basins WLRB2, WLRB3 and WLRB4 which inform *Plan 2 – Place Based Plan (place based plan)* and associated plans of the PSP, compromises the achievement of Purpose 1 of the PSP in that:
- (a) Drainage assets have not been consolidated within:
 - (i) land within the existing Urban Floodway Zone;
 - (ii) land within the existing Land Subject to Inundation Overlay; and
 - (iii) Melbourne Water land located in the south of the PSP area;
 - (b) Premium developable employment land central to the precinct outside the existing Urban Floodway Zone and Land Subject to Inundation Overlay is proposed to be used for drainage assets. Consequently, a significant reduction in employment land integral to the economic growth of the Casey community is proposed; and
 - (c) The draft concept drainage strategy compromises urban design outcomes within the central area and eastern area of the precinct.
24. The development of a regionally significant employment precinct that is unnecessarily constrained by drainage infrastructure will not achieve Purpose 1 of the PSP.
25. Council is aware of two alternate concept drainage strategy prepared by landowners MAB and Moremac for the western catchment identified as Sub Precinct 1A on *Plan 11 – Infrastructure and Development Staging* of the PSP. Council submits that there is merit in parties continuing to collaborate with a view to achieving an optimised drainage strategy that better achieves Purpose 1 of the PSP.

Casey Fields Boulevard and the Victorian Desalination Project

26. The design of Casey Fields Boulevard, identified as Project ID CK-RD-01 in the PSP and ICP, requires the crossing of the Victorian Desalination Project (**VDP**) underground powerline as shown on *Plan 4 – Movement Network and Public Transport* of the PSP. The Department of Energy, Environment and Climate Action (**DEECA**) is the Victorian Government agency

responsible for managing this asset. Council has only received *in principle* support for this road crossing from DEECA. A greater degree of certainty of delivery is required.

27. DEECA's written consent to Casey Fields Boulevard crossing the VDP underground powerline and approval of the publicly exhibited project concept design and costs must be provided as part of a "whole of government" approach before the VPA Standing Advisory Committee (**SAC**) hearing. With reference to the publicly exhibited concept designs and costs prepared by SMEC, the section of Casey Fields Boulevard that crosses the VDP underground powerline is a bespoke design, and, consequently, 81.3 per cent of the project cost is funded by the supplementary levy.
28. Provision of these approvals for works funded by the supplementary levy would provide:
 - (a) confidence in the deliverability of a project fundamental to the successful implementation of the place based plan;
 - (b) procedural fairness for the parties, allowing for scrutiny of the approved project design and costings before the SAC hearing; and
 - (c) avoiding this matter potentially complicating the hearing process.
29. Casey Fields Boulevard is the only north-south road connector street between Thompsons Road and Linsell Boulevard within the precinct, and, therefore, an important element of the movement network fundamental to the successful implementation of the place based plan.
30. In preparing this submission, Council tested the exhibited project cost sheet *RD-01 VDP Crossing; Road VDP cable/conduit crossing* (Revision C) dated 27 August 2024 (**exhibited project cost sheet**) with an active developer in Casey who has previously delivered, and is currently negotiating the approval process for, a road crossing of the VDP underground powerline.
31. Preliminary advice to Council is that the exhibited project cost sheet:
 - (a) omits site preparation costs (refer item 1.2);
 - (b) appears to underestimate earthworks costs (item 1.3);
 - (c) omits road pavement and concrete kerb costs;
 - (d) appears to underestimate construction certification of independent reviewer costs (that is, the third party review DEECA's consultant GHD) (item 3.4);
 - (e) appears to underestimate survey/design costs (item 8.3);
 - (f) appears to underestimate supervision and project management costs (item 8.4); and
 - (g) appears to underestimate site establishment costs (item 8.5).
32. The exhibited project cost sheet appears to underestimate the cost of delivering the Casey Fields Boulevard crossing of the VDP underground powerline by a significant amount in the order of \$100,000 *before* the consideration of drainage, sewer, water, electrical, public lighting and telecommunications costs.

33. This variation in costs raises legitimate questions about:
- (a) the process followed in the costing of the project;
 - (b) the complex approvals process, and resulting timeframes and costs associated, required by DEECA; and
 - (c) the potential financial impacts on parties delivering the project, if not resolved.
34. A peer review of the exhibited project cost sheet by an independent quantity surveyor is required, informed by the approval process requirements of the relevant Victorian Government agencies.
35. In conclusion, Council submits that:
- (a) DEECA must provide written consent to Casey Fields Boulevard crossing the VDP underground powerline and approval of the exhibited project concept design and costings to provide:
 - (i) confidence in the deliverability of a project fundamental to the successful implementation of the place based plan;
 - (ii) procedural fairness for the parties; and
 - (b) noting the issues raised in paragraph 31 above, an independent quantity surveyor must review and certify the exhibited project cost sheet or identify a revised cost estimate for the project.

Funding of construction of local sports fields

36. The Cranbourne East DCP identifies two (2) land projects for active playing fields, namely, DCP Project Numbers AR05 and AR06, adjoining the Cranbourne East precinct.
37. Council has acquired these two land projects.
38. The construction of the active playing fields was to be funded by the future Contributions Plan that applied to these two land projects.
39. The Croskell (Employment) PSP and ICP now apply to those two land projects.
40. *Plan 3 – Standard Levy Community & Recreation Construction Projects* and *Table 7 – Standard Levy Community & Recreation Construction Projects* of the ICP identifies these active playing fields as local sports reserve (SR) and the corresponding construction projects as Project ID CK-SR-01 and CK-SR-02.
41. Pursuant to Table 1 of the *Ministerial Direction on the Preparation and Content of Infrastructure Contributions Plans* dated February 2021, only residential development in the precinct can fund community and recreation construction projects, and, with reference to Table 7 of the ICP, 16.5 percent of the cost of delivering these projects is apportioned to development in the ICP area.
42. The construction of Project ID CK-SR-01 and CK-SR-02 will cost \$23,140,487, with:

- (a) \$3,833,352 of this cost apportioned to development in the ICP area; and
 - (b) the balance \$19,307,135 of this cost is to be funded by Casey City Council.
43. The scale of the funding shortfall for these construction projects is significant and Council cannot assure the delivery of these projects in their current proposed form.
44. Council has several options to address this significant funding shortfall:
- (a) utilise external grant funding and rates revenue to fund the shortfall, noting:
 - (i) opportunities for external grant funding are declining in the current fiscal policy environment; and
 - (ii) the use of rates revenue is constrained by rate capping and must be balanced against other competing organisational priorities, including asset renewal;
 - (b) decide on an alternative delivery outcome for the construction projects, including part delivery to reduce the funding shortfall; or
 - (c) not deliver the construction projects and seek the Minister's consent under Section 46GZD of the PE Act to expend the relevant monetary component for the provision of other works, services or facilities in the ICP area.
45. Given the significance of this funding shortfall, Council requests that the VPA reflect on this situation and external apportionment planning in future precinct structure plans and infrastructure contributions plans where reliance on neighbouring precincts is contemplated.

Additional submission items

46. **Appendix 1 – Additional Submission Items** provides further submissions on the detail of the planning scheme ordinance and PSP publicly exhibited with the amendment.

Council resolution

47. At the Council meeting held on 10 September 2024, Council resolved to:
- (a) endorse the policy positions expressed in the **Key considerations** section of this submission (that is, paragraphs 1-35 inclusive); and
 - (b) delegate power to the Manager Growth and Investment to make submissions on any other item arising from a review of the planning scheme amendment that is of material concern to Council.

Refer Item 5.4 at **Appendix 2 – Council Report** and **Appendix 3 – Council Meeting Minutes**.

Conclusion

Thank you for the opportunity to make a submission on the amendment.

Should you have any questions about our submission, please contact [REDACTED] [REDACTED]
[REDACTED]

Yours faithfully

Kathryn Seirlis

Kathryn Seirlis

Manager Growth and Investment
CASEY CITY COUNCIL

Enc:

Appendix 1 – Additional Submission Items

Appendix 2 – Council Report

Appendix 3 – Council Meeting Minutes.