FRIENDS OF THE GIPPSLAND LAKES PARKS AND RESERVES

PLANNING SUBMISSION

Amendment C172egip to the East Gippsland Planning Scheme

Paynesville Growth Area
Structure Plan

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1. INTRODUCTION

1 The Planning Amendment C172egip proposes rezoning 130 hectares of farmland within the Paynesville township growth area to General Residential Zone – Schedule 3 (GRZ3). While this amendment aims to accommodate future urban growth, it raises serious concerns regarding environmental sustainability, neighbourhood character, visual amenity, and climate resilience.

2 Paynesville is a coastal township within the Gippsland Lakes region, an area of state and national significance, featuring Ramsar-listed wetlands, sensitive foreshore ecosystems, and visually prominent ridgelines.

3 The township is highly vulnerable to coastal hazards, including storm surges, erosion, and long-term sea level rise, as recognized in both state, regional and local planning policies and climate change projections. Despite this, the amendment fails to adequately account for these risks and inconsistently applies planning controls, allowing for increased development density that is at odds with the existing town character and environmental constraints.

4 A key issue is the blanket application of the GRZ3, which permits three-storey development, higher densities, and further subdivision without sufficient safeguards for visual or environmental protection. This fails to align with local and state planning policies, which emphasize coastal landscape preservation, climate adaptation, and sensitive urban design.

5 The Neighbourhood Residential Zone (NRZ) would be a more appropriate zoning for visually prominent ridgetops and foreshore areas, as it more effectively limits building heights, further subdivision and protects landscape character while still supporting sustainable growth.

6 Additionally, the Development Plan Overlay (DPO) proposed in the amendment grants excessive discretionary powers to the Responsible Authority, allowing permits to be issued before a development plan is finalized. This undermines transparency, weakens community consultation, and risks ad hoc development decisions that fail to integrate long-term planning considerations; particularly when critical land capability and risk assessments that underpin the structure plan are outdated and/or incomplete.

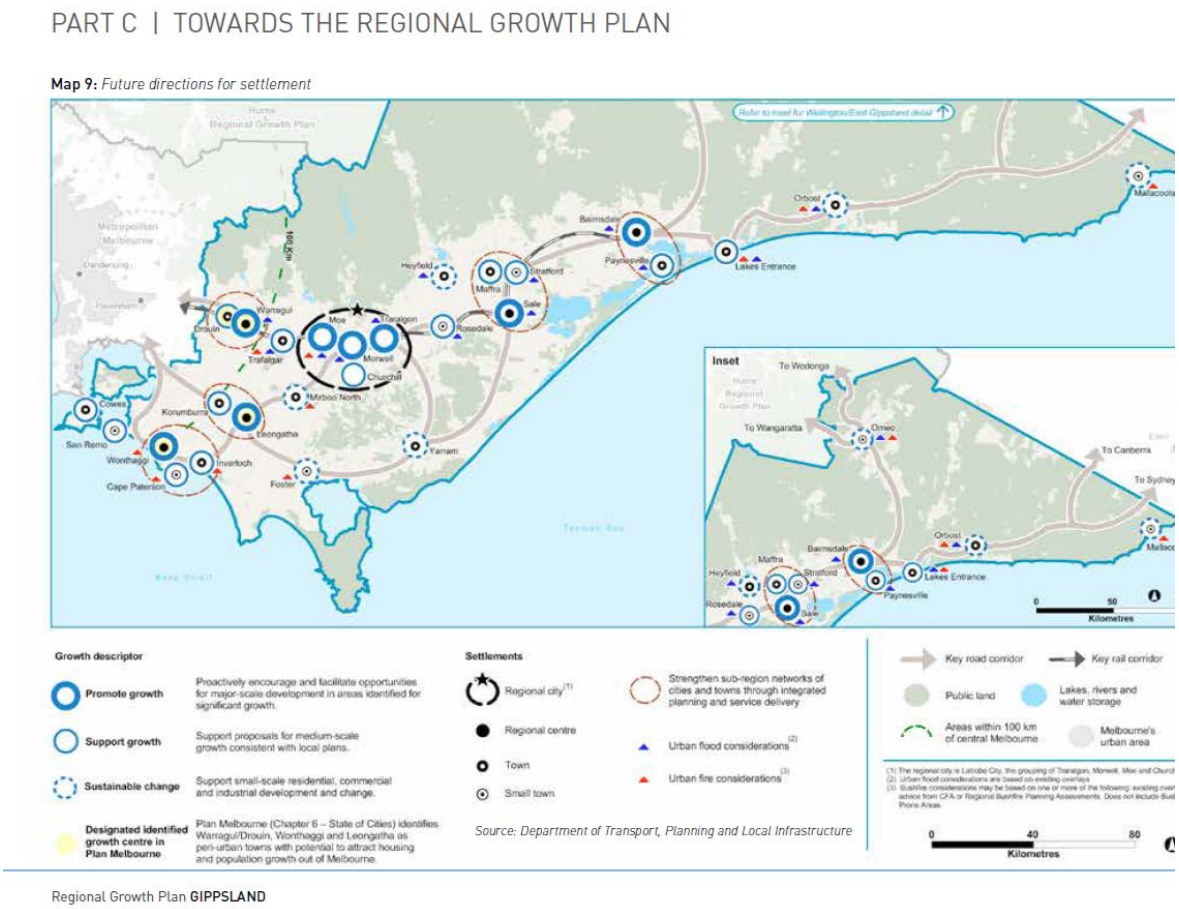
7 Without stronger environmental protections, transparent and enforceable building envelopes, and updated climate hazard assessments, this amendment

fails to achieve a balance between growth, amenity and sustainability. A more precautionary, forward-thinking approach is essential to ensure that future development enhances rather than diminishes Paynesville's coastal identity, ecological values, and long-term resilience.

3. PLANNING EVIDENCE

What is the strategic context for Paynesville?

8 Paynesville is a coastal township located on the Gippsland Lakes region of East Gippsland, approximately 15km south of the regional centre Bairnsdale. The town is a predominantly residential community and popular retirement area. Most industrial and employment services are sourced from Bairnsdale.[1]



[1] Gippsland Regional Growth Plan, p. 56.

9 The Gippsland Regional Growth Plan (the 'Regional Growth Plan') identifies Paynesville as a district town, which is expected to accommodate 'medium-scale growth' consistent with local plans.[2] It acknowledges that district towns perform an important role by providing goods and services to sub-regional catchments and that district towns like Paynesville and Lakes Entrance face pressures for growth.[3]

10 Though it's recognised that Paynesville can support growth, significant natural and policy barriers and infrastructure constraints mean that *high* levels of growth are not possible nor appropriate.

11 Paynesville is identified as a key tourism area within the broader Gippsland region, a popular boating destination with a growing retirement community whilst contributing important economic development to the region.[4]

12 Paynesville is a State Boating Precinct of State Significance[5], underscoring the importance of protecting the coastal landscapes of state significance and the internationally significant Ramsar values of Lake King and the wider Gippsland Lakes region.[6]

13 The Regional Growth Plan recognises that coastal communities like Paynesville are subject to the impacts of climate change and coastal hazards, including coastal inundation and coastal erosion.[7]

14 The *East Gippsland Floodplain Management Strategy (2017)* has found that:

> Urban areas around the Gippsland Lakes were among the highest risk areas from floods and flood related impacts. Raymond Island, Paynesville, Lakes Entrance and Metung scored highly under all risk measures and were among the highest risk management units in the region. Raymond Island, Paynesville and Lakes Entrance all have significant amounts of urban area affected by flood inundation.[8]

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[2] Gippsland Regional Growth Plan, p. 46.
[3] Gippsland Regional Growth Plan, p. 46
[4] Municipal Planning Strategy, Clause 02.03-1 Growth Area Towns
[5] *Victorian Coastal Hazard Assessment 2017 – Technical Report*; p.57
[6] *Victorian Coastal Hazard Assessment 2017 -Technical Report* , p.47-48
[7] Gippsland Regional Growth Plan, p. 46
[8] *East Gippsland Floodplain Management Strategy (2017); p.18*

15 The Municipal Planning Strategy acknowledges the impacts of climate-induced sea level rise, combined with more severe storm surges is likely to be significant for coastal communities like Paynesville.[9]

16 Clause 11.03-4S 'Coastal settlements' has an objective to plan for sustainable coastal development.[10] Relevant strategies include:

> *Identify a clear settlement boundary around coastal settlements to ensure that growth in coastal areas is planned and coastal values are protected.*
>
> *Limit development in identified coastal hazard areas, on ridgeline, primary coastal dune systems, shorelines of estuaries, wetland and low lying coastal areas, or where coastal process may be detrimentally impacted*

17 Specific direction for Paynesville is contained at Clause 11.03-4L-01 'Coastal Settlement', which has the following strategy:

> *Ensure development does not adversely affect landscape and environmental values and incorporates measures to protect those values.*
>
> *Discourage small-lot subdivision along river frontages and lakes.*

18 Other clauses such as clause 02.03-2 'Environmental and landscape values' recognise the regional significance of landscapes like the Gippsland Lakes which surround Paynesville along its north, east and southern boundaries.

19 Clause 02.03-1 describes Council's strategic directions for environmental and landscape values, which include:

> *Restoring and maintaining the biodiversity of our rivers, waterways, lakes and wetlands.*
>
> *Protecting areas of environmental, landscape, heritage or scenic value, particularly coastal/lakes areas; the Nicholson River; the Tambo River; Princes Highway; ridgelines and roadside vegetation.*
>
> *Protecting sites of significance by encouraging sensitive development, sympathetic to the character of the area and its aesthetic values.*

[9] Municipal Planning Strategy, Clause 02.03-3 Environmental risks and amenity
[10] Relevant policy documents include the Marine and Coastal Policy (DELWP 2020) and the Victorian Marine & Coastal Strategy (DELWP, 2022).

20 The northern most section of the growth area is covered by the Significant Landscape Overlay – Schedule 2 'Gippsland Lakes'. The overlay includes the prominent ridgetops, north-facing slopes and foreshore areas of Lake King.

21 The overlay's 'statement of nature and key elements of landscape' describes:

> *The Gippsland Lakes are of state significance as a unique estuarine environment with a network of lakes fringed by Ninety Mile Beach and extensive coastal dune systems.*
>
> *Within the East Gippsland Shire, Lakes Victoria and King are the most prominent water features in this landscape.*
>
> *As well as its visual qualities, also recognised by the National Trust, this landscape contains some of the most significant and well known environmental and recreational areas in the state.*
>
> *The Ramsar Convention notes this landscape as a wetland system of international significance, and there is a diverse array of flora and fauna, including many endangered species*

22 The Gippsland Lakes Significant Landscape Overlay includes the following character objectives to be achieved:

> *To protect locally significant views and vistas that contribute to the character of the landscape, including scenic lookouts and recreation locations with views over the Gippsland Lakes.*
>
> *To ensure that development in and around existing settlements does not impact on the characteristics of the landscape, particularly the natural and unbuilt character at the edge of the Gippsland Lakes.*
> *To manage the impact of new development on the sense of space and openness in the rural landscape.*

23 Clause 11.03-4S Coastal settlements has an objective to plan for sustainable coastal development[11]. Relevant strategies include:

[11] Relevant policy documents include the Marine and Coastal Policy (DELWP 2020) and the Victorian Marine & Coastal Strategy (DELWP, 2022).

Identify a clear settlement boundary around coastal settlements to ensure that growth in coastal areas is planned and coastal values are protected.

Limit development in identified coastal hazard areas, on ridgeline, primary coastal dune systems, shorelines of estuaries, wetland and low lying coastal areas, or where coastal process may be detrimentally impacted

24 I have reviewed the amendment within this context.

How appropriate is the General Residential Zone?

25 The amendment seeks to rezone approximately 130 hectares of farmland within the township growth area boundary to the General Residential Zone – Schedule 3 (GRZ3).

26 The amendment applies the General Residential Zone – Schedule 3 uniformly across the entire growth area, except for the north western coastal land parcel at the entrance of town that's reserved for "Future Tourism". In making this zoning recommendation, the purpose and objectives of the Structure Plan for urban land use and town character and identity must be considered.
The purpose and objectives of the Structure Plan need to:

- Plan the structure of the growth area previously established in the Urban Design Framework for Paynesville which identified land for the foreseeable long-term urban growth of Paynesville (up to 35-40 years)

- Establish a pattern of residential development across the growth area that supports good access, neighbourhood cohesion and reinforces local identity. To accommodate medium density residential development, aged care and retirement accommodation and a Local Activity Centre in locations consistent with the Preferred Urban Structure

- Support a strong sense of place and local character that builds on Paynesville's existing character and sense of place

- Ensure the scale and location of land uses and activities support the preferred future character of Paynesville

- Provide for a spacious residential character with a variety of lot sizes and housing types to meet community needs

- Provide for different types of housing and a range of lot sizes and densities that will provide for diversity and greater choice in the future community.

27 There are clearly competing directions and objectives here, which seek to both accommodate growth and medium density residential development, while also protecting environmental and landscape values and existing town character.

28 The proposed Schedule 3 to clause 32.08 'General Residential Zone' applies the following neighbourhood character objectives:

- *To establish a pattern of residential development across the growth area that supports good access, neighbourhood cohesion and reinforces the local character of a small lakeside town*.

- *To provide for diverse types of housing and a range of lot sizes and densities including medium density housing, aged care and retirement accommodation*.

- *To ensure a high standard of design for housing development that reinforces Paynesville's character and environmental values and meets contemporary standards for efficiency and sustainability*.

- *To establish native planted corridors in key locations and create distinctive tree-lined street environments that frame road corridors and major entry points, provide open space connections for cyclists and pedestrians and enhance the visual appearance of the built environment*.

- *To ensure the provision of suitable infrastructure and utilities to efficiently service development and that are designed to enhance local character*.

29 I note that none of these objectives clearly define local character; nor align with or expand on the previously delineated local character zones of Paynesville.[12] This may reflect the lack of detailed neighbourhood character assessments,

[12] Paynesville Urban Design Framework (2007), Appendix F – Paynesville Design Guidelines, p.105

which could have more clearly guided the development of the Structure Plan and its accompanying planning controls.

30 In considering the appropriateness of a single residential zone for the entire township's growth area, I have had regard to *Planning Practice Note No. 91: Using the Residential Zones*.

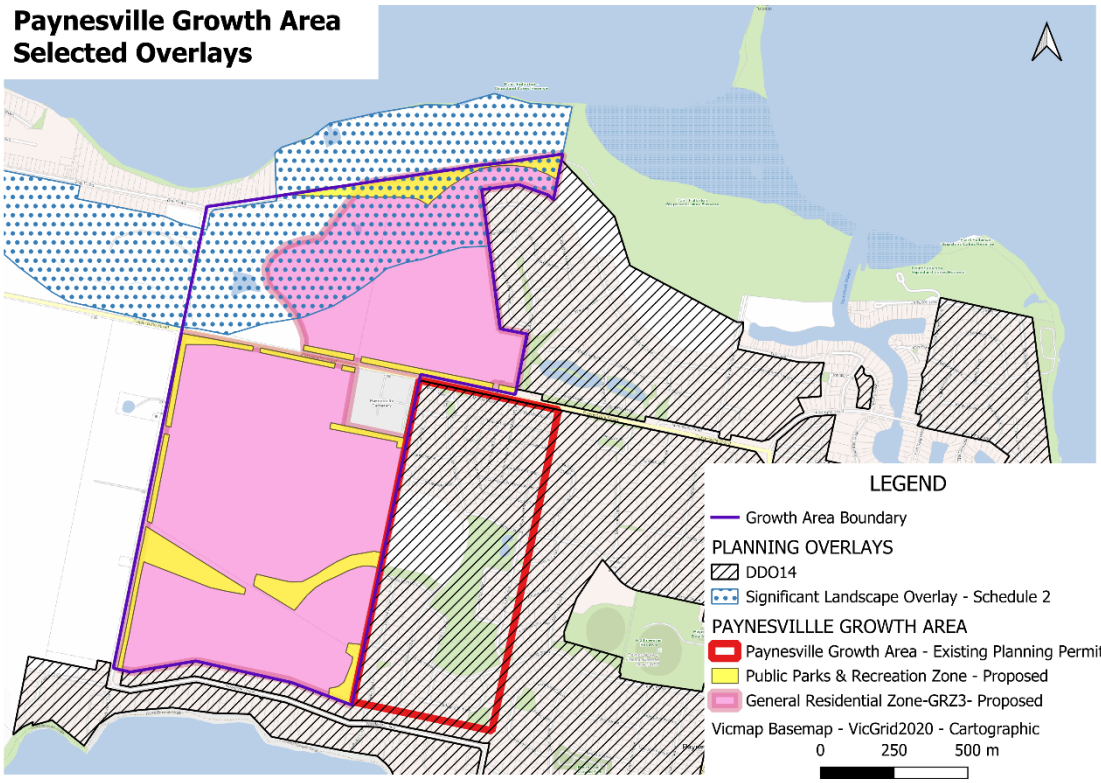
31 *Planning Practice Note No. 91* describes the following role and application for the General Residential Zone:

> *Applied to areas where housing development of three storeys exists or is planned for in locations offering good access to services and transport.*[13]

32 I note that Schedule 3 of the GRZ does not provide any ResCode variations or alter maximum building height.

33 While a mandatory 3 storey, 11 metre height limit is set out within the zone, the eastern section of the growth area previously rezoned General Residential Zone – Schedule 1, is also affected by a Design and Development Overlay - Schedule 14; where a mandatory building height limit of 7.5 metres applies to the entire "Town expansion area".

[13] Planning Practice Note No. 91, p. 2.



I note that the Framework Plan also includes a 'Foreshore and wetlands' requirement (R8) that states:

> *Development must be generally consistent with the requirements of Design and Development Overlay Schedule 14 – Residential Development in Coastal Settlements: Paynesville.*

34 Significantly, none of the amendment's zoning or overlay control schedules refer to requirement (R8).

35 Furthermore, the DDO14 is not applied in the planning scheme amendment. It is therefore unclear if the 7.5m mandatory height limit applies to the entire growth area or only to unspecified areas close to the foreshore and wetlands? It's imperative that the requirements and structure of a planning scheme provision be clear and unambiguous.[14]

36 The amendment introduces the requirement for three-dimensional building envelopes for land on north-facing slopes overlooking Lake King via the introduction of a Development Plan Overlay – Schedule 10.

[14] Practitioner's Guide to Victoria's Planning Schemes (June 2024), p.19

37 A Development Plan will identify areas on the north-facing slopes which will require building envelopes. The Development Plan will: Provide design guidelines to inform the preparation of three-dimensional building envelopes on individual lots, where required, to include consideration of:

- Views to and from Lake King through the management of maximum building heights from natural ground level.
- Side boundary set backs to avoid continuous built form.
- Reasonable sharing of views from dwellings to Lake King.
- Set backs from sensitive foreshore areas.

38 It is assumed the Development Plan design guidelines will be generally consistent with the 7.5m height limit set out by the Structure Plan's Foreshore and wetlands requirement (R8). This effectively imposes a double storey limit on any residential development located on the north-facing slopes overlooking Lake King.

39 The existing residential development pattern in adjoining neighbourhood areas conforms to the height limits established by the Design and Development Overlay – Schedule 14. All homes in the adjoining neighbourhoods are single or double storey and restricted to 7.5m in height in accordance with this overlay.

40 I note that the Practice Note states that it is *inappropriate* to apply the General Residential Zone to areas where a planning authority seeks to respect the existing single and double storey character of an area.[15]

41 The Practice Note further observes that:

> *As a general principle, applying a residential zone should align with either existing building heights if they are sought to be maintained, or align with future building heights identified in strategic work*[16].

42 It continues to state that:

> *If an area has an existing single and double storey character that is sought to be maintained, applying the GRZ is likely to be inconsistent with this preferred neighbourhood character outcome.*[17]

[15] See Principle 4 in Planning Practice Note No. 91.
[16] Planning Practice Note No. 91, p. 6.
[17] Planning Practice Note No. 91, p. 6.

43 Within this context, and acknowledging the Structure Plan's direction and objectives for development to respond to the existing scale and character of development, I consider that the Neighbourhood Residential Zone is a more appropriate zone for the prominent ridgetops overlooking Lake King than the proposed General Residential Zone.

Is the Neighbourhood Residential Zone more appropriate than the GRZ?

44 Ensuring housing and neighbourhood character plans are consistent and align with another is an important principle underpinning the application of residential zones.[18]

45 The role and application for the Neighbourhood Residential Zone is described in the Practice Note as follows:

> *Applied to areas where there is no anticipated change to the predominantly single and double storey character. Also to areas that have been identified as having specific neighbourhood, heritage, environmental or landscape character values that distinguish the land from other parts of the municipality or the surrounding area.*[19]

46 I note the amendment proposes to remove the Significant Landscape Overlay – Schedule 2 'Gippsland Lakes' which recognises the significant environmental and landscape character of the prominent ridgetops, north-facing slopes and foreshore areas of Lake King.

47 I also note the NRZ has been applied across townships and in growth areas in conjunction with a Development Plan Overlay in other municipalities,[20] and is consistent with the Paynesville Growth Area Structure Plan policy priorities, particularly in relation to both public and private visual amenity, and town character.

48 The Neighbourhood Residential Zone mandates a 9m maximum building height and two storey limits. The challenge associated with the application of the General Residential Zone is that it allows 3 storey development of up to 11 metres. A development of this scale, close to the foreshore and on the main entrance to the town seems incongruent in the content of the broader environs and neighbourhood character objectives. On that basis, I submit the use of the

[18] Planning Practice Note 91 – Using the Residential Zones, p.2
[19] Planning Practice Note No. 91, p. 2
[20] Refer to planning Amendment C74 - Appollo Bay (10 Oct 2014); C80 Daylesford (23 Nov 2021) and C69moyn Port Fairy (3 Oct 2024)

Neighbourhood Residential Zone is more appropriate.

49 The Development Plan Overlay recognises the limited development capacity of the ridgetops and north-facing slopes abutting the Lake King foreshore via the requirement for three-dimensional building envelopes. This requirement is secured via an Agreement under section 173 of the Act.

50 The Agreement imposes a three-dimensional building envelope to the north-facing slopes; which can lower the maximum 11m building height, effectively limiting dwellings to just two storeys. Side and rear setback controls further restrict development on land affected by the section 173 Agreement.

51 The General Residential Zone conflicts with the strategic directions outlined in the Municipal Planning Strategy and Planning Policy Framework, as detailed in the 'Strategic Context' section.

52 I note that clause 02.03-2 'Environmental and landscape values' of the Municipal Planning Strategy is particularly relevant and worth highlighting again here. It describes Council's strategic directions for environmental and landscape values as including:

> *Protecting areas of environmental, landscape, heritage or scenic value, particularly coastal/lakes areas; the Nicholson River; the Tambo River; Princes Highway; ridgelines and roadside vegetation*.
> *Protecting sites of significance by encouraging sensitive development, sympathetic to the character of the area and its aesthetic values*.

53 As explained in *Planning Practice Note 91*:

> *The 'test' is whether the residential zone implements the relevant strategic framework plan or residential development framework plan in the MPS.*
>
> *The right residential zone will reflect the true development capacity of the land. If land is impacted by special attributes or physical constraints that are identified in the MPS and PPF, then a residential zone should be applied that aligns with these attributes or constraints.*[21]

[21] Planning Practice Note 91 – Using the Residential Zones, p.5

54 I submit that the role and purpose of the Neighbourhood Residential Zone is more consistent and aligns more closely with the special attributes and physical constraints of the northern growth area.

55 Another key feature of the Neighbourhood Residential Zone that makes it more appropriate than the General Residential Zone, relates to future subdivision potential.

56 Minimum subdivision area provisions can apply to the NRZ whereas the GRZ has no restrictions on further subdivision.

57 I submit that given the limited development capacity of the exposed ridgetops, slopes and the low-lying Lake King foreshore area, any further subdivision on this land is inconsistent with the Structure Plan's policy objectives.

58 Applying the Neighbourhood Residential Zone along with expanded recreational reserves in areas where the Significant Landscape Overlay applies, would better align with neighbourhood character objectives and protect the scenic and environmental values of the Lake King foreshore and wetlands.

59 I submit that the less intensive and low-scale development supported by the NRZ is more sympathetic to the Significant Landscape Overlay decision guidelines:

> *Whether buildings are designed near lakes and waterways to be low scale and set back a sufficient distance to allow for the protection or rehabilitation of a substantial zone of riparian vegetation (e.g. over 100 metres)*
>
> *The impact of developments visible from all key viewing corridors (e.g. touring routes, highways) and scenic lookouts on the open rural character of these views, and the availability of scenic views lakes and waterbodies.*

60 Overall, the Neighbourhood Residential Zone is significantly more sympathetic to the limited development capacity and coastal landscape character values of the exposed ridgetops overlooking Lake King, compared to the General Residential Zone.

Can the amendment's guidelines achieve their desired visual amenity objectives?

61 The amendment proposes the use of various planning tools to achieve key neighbourhood character and visual amenity objectives. Among the most relevant tools, are guidelines relating to lot size, three-dimensional building envelopes, and street layout. The amendment also includes a landscaping requirement (tree planting) to 'soften' the visual impacts of future development.

Each of these visual amenity planning tools are assessed below:

Lot size

62 The Structure Plan (p.21) provides specific guidance on lot size through three Urban Land Use Guidelines (see G1, G2 and G3).

63 These guidelines serve to establish the preferred lot size range of 500-1000m2, permit lots smaller than 500m2 in areas adjacent to open space and natural features and seek to cap maximum lot size to 1000m2 unless their form enables further subdivision without battle-axe lots.

64 I submit the central purpose of these guidelines is to support higher density residential developments wherever feasible.

65 I note that higher density development is less feasible and desirable on the coastal fringe of the growth area because it does not 'reinforce the local character of a small lakeside town'; particularly along the prominent ridgeline and north-facing slopes overlooking the Lake King foreshore area.

66 This would be consistent with the approach taken in amendment C171egip for the neighbouring coastal settlement of Eagle Point, which introduces minimum lot sizes for residential land in sensitive environmental locations that is commensurate with the environmental quality and capacity of the land.[22]

67 Larger lot sizes simply provide the necessary space to implement design elements that can minimise visual bulk and continuous built form to protect

[22] Amendment C171egip – Explanatory Report, p.5

and enhance visual amenity.[23]

68 I submit that larger lots enhance the effectiveness of three-dimensional building envelopes in meeting specific design objectives. In this instance, the preservation of coastal character and the reasonable sharing of views.

69 The greater scope for view sharing that larger lots offer was recently demonstrated by a residential subdivision in the neighbouring 10.7ha property on the growth area's north eastern boundary.

70 During the compulsory conference in VCAT[24], those objectors adjacent to the largest lots (1018m^2-1688m^2) resolved their view sharing dispute by negotiating for a decrease in the building envelopes. However, the objectors abutting the smaller lots (600 m^2-829 m^2) did not settle, as the smaller lot size most likely made substantive reductions in building envelopes unviable for the developer.

71 The design flexibility afforded by larger lots, allows for:

- wider setbacks
- more substantial landscaping and vegetated screening
- reduced building density.

72 I submit that the visually prominent ridgetops and north-facing slopes of the northern growth area are unsuitable for 500m^2-1000m^2 lots. This is consistent with clause 11.03-4S which seeks to limit development on ridgelines, the shorelines of estuaries and identified coastal hazard areas, all of which apply to the northern growth area.

73 Lot sizes in excess of 1000m2 however, have greater scope to protect visual amenity in both the public realm (landscape character) and private realm (view sharing).

Three-dimensional building envelope guidelines

74 The Development Plan Overlay requires that landowners / developers prepare the detailed design guidelines which will inform the preparation of three-dimensional building envelopes on affected lots. The guidance given to drafting

[23] See Knox City Council Residential Design Guidelines (2019); Moorabool Shire Urban-Design-Guidelines (2024); and Good Design and the Coast – Issue 3 (2023)
[24] VCAT ref. no. P1438/2023

the guidelines provided by the DPO pertains to consideration (where required) of:

- Views to and from Lake King through the management of maximum building heights from natural ground level.
- Side boundary set backs to avoid continuous built form.
- Viewing corridors from the road network and public realm, including public open space, towards Lake King.
- Reasonable sharing of views from dwellings to Lake King.
- Set backs from sensitive foreshore areas.

75 Minimum setback and maximum height guidelines are critical tools for managing spatial form, scale, and their visual impact.

76 I submit that flexible building envelopes with no minimum requirements run the risk of undermining landscape quality objectives and compromising the character, functionality, and visual amenity of both public and private spaces.

77 This outcome is contrary to the strategies of 12.05-1L, namely:

> *Design development in significant landscape areas including those referenced on the map to this clause that is sympathetic to the character of the area and preserves its aesthetic values.*
>
> *Protect and enhance landscapes, important vistas and visual and environmental qualities of coastal, lakeshore and river-frontage areas, townships, recreation activity centres through responsive siting and design.*
>
> *Protect areas of high landscape sensitivity including visually prominent ridgelines, areas adjacent to the coastline, lakes or rivers and remnant vegetation in cleared areas, views from significant lookout points and scenic roads including those referenced on the map to this clause.*

78 Deferring the preparation of building envelope guidelines, shifts the focus from a transparent and strategically driven framework, to a piecemeal and potentially reactive process, where decisions might prioritize short-term developer interests over long-term community needs.

I refer to the example provided by adjoining ridgetop properties along Eagle Bay Terrace and Fullarton Drive just east of the growth area, which have lot sizes

ranging from around 800m^2-1375m^2.

79 I submit that despite the larger lots and the application of building envelopes restricting heights to 7.5 meters, the continuous built form and obtrusive visual bulk of the dwellings is clearly visible from Lake King, the foreshore walking track, and from as far away as the lake foreshore at the Eagle Point Hub. The net result of this sprawling ridgetop development has been significant visual impacts to an important coastal landscape, as shown in the photo below.

Landscaping

80 In addition to building envelopes, the Structure Plan (p.18) adopts requirement R7 which states:

> *Native tree planting shall be implemented on the foreshore reserve and adjacent streets to soften the visual impact of development when viewed from Lake King while providing reasonable opportunities for view sharing from residential lots north of Paynesville Road and complying with bushfire management requirements.*

81 R7 seeks to preserve both private *and* public visual amenity using planted native vegetation, whilst simultaneously seeking to reduce bushfire risk. This requirement is unlikely to be achieved for two main reasons:

1. Planting native trees large enough to screen visual bulk *from* the lake (public amenity) is likely to impact residential views *to* the lake (private visual amenity). These two distinct visual amenity objectives are to a large extent, mutually exclusive.

2. Planting a sufficient number and density of large native trees common to the area, so as to effectively screen or 'soften' the visual bulk of development from Lake King, has the potential to significantly increase bushfire risk.

Again, these two objectives are not complimentary, since native trees can potentially become a significant fire hazard.

Street layout

82 Another Structure Plan (p.19) guideline (G1) seeks to design street networks that maximise "long distance views *to* the water" but not *from* the water.

83 This guideline omits any consideration of the visual impacts that dwellings may have on landscape quality when viewed from the waters of Lake King or nearby popular foreshore areas, being inconsistent with clause 12.02-1L which seeks to:

> *Manage the coastal foreshore for environmental protection, preservation of landscape quality.*

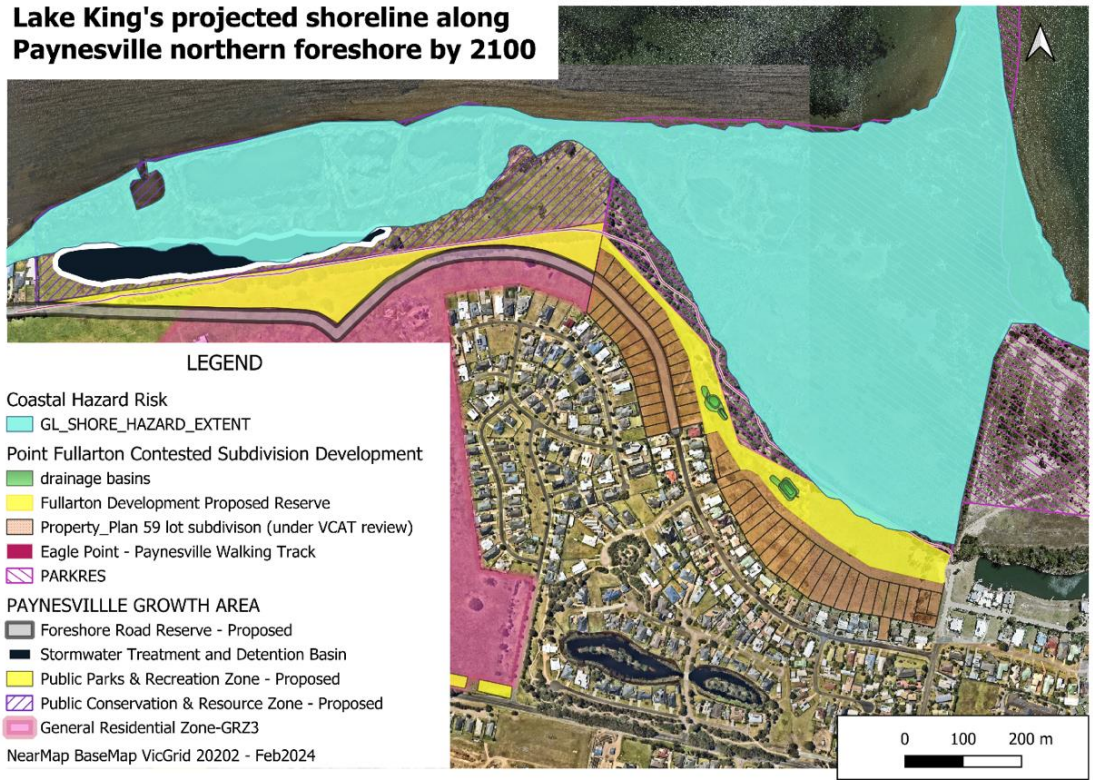
84 I submit inadequate consideration is given to protecting a landscape of state significance, with Lake King recognised as one of the most prominent water features in this landscape.[25]

Detailed case study: Coastal squeeze

85 The proposed rezoning and DPO schedule conditions do not adequately balance the imperative for additional housing supply with the sense of place, neighbourhood character and coastal identity of the surrounding coastal neighbourhood.

86 This is starkly evident in the GRZ3 proposed for the sensitive northern slopes directly below Eagle Bay Terrace; which is afforded poorly designed and ineffectual landscape and wildlife buffers or setbacks to the foreshore reserve.

[25] Victorian Government (2006) *Coastal Spaces Landscape Assessment Study*, p.86



87 The gap between the foreshore road and recreation reserve narrows to around 10-15m from the conservation reserve for about 50 meters. Shoreline erosion projections by Water Technology (2014) indicate that this section of foreshore is highly erodible and the future shoreline is likely to come within 55m of the curving apex of the road by 2100 (see map above).[26]

88 I note that the Shore Hazard Extent mapping by Water Technology indicates that by 2100, the shoreline is projected to form a bluff just east of the road apex, widening the land corridor noticeably. Though the precise future shoreline boundary is unknown, and subject to the significant limitations of the 2014 *Lakes Shoreline Erosion Hazard Assessment*,[27] it's likely the bluff will become the most significant landscape feature on this section of Lake King, and will most likely replace Point Fullarton as the most northerly point.

89 I submit that the considerable environmental and landscape value of this potentially more climate resilient section of lake foreshore, as both a refugia for

[26] See *Gippsland Lakes/ 90mile Beach Coastal Hazard Assessment – Report 4: Lakes Shoreline Erosion Hazard*

[27] See section of this submission for discussion of the limitations of Water Technology (2014) *Gippsland Lakes/ 90mile Beach Coastal Hazard Assessment – Report 4: Lakes Shoreline Erosion Hazard*

retreating habitats, a natural or 'living shoreline' buffer[28] to existing development, and an important vista and viewpoint for future generations, has not been adequately considered by the amendment.

90 The low-lying Ramsar wetlands and coastal habitats of the adjoining Point Fullarton Gippsland Lakes Reserve are particularly vulnerable to sea level rise. The bluff will is likely to become a regionally significant 'climate refugia' for the flora and fauna of the Point Fullarton Reserve.

91 I submit that the amendment has not taken a sufficiently forward looking, integrated coastal zone planning approach to this critically important climate refugia. Preserving environmental and visual amenity values and integrating public access into the future (via a carefully designed walk and look-out) will require far wider foreshore buffers than have been provided.

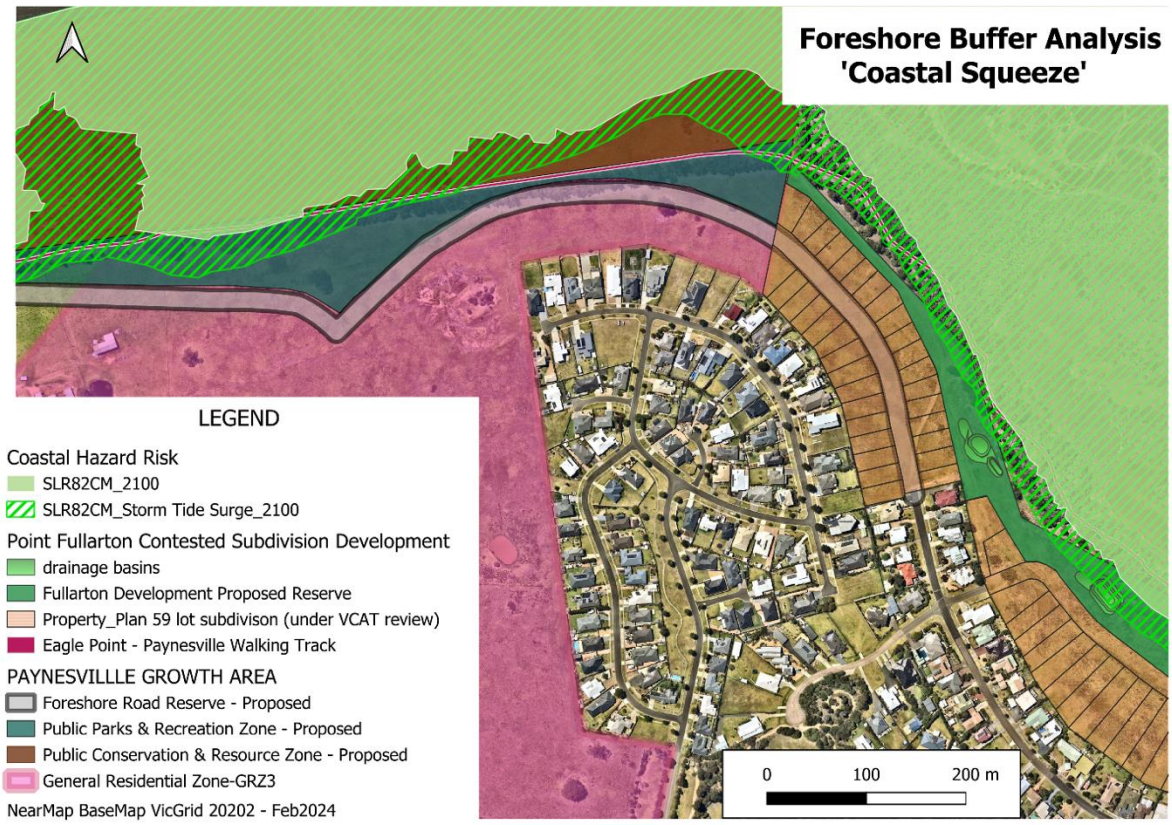
92 Taking a more precautionary, conservative risk-based approach, which respects natural coastal processes, and considers long term environmental, social and economic considerations, would see far wider conservation and parkland buffers applied.

93 I submit that doing so would promote both greater public access to the future foreshore and habitat resilience, by giving Ramsar-listed habitats inundated by sea level rise, room to retreat as the shoreline inevitably recedes.

94 The current reserve and road design exemplifies poorly integrated coastal zone planning in response to reasonably foreseeable coastal hazard risks. The amendment is not consistent with the guiding principles of the *Marine and Coastal Act*, especially ecologically sustainable development, evidence-based decision making, the precautionary principle, and integrated coastal zone planning which is proportionate and risk-based.

95 In this context, the likely planning outcome is the inadequate integration of wildlife and habitat corridors (or climate refugia) with recreational spaces, further undermining the long-term sustainability of Paynesville's northern coastal zone (refer to map on the next page) .

[28] *The Victorian Marine & Coastal Policy 2020* outlines this as a nature-based method (also referred to as 'nature-based coastal defence' or a 'living shoreline'). The creation or restoration of coastal habitats for hazard risk reduction is considered an important Adaptation Pathway Approach to addressing climate change risk.



96 Furthermore, the limited land area of proposed GRZ3 in this tight, sloping corner of visually prominent land, will significantly test the feasibility of three-dimensional building envelopes on even a 1000m2 lot, being the maximum lot size recommended by the plan's Urban Land Use guidelines (G1 and G3).

97 Disregarding the environmental and physical limitations of this narrow choke point and the future lake shoreline corridor, development on this highly visible land will likely significantly impact the area's visual amenity, for both residents and visitors alike. This impact will become more pronounced as rising sea levels further constrict the foreshore reserve.

98 The dense visual bulk of the development is likely to impact vistas from the public realm; whilst the GRZ3's small land corridor (approx. 50m wide from the proposed road) would render setbacks between building envelopes on even 20m+ wide lots all but incapable of achieving a reasonable sharing of views for existing properties.

99 I submit that in this instance, environmental, visual amenity, public access and safety considerations far outweigh the benefits of greater lot yield in the sensitive coastal zone. The entire narrow, sloping corridor ought to be reserved as parkland and a landscape buffer applied in response to the inherent coastal

hazard risks and environmental values of the land.

Integrating visual amenity provisions with overlay and zoning controls

100 I submit that the proponent derived visual amenity provisions (i.e., building envelopes and vegetated screening) and the blanket GRZ3 zoning of the Structure Plan, are unlikely to be effective at achieving key neighbourhood / township character and visual amenity objectives.

101 I submit that the DPO does not adequately rationalise the DDO14 and SLO visual amenity controls. Furthermore, the DPO does not sufficiently decant relevant, measurable requirements into the GRZ schedule 3 nor decant the more subjective requirements effectively and transparently into the DPO.

102 In this respect, a Neighbourhood Residential Zone that specified minimum lot sizes along with an expanded foreshore reserve along the north-facing slopes would provide a more robust mechanism to protect Paynesville's coastal town character, visual amenity, and significant landscape values.

103 Overall, the Neighbourhood Residential Zone is significantly more sympathetic to the limited development capacity and coastal landscape character values of the exposed ridgetops overlooking Lake King, than the application of the General Residential Zone.

104 Significantly, the DPO conditions do not require land owners / developers to undertake a landscape impact assessment, making the effectiveness of the building envelope guidelines difficult to model and assess.

105 I submit that a landscape impact assessment be undertaken which models the effect of various minimum lot sizes, building envelopes, street layouts and tree plantings on the inherently vulnerable and sensitive coastal landscape.

106 The landscape assessment results would provide a more objective evidence-base on which to make coastal planning decisions, particularly in relation to zoning, foreshore buffers, minimum lot size, street layouts, landscaping and building envelope guidelines.

107 I submit that a landscape impact assessment combined with mandatory minimum building envelope setbacks and height requirements would more likely achieve the neighbourhood character objectives of clause 15.01-5S to:

Ensure development responds to its context and reinforces a sense of place and the valued features and characteristics of the local environment and place by respecting the:

- *Pattern of local urban structure and subdivision.*
- *Underlying natural landscape character and significant vegetation.*
- *Neighbourhood character values and built form that reflect community identity.*

108 In considering the appropriateness of the mandatory provisions, I have had regard to *Planning Practice Note No. 23*.

109 Planning note 23 stipulates that though mandatory provisions are the exception:

> *…they may be used to manage areas of consistent character [and] sensitive environmental locations such as along the coast*.[29]

110 I submit that establishing minimum mandatory set back and maximum height provisions, provides greater certainty, ensures a preferred outcome and more efficient process than the less transparent, developer-driven guidelines approach.[30]

Benefits of mandatory minimum 3D building envelope design guidelines

111 Developing and implementing minimum 3D building envelope guidelines as part of the structure planning process offers numerous benefits, including:

Enhanced public and private amenity

112 As discussed earlier, clear and enforceable guidelines promote the reasonable sharing of views to Lake King and soften the impact of development on visually significant landscapes.

Predictability for developers and residents

113 Well-defined minimum design envelopes provide clarity for developers and residents, reducing costly disputes and delays during the planning process. The adjoining 10.7ha parcel of land for instance, is now subject to its third

[29] Planning Practice Note 23 | Applying the Incorporated Plan and Development Plan Overlays (2022), p.55
[30] Planning Practice Note 23 | Applying the Incorporated Plan and Development Plan Overlays (2022), p.55

development attempt, following two previous VCAT challenges fought, in part, on the adequacy of building envelopes to address visual amenity impacts.[31]

114 I note that the loss of third-party review rights under the DPO will prohibit affected parties from negotiating changes to building envelopes. Resolving view sharing disputes in the manner described in paragraph 69 all but impossible, making mandatory *minimum* setbacks and height limits more critical for achieving visual amenity objectives.

Preservation of significant views

115 Minimum envelope requirements are more likely to ensure that coastal growth respects the Gippsland Lakes unique environmental and scenic assets, aligning with the clause 12.02-1S which seeks to:

> *Protect and enhance natural features, landscapes, seascapes and public visual corridors.*

Cohesive urban design

116 A clear design framework that establishes minimum setbacks and maximum height limits offers an unambiguous starting point for the design process and provides the basis for the consideration of height, scale, and massing of new development.

Partially prescriptive (minimum setbacks and height limits) rather developer-driven building envelopes are more consistent with clause 15.01-2S, to

> *Ensure a comprehensive site analysis forms the starting point of the design process and provides the basis for the consideration of height, scale, massing and energy performance of new development.*

Enhanced community confidence and transparency

117 Community input into design of building envelope guidelines, increases transparency and public trust in critical aspects of the development planning process. The development of detailed building envelope guidelines via consultation with only a narrow group of stakeholders however, can erode public trust and lead to community dissatisfaction with the final outcomes.

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[31] See Lake Park Holdings Pty Ltd v East Gippsland SC [2011] VCAT 1491; Lake Park Holdings Pty Ltd v East Gippsland SC [2014] VCAT 1449

118 I submit that the lack of certainty created by leaving building envelope design guidelines to the discretion of developers, is compounded by the exemption of statutory notice requirements and third-party review rights.

119 These restrictive provisions are pivotal to the operation and purpose of the DPO,[32] making it even more critical that the development of building envelope guidelines be an open, inclusive and transparent process.

120 Similarly, the ability to approve or alter a Development Plan without a planning scheme amendment, and no prescribed or easily enforceable process for exhibiting development plan amendments or making submissions,[33] further reduces the level of transparency and accountability in local planning and development.

121 I submit that the inclusion of public consultation conditions to the schedule of the proposed DPO, are at best weak (completely at the discretion of the Responsible Authority since consultation is not a legal requirement), and very difficult to enforce, since no third party notice, objection and review rights exist once the overlay is applied.

122 The incompatibility of forcing public consultation conditions into the DPO schedule are again underscored by *Planning Practice Note 23 - Applying the Incorporated Plan and Development Plan Overlays- PPN23*, which clearly states:

> *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 land where ownership is limited to one or two parties and land that contain no existing residential population and do not adjoin established residential areas.*

123 I submit that a DPO in this instance, is not supported by a comprehensive, up-to-date, and integrated Structure Plan. The application of the DPO in this context, is not consistent with PPN 23, since:

> a) it is likely to significantly affect third party interests, as demonstrated by approximately 250 concerned residents attending a protest meeting

[32] Planning Practice Note 23 | Applying the Incorporated Plan and Development Plan Overlays (2022), p.9
[33] Planning Practice Note 23 | Applying the Incorporated Plan and Development Plan Overlays (2022), p.8

against amendment C172egip in Paynesville on Saturday 18th Jan 2025.

b) the growth area boundary transects established residential areas along almost its entire eastern and southern boundary, totalling 97 established residential lots.

124 Planning approvals granted without a detailed and comprehensive Structure and/or Development Plan being finalised, risk creating land use conflicts that could undermine community liveability, environmental and landscape protection and the efficient use of land.

Is Section 2.0 of Schedule 10 to Clause 43.04 Development Plan Overlay an acceptable provision?

125 Schedule 10 to clause 43.04 'Development Plan Overlay' applies the following objectives:

> *To ensure orderly and integrated development of the land that enhances the character of Paynesville as a small lakeside town and creates a cohesive and accessible community.*
>
> *To provide for a range of compatible urban land uses, high quality public realm, drainage infrastructure, open space and community facilities.*
>
> *To ensure an integrated and connected movement network, including a pedestrian and cycle network, designed to connect into the wider township, foreshore reserves and surrounding areas.*
>
> *To provide for a single coordinated shared infrastructure plan, which delivers infrastructure and developer contributions.*

126 It must be noted that under the requirements of section 2.0 of the proposed DPO, a permit can be granted prior to the development of the plan, subject to the discretion of the Responsible Authority. The DPO states:

> *A permit may be granted to use or subdivide land, construct a building or construct or carry out works before a development plan has been prepared to the satisfaction of the responsible authority that does not prejudice the future, orderly development of the area affected by the*

Development Plan Overlay

127 I submit the above requirement is inconsistent with orderly and integrated strategic planning, because orderly and integrated development is contingent on orderly and integrated strategic planning.

128 I must emphasize that the requirement within the proposed Development Planning Overlay (DPO), allowing for a permit to be granted prior to the completion of a detailed Development Plan, raises significant concerns regarding the DPOs alignment with the principles of orderly, integrated, evidence-based strategic planning.

129 Orderly and integrated development relies fundamentally on the existence of a clear, comprehensive, and forward-thinking strategic framework informed by a range of essential studies and comprehensive constraints mapping.

130 I submit that detailed and timely constraints mapping plays a fundamental role in ensuring that growth area structure planning aligns with the principles of orderly and integrated development. It is an essential tool for identifying and addressing the physical, environmental, and infrastructure-related factors that shape the capacity and suitability of land for development.

131 Detailed and timely constraints mapping and the studies which underpin it, provide a clear evidence base that informs structure and development plans, ensuring that planning decisions are **transparent** and **defensible**.

132 This aligns with the planning policy frameworks emphasis on supporting **public confidence in the planning process** and its commitment to orderly, transparent, consistent and integrated development.[34]

133 Growth area structure planning is critical to ensuring the orderly and integrated development of expanding urban areas. Clause 11.02-2S (Structure Planning), establishes that structure plans should:

[34] See Section 16(2): "A planning authority must ensure that the planning scheme is prepared and approved in a manner that is consistent with the objectives of the planning framework and other relevant state policies, including the integration of land use with infrastructure and environmental factors" and,

Section 24(1)(d): "A planning scheme must provide a framework for the regulation of land use and development that is integrated with other matters such as the provision of infrastructure, environmental management, and the delivery of social services."

- *Coordinate infrastructure delivery and land use planning to provide for sustainable settlement growth.*
- *Ensure land use and development align with long-term strategic visions for urban growth areas.*
- *Minimize land use conflicts and integrate new developments with existing urban areas.*

134 I submit that without a fully developed Structure plan in place, that is informed by a range of up-to-date land capability assessments, development decisions run the risk of being piecemeal, ad hoc, and reactionary rather than sequential, transparent and cohesive.

135 For instance, permission could theoretically be granted to construct the stormwater retention basin without the proponents having met the DPO requirement for a flora and fauna assessment or undertaking a geotechnical investigation of the Coastal Acid Sulphate Soils which are known to be present in the foreshore zone.

136 I submit that under these circumstances, the granting of a permit to use or develop land along or adjacent to the sensitive foreshore, prior to a development plan being finalised, is clearly not consistent with orderly, evidence-based and integrated planning.

137 Requirement 2.0 of the DPO schedule gives the Responsible Authority the power to exercise its discretion and grant a permit that may be contrary to the available evidence, if it takes the view the proposed development "does not prejudice the future, orderly development of the area affected by the Development Plan Overlay".[35]

138 Moreover, I submit that these significant discretionary powers, can be exercised with little restraint or oversight, aside from intervention by the Minister or via a costly judicial review in the Supreme Court.

139 In this context, granting permits without a finalised Development Plan undermines the very purpose of strategic planning, which is to provide certainty and direction for stakeholders, including developers, local residents, and governing bodies.

[35] Schedule 10 to Clause 43.04 Development Plan Overlay 'Paynesville Growth Areas', section 2.0

140 I submit that permitting development in the absence of a finalised Development Plan erodes public confidence in the planning process, as it suggests that development decisions may be driven by immediate interests rather than a well-considered, long-term vision supported by comprehensive and robust risk assessments.

141 I note that the proposed allowance for permits to be granted before the development of a strategic plan, is wholly inconsistent with the principles of orderly and integrated planning. It disregards the critical interdependence between planning and development, thereby jeopardizing the opportunity to achieve sustainable and orderly growth.

142 I implore the Responsible Authority to reconsider section 2.0 of the DPO to ensure that all development is anchored in a robust and orderly strategic planning framework, fostering fair and integrated outcomes that align with the broader public interest and the objectives of planning in Victoria, especially Sec 4 (1a) of the Act which sets out:

> *…to provide for the fair, orderly, economic and sustainable use, and development of land.*

143 Most concerningly, the DPO includes no requirement that the Development Plan be generally in accordance with the Structure Plan, nor require the Development Plan achieve the objectives set out in Section 1.0 of the overlay schedule. This fundamental oversight, reduces the strategic framework to the conditions and requirements for permits outlined in the schedule to the DPO, divorcing the Development Plan from the broader Structure Plan objectives, requirements and guidelines.

The 'refreshed' yet still outdated Structure Plan

144 The original Structure Plan (2016) commissioned five major studies to inform early planning decisions, reflecting selected opportunities and constraints considered significant or relevant at the time. The Structure Plan underwent a very minor update 2023 which mainly updated traffic volumes and population growth figures.

145 Despite claims that "a review and refresh of the PGASP and technical background reports was undertaken in 2023,"[36] the updated 2023 Structure

[36] East Gippsland Planning Scheme Amendment C172egip – Explanatory Report, p.5

Plan failed to include copies of the 'refreshed' technical background reports shown in the Appendices. Upon prompting, council officers did however supply the requested missing reports. Following a careful inspection, no evidence of any changes to the original reports was evident.

146 I submit that the 'refreshed' technical reports are in fact unchanged, being identical to the original 2015/16 reports included in the first Structure Plan (2016).

147 I do acknowledge however that the Structure Plan (2023) was indeed refreshed with some updated data following the 2023 review, though the outdated and unaltered technical reports were not included in the updated Structure Plan.

148 I note the Explanatory Report (p.5) to amendment C172egip states:

> *The Structure Plan also draws on detailed analysis of background information including the assessment of traffic management; drainage; land supply and demand; ecology and biodiversity; natural hazards; cultural heritage; and social impact.*

149 I urge the Responsible Authority to prepare a *Data and Evidence Table* which provides a summary of background reports and the information drawn on in preparation of the Structure Plan to ensure a transparent and robust evidence base supports Amendment C172egip.

150 A lack of technical studies or analysis of coastal hazard risks is evident in both the Paynesville and Eagle Point Structure Plans. These studies or analyses are required to support the finalisation of a deliverable Precinct Structure Plan.[37]

151 The following key reports informed the revised Structure Plan (2023), namely;

- Key Issues and Responses Report, Oct 2015
- Consultation Report, Oct 2015
- Traffic Impact Assessment Report, Jun 2016
- Social Impact Assessment Report, Feb 2016
- High Level Hydrological Analysis, Mar 2016

152 Notably absent from the above list of key reports and early land capability studies are site-specific investigations related to:

[37] Victorian Planning Authority (2021) *Guidance Note: PSP 2.0*; p.19

- Neighbourhood character assessment
- Aboriginal cultural values assessment
- Arboricultural assessment
- Biodiversity assessment
- Bushfire assessment
- Landscape impact assessment
- Land capability assessments (including contamination, sodic soils, coastal hazard vulnerability and erosion susceptibility).

153 It's important to acknowledge that a number of unpublished studies and expert witness statements were prepared in support of a planning application for a subdivision of an adjoining foreshore property currently under review by VCAT[38].

154 However, only some of the reports which informed the revised Structure Plan (2023), are relevant to the growth area, and no evidence exists that a peer review of those old reports and evidence was ever undertaken, in accordance with the Precinct Structure Planning 2.0 Guidelines set out below:

> *Review existing technical studies and commission any land capability studies (e.g. heritage, land capability, etc.) or update existing studies to support early planning decisions.*[39]

155 I submit considerable uncertainty exists around what background information was drawn upon, and how unpublished and/or unreferenced studies were incorporated into the early planning decisions of the Structure Plan. This uncertainty is particularly notable with regards to ecology and biodiversity, natural hazards, social impact and cultural heritage.

156 The following table provides an overview of the key differences between the Eagle Point Structure Plan and the Paynesville Growth Area Structure Plan (see below).

Structure Planning Comparison Table Eagle Point and Paynesville Structure Plans and supporting documents		
Eagle Point Structure Plan 2019	**Paynesville Growth Area Structure Plan 2023**	**Comments**

[38] VCAT ref: P1514/2023

[39] Victorian Planning Authority (2021) *Guidance Note: PSP 2.0*; p.8

Unavailable or not included as a background report in Structure Plan	Key Issues and Responses Report, Oct 2015	
Unavailable or not included as a background report in Structure Plan	Consultation Report, Oct 2015	
Not completed , unavailable or not included as a background report in Structure Plan	Traffic Impact Assessment Report, Jun 2016	Based on 2011 census demographic data
Not completed, unavailable or not included as a background report in Structure Plan	Social Impact Assessment Report, Feb 2016	Based on 2011 census demographic data
Not completed, unavailable or not included as a background report in Structure Plan	High Level Hydrological Analysis, Mar 2016	No consideration of coastal hazard risks
The Public Realm & Infrastructure Plan	Not completed	Deferred to the Development Plan
Significant topographic features (ridgelines / high points) mapped	Not included	Neither plan undertook a landscape impact assessment
Significant view lines shown on maps	Not included	Neither plan undertook a landscape impact assessment
Environmental Values & Cultural Heritage Assessment (date unknown)	Not completed	Deferred to the Development Plan
Vegetation clusters or significant trees identified and mapped	Not completed	Flora assessment deferred to the DP No Vegetation Precinct Plan deemed necessary
No habitat assessment (fauna) undertaken	No fauna assessment	Deferred to the DP

Creek/tributaries and minor drainage lines identified and mapped	Not included	Deferred to the Development Plan
Landscape and/or wildlife corridors identified / shown on maps	Not completed	Deferred to the Development Plan
High Conservation Value vegetation mapped	Not completed	Deferred to the Development Plan
Environmental overlays (e.g., Vegetation Protection Overlay) shown on maps	Not included	
Inundation overlay (LSIO) shown on maps	Not included	Deferred to the Development Plan presumably
Road / Street Cross Sections included	Not included	Deferred to the Development Plan's Public Infrastructure Plan
Neighbourhood Character and Change Areas mapped, defined and delineated	Not completed	Not considered a requirement
Strategic development site plans	Not completed	Deferred to the Development Plan
Public Transport and Path Network Plan	Not completed	
Bushfire risk pathways mapped	Not included	A high level Bushfire Planning Considerations Report was prepared in 2019 and peer reviewed in 2023. To be considered by the Development Plan
Road networks plan	Not included	Deferred to the Development Plan's Public Infrastructure Plan
Natural Hazards mapped (bushfire and 1% AEP flood extant only)	Not included	Gippsland Lakes Coastal Hazard Assessment (2014) and other unspecified Government data

Sea level Rise, Storm/Tide Surge not mapped		considered. To be considered by the Development Plan No Full Flood Study undertaken
Basic Drainage Plan included	Not included	Deferred to the Development Plan's Public Infrastructure Plan
Open Space Network Plan	Not included	Deferred to the Development Plan
Land Use Budget and summary tables not included	Not included	Deferred to the Development Plan
Gateways and Streetscapes Plan	Not included	Deferred to the Development Plan
No contaminated land investigations	Not undertaken	Deferred to the Development Plan, triggered by the Environmental Audit Overlay
Detailed Precinct Area Plans – foreshore and community precincts	Not completed	Deferred to the Development Plan

157 The Precinct Structure Planning guidelines were specifically introduced to 'lift the bar' by encouraging a more integrated approach to planning that can resolve key planning challenges early.[40]

158 I submit the amendment's penchant for deferring critical planning outputs (Public Realm and Water Plan, Movement Network and Public Transport Plan, Environment & Heritage Plan and Street Cross sections) to the application of a Development Plan Overlay and schedule clearly does not.

After all, the missing plans and assessments are all key PSP outputs (see p.69 of the PSP Guidelines) and are necessary inputs (rather than outputs) to an

[40] Victorian Planning Authority (2021) Precinct Structure Planning Guidelines: New Communities in Victoria; p.3

orderly and integrated Development Plan[41].

Is the approach to flooding, coastal inundation and sea level rise adequate?

159 The Regional Growth Plan and local policy within the East Gippsland Planning Scheme identifies Paynesville as being exposed to riverine and coastal inundation. It is recognised that these environmental risks are a constraint to the future development of the township.

160 Relevantly, State policy was substantially updated by Amendment VC171 in September 2021, to implement the Marine and Coastal Policy 2020 and places a clearer emphasis in its objective on managing coastal hazard risk, alongside other climate change impacts.

161 Clause 13.01-2S has an objective:
To plan for and manage coastal hazard risk and climate change impacts.
Accompanying strategies at this clause include to:

> *Plan for sea level rise of not less than 0.8 metres by 2100 and allow for the combined effects of tides, storm surges, coastal processes and local conditions such as topography and geology when assessing risks and coastal impacts associated with climate change.*
>
> *Ensure that land subject to hazards is identified and appropriately managed to ensure that future use and development is not at risk.*
> *Avoid use and development in areas vulnerable to coastal inundation and erosion.*

162 In the context of this policy, the amendment seeks to constrain development below 2.8 meters AHD to address the inherent coastal inundation and erosion risks of the Lake King foreshore area.[42]

163 In this respect, the 2.8m AHD inundation level appears to be nominally derived from 1% Annual Exceedance Probability (AEP) declared peak flood level for

[41] Victorian Planning Authority (2021) Precinct Structure Planning Guidelines: New Communities in Victoria; p.69
[42] NB: The gazetted Explanatory Report to Amendment C172egip incorrectly claims development is excluded below 2.9 meters AHD, whilst the Structure Plan refers to 2.8m AHD

Paynesville (2m AHD)[43] plus an allowance for a 0.8m Sea Level Rise.

164 The Explanatory Report accompanying the amendment however states that:

> *An evaluation of the risks and determination of the 2.9 metres AHD 'line' was as a result of work done by Watch Technology in 2016 which looked at the whole Gippsland Lakes system in the form of a Coastal Hazard Assessment.*[44]

165 In this context, the amendment draws on Water Technology's *Gippsland Lakes Local Coastal Hazard Assessment (Apr 2014)* as justification for its approach to coastal hazard risk mitigation.[45]

166 The studies by Water Technology aimed at identifying and assessing coastal erosion and inundation hazards within the Gippsland Lakes region. While sophisticated for its time, the assessment did not model 1% AEP floods that incorporated sea level rise beyond 2040.[46]

167 Subsequent developments in hydrodynamic modelling and data availability suggest the report's inundation levels and erosion extent mapping is now dated, and more recent inundation and erosion modelling and coastal hazard assessments are warranted.[47]

168 Moreover, the authors themselves acknowledge the limitations of their work, particularly in relation to the inundation hazard assessment which omitted modelling the 1% AEP flood with +0.4m (2070) and +0.8m (2100) Sea Level Rise scenarios due to:

> *The uncertainties around future climate change projections, particularly in regard to rainfall, runoff and resultant changes in the estimated 1% AEP*

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[43] 1% AEP Flood levels were derived from the Gippsland Lakes Flood Modelling Project (GLFMP) (Grayson, et al., 2004)

[44] Explanatory Report to Amendment C172egip p.9 see also footnote 35 re: typographic errors

[45] NB: the Water Technology report was incorrectly identified as being completed in 2016 in the gazetted Explanatory Report to the amendment (see p.9).

[46] Water Technology (2014) *Gippsland Lakes/ 90mile Beach Coastal Hazard Assessment - Report 2 Inundation Hazard;* p. 37

[47] See Cohen et al (2019) CFAST: Modelling and visualisation to improve flood adaptation planning processes in coastal cities, CSIRO Pub.; and Hague et al (2023) The effect of tidal range and mean sea-level changes on coastal flood hazards at Lakes Entrance, south-east Australia, CSIRO Pub.

flood volumes entering the lake.[48]

169 I submit that climate change projections have advanced considerably in the past decade since the Water Technology report was published. I note for instance, that the most recent 2022 CSIRO study of the impacts of climate change on the Gippsland Lakes includes updated climate projections, including a projected 21% increase in extreme (1-in-20 year) daily rainfall events by 2100.[49]

170 Furthermore, the same CSIRO study indicated lower average precipitation but higher extreme rainfall, reduced runoff, lower relative humidity, higher mean temperatures, higher evapotranspiration rates, and far more frequent and intense storms as the 'greatest plausible change by 2050'.[50]

171 Perhaps most alarmingly, are the Annual Recurring Interval (ARI) or frequency projections for extreme weather events like storms and tide surges in the Gippsland Lakes arising from climate change. According to the report, a 1-in-100 year high sea-level (extreme storm and tide) event, is projected to occur approximately every 11 to 16 years by 2030, and between 10 to 100 times *per year* by the end of the century.[51] This translates to storm/tide induced coastal inundation occuring every 4 to 36 days along the Lake King foreshore.

172 I submit the 2014 Water Technology assessment did not sufficiently consider the above effects of climate change in its modelling of projected flood levels and foreshore erosion, a fact acknowledged in the report's recommendations for further research:

> *It is likely that aside from sea level rise, climate change may result in changes to rainfall frequency and intensity which would alter the river inflow regime for the inflowing rivers. However, there is considerable uncertainty as to the magnitude and timescale of such changes.*
>
> *An additional potential impact of climate change which has even greater uncertainty surrounding it is the potential for changes in wind speeds and*

[48] Water Technology (2014) *Gippsland Lakes/ 90mile Beach Coastal Hazard Assessment – Report 2 Inundation Hazard;* p. 3
[49] CSIRO (2022) *Final Report on the Vulnerability of the Gippsland Lakes Ramsar Site Catchment to Bushfire & Climate Change*, Department of Agriculture, Water and the Environment, Australia; p.146
[50] CSIRO (2022) *Final Report on the Vulnerability of the Gippsland Lakes Ramsar Site Catchment to Bushfire & Climate Change*, Department of Agriculture, Water and the Environment, Australia; p.46
[51] CSIRO (2022) *Report on the Vulnerability of the Gippsland Lakes Ramsar Site Catchment to Bushfire & Climate Change*; p.62

directions. There is currently no reliable guidance available on such changes.

The hydrodynamic models used for this study could be modified to test the sensitivity of the system to a wide range of potential climate change conditions, including the impact of salinity, changes to flows, and altered wind conditions.

173 Similarly, the Water Technology study also recognised the data limitations of its erosion modelling, offering the following disclaimer:

The erosion component of the shoreline hazard zone represents the expected maximum extent of potential shoreline erosion to 2100, based on current erosion rates within the Gippsland Lakes.

There will be significant local variability in erosion rates throughout the lakes, with different erosion rates for different sections of shoreline.

Erosion of the shoreline is often episodic rather than a continuous process, with periods of enhanced shoreward migration interspersed with periods of minor or no change; however, without detailed monitoring data it is presently not possible to refine the erosion hazard component further.[52]

174 Put succinctly, the Water Technology model cannot accurately predict shoreline erosion extent at any given location since it lacks precise localised erosion rate inputs; a knowledge gap acknowledged by the following recommendation:[53]

Erosion monitoring throughout the lakes system covering a range of shoreline types, environmental conditions (exposed to waves/currents), and vegetation communities.

175 It's important to note that the erosion extent modelling was based solely on current vegetation communities, and "that the past, present or future impacts of salinity on these communities have not been incorporated" in Water

[52] Water Technology (2014) *Gippsland Lakes/ 90mile Beach Coastal Hazard Assessment – Report 4: Lakes Shoreline Erosion Hazard;* p.18
[53] Water Technology (2014) *Gippsland Lakes/ 90mile Beach Coastal Hazard Assessment – Report 4: Lakes Shoreline Erosion Hazard;* p. 71

Technology's erosion assessment.[54]

176 The impacts of salinity are closely related to the rise in sea level. Higher sea levels will increase salinity impacts on fresh and brackish water vegetation communities, such as saltmarsh and fringing reed beds. Prolonged and ultimately permanent saline inundation will result in considerable die-back of the plants and exposure of the shoreline to increased erosive wave and current action. This coastal process is already visible today along the Lake King foreshore proposed for rezoning as a conservation reserve.

177 Hence, the erosion hazard extent maps are indicative only, as salinity impacts on accelerated die-back of fringing vegetation has not been accounted for, and therefore are likely to underestimate the rate of foreshore erosion in the future.

178 Most significantly, the Water Technology model upon which the amendment's principal coastal inundation mitigation measure (i.e., the 2.8m AHD line) is based on, was never intended as a strategic planning tool:

> *It is important to note that the predicted flood levels under the climate change scenarios are sufficient to define the likely coastal hazards under*

[54] Water Technology (2014) *Gippsland Lakes/ 90mile Beach Coastal Hazard Assessment – Report 4: Lakes Shoreline Erosion Hazard;* p. 71

different climate change scenarios but are not appropriate for, nor intended to provide levels suitable for planning purposes.

Further refinement of the design flood cases and additional calibration would be required to meet the requirements of a full flood study.

Further work…[needs to be] undertaken to allow for the modelling to provide outputs that meet the requirements of a full flood study such that the results could be applied to set levels for future land-use planning.[55]

179 The report goes on to recommend:

A Water Level Frequency Analysis should be undertaken for the main townships of the Gippsland Lakes to aid understanding of the full range of sea level rise impacts on these communities.

There is a need to further understand the potential changes to the frequency of inundation associated with smaller flood and coastal water level events with sea level rise in the Gippsland Lakes.[56]

180 Setting aside the fact the model was never designed as a "full flood study" that could confidently model projected climate change impacts for land-use planning purposes, the calibration testing of Water Technology's two-dimensional model *underestimated* observed peak flood levels at Paynesville by 7.61% or (0.11m AHD). The authors attributed the inaccuracy between observed and modelled extreme water levels to "uncertainties related to the inflow hydrographs for the Mitchell and Tambo rivers."[57]

181 I submit that any model, is only as robust as the data and assumptions it's based on.

182 For instance, the Water Technology spectral wave model of the Gippsland Lakes assumes prevailing westerly wind conditions in the Lakes will remain constant to 2100[58], which is not supported by the latest climate change

[55] Water Technology (2014) *Gippsland Lakes/90 Mile Beach Local Coastal Hazard Assessment – Report 2: Inundation Hazard*; p.67
[56] Water Technology (2014) *Gippsland Lakes/90 Mile Beach Local Coastal Hazard Assessment – Report 2: Inundation Hazard*; p.67
[57]Water Technology (2014) *Gippsland Lakes/90 Mile Beach Local Coastal Hazard Assessment – Report 2: Inundation Hazard*, State Government of Victoria; pp.26-7
[58] Water Technology (2014) *Gippsland Lakes/ 90mile Beach Coastal Hazard Assessment – Report 4: Lakes Shoreline Erosion Hazard; p.25*

science.[59]

183 As explained by eminent climate scientist Kathleen McInnes:

> *In East Gippsland, eastward travelling frontal systems are typically responsible for causing storm surges (McInnes et al. 2013; Colberg et al. 2019) and east coast depressions are a major contributor to extreme waves (O'Grady and McInnes 2010; O'Grady et al. 2015)*
>
> *The location and behaviour of these weather systems are expected to change due to the observed poleward expansion of the tropics and poleward shift of mid-latitude weather systems caused by anthropogenic climate change (e.g. Cai and Cowan 2013; Pepler et al. 2018; Yang et al. 2020).*

184 Furthermore, the Water Technology's 2014 hydrodynamic flood modelling utilised wave exposure criteria based on a 1 year period of wind data (measured at East Sale Airport) as representative of long-term average wind conditions across the entire Gippsland Lakes.[60]

185 Again, these modelling assumptions are not supported by the latest climate science, as outlined in McInnes's article on the impacts of climate change on the Gippsland Lakes:

> *The warming of the oceans and atmosphere is intensifying severe weather systems through greater wind speeds and rainfall totals. These various factors will cause global to local scale changes, with a potentially compounding effect on coastal hazards as a result of changes in local sea levels, wind and wave climate, severe weather systems and extreme sea levels in the Gippsland Lakes region.*[61]

186 Another assumption underpinning the 2.8m AHD 'development' exclusion line is an 80cm sea level rise projection.

187 I submit the 80cm sea level rise projection is now outdated, with the latest IPCC year 2100 localised (median) projection for East Gippsland being an 0.84m sea level rise; ranging from a 0.65m to 1.11m increase (5th to 95th

[59] See McInnes, K. (2024) Climate Change, sea level rise and the Gippsland Shoreline, CSIRO Pubs; p.4
[60] Water Technology (2014) *Gippsland Lakes/ 90mile Beach Coastal Hazard Assessment – Report 4: Lakes Shoreline Erosion Hazard; p.25*
[61] McInnes, K. (2024) Climate Change, sea level rise and the Gippsland Shoreline, CSIRO Pubs; p.1

percentile). Both these projections are derived from the SSP5-8.5 'medium confidence' scenario.[62]

188 In this context, the 2.8m AHD 'line' associated Water Technology's study cannot be deemed to be based on the 'best available data and climate change science' as required by clause 13.01-1S.

Planning for climate change

189 The Marine and Coastal Policy 2020, which is a policy document at this clause, identifies that:

> *The latest projections from the Intergovernmental Panel on Climate Change on global sea level rise are for an increase of between 0.61 and 1.10 metres by 2100 above 1986-2005 levels under a high-emissions scenario, with a global average of 0.84 metres. The range of possibilities requires us to prepare to be adaptable and flexible, and to respond to new information and observed changes in the physical environment.*
>
> *Climate change impacts are expected to vary across Victoria, and may occur incrementally or rapidly. A one-size-fits-all-approach could therefore lead to maladaptation. Adaptation will need to be responsive to local conditions, values, risk appetite, risk exposure, capability and capacity.*
>
> *Different adaptation actions will have varying levels of effectiveness and costs, and positive and negative impacts depending on the local circumstances. Different adaptation measures need not be mutually exclusive, with the possibility of multiple options being used over time.*

190 The Marine and Coastal Policy adopts as Policy 6.1 to plan for sea level rise of 'not less than' 0.8 metres by 2100 and includes the following footnote:

> *The impacts of climate change, including sea level rise, will be affected by*

[62] The medium confidence rating relates to the likelihood of changes to thermal expansion, the mass balance of glaciers and ice sheets, and terrestrial water storage processes (McInes, 2024; .

global emissions trajectories and mitigation efforts. Sea level rise is not globally uniform and regional differences within +/- 30% of the global average can result from several factors.

The 'not less than 0.8m' figure is used as the statewide planning benchmark to provide a consistent policy setting across the State. It will be updated as necessary and supported by modelling that places global projections in the Victorian context to provide greater accuracy for regional and local-level adaptation.

191 The *Marine and Coastal Strategy 2022* acknowledges the importance of strategic planning to provide climate change adaptation at Action 3. Strategic planning is identified as a key focus, and says:

Strategic planning

Action 3 embeds adaptation as a core component of planning and management in the marine and coastal environment using a range of state-wide and local approaches. Updated projections and benchmarks for sea level rise and other climate change drivers and impacts will be incorporated into state-wide land use planning tools and policies so they remain responsive to changing circumstances. The Victoria's Resilient Coast – Adapting to 2100+ project (VRC) develops a state-wide adaptation framework for long-term coastal hazard adaptation and Marine Spatial Planning Framework (MSP Framework) will embed adaptation as a core component of planning in the marine environment. A range of tools, including Regional and Strategic Partnerships (RASPs), CMMPs, Environmental Management Plans (EMPs), marine plans (where developed) and statutory planning mechanisms will embed adaptation at a local and regional level.

192 The activities to support this action include; to understand and plan for coastal hazard risks and impacts from climate change by collating and sharing the latest climate change information relevant for Victoria and using this information to inform coastal hazard mapping and projections and adaptation planning.

193 Specifically in relation to the requirements to be met in preparing an amendment to rezone non-urban land for urban use or development, *Ministerial Direction No. 13: Managing Coastal Hazards* requires planning authorities to address a number of considerations, including:

Is consistent with the planning policies, objectives and strategies for coastal Victoria as outlined in state planning policies (including regional planning policies) in the Planning Policy Framework.

Addresses the current and future risks and impacts associated with projected sea level rise and the individual and/or combined effects of storm surges, tides, river flooding and coastal erosion.

Is based on an evaluation of the potential risks and presents an outcome that seeks to avoid or minimise exposing future development to projected coastal hazards.

Considers that new development will be located, designed and protected from potential coastal hazards to the extent practicable and how future management arrangements will ensure ongoing risk minimisation.

Considers the views of the relevant floodplain manager and relevant Victorian Government department.

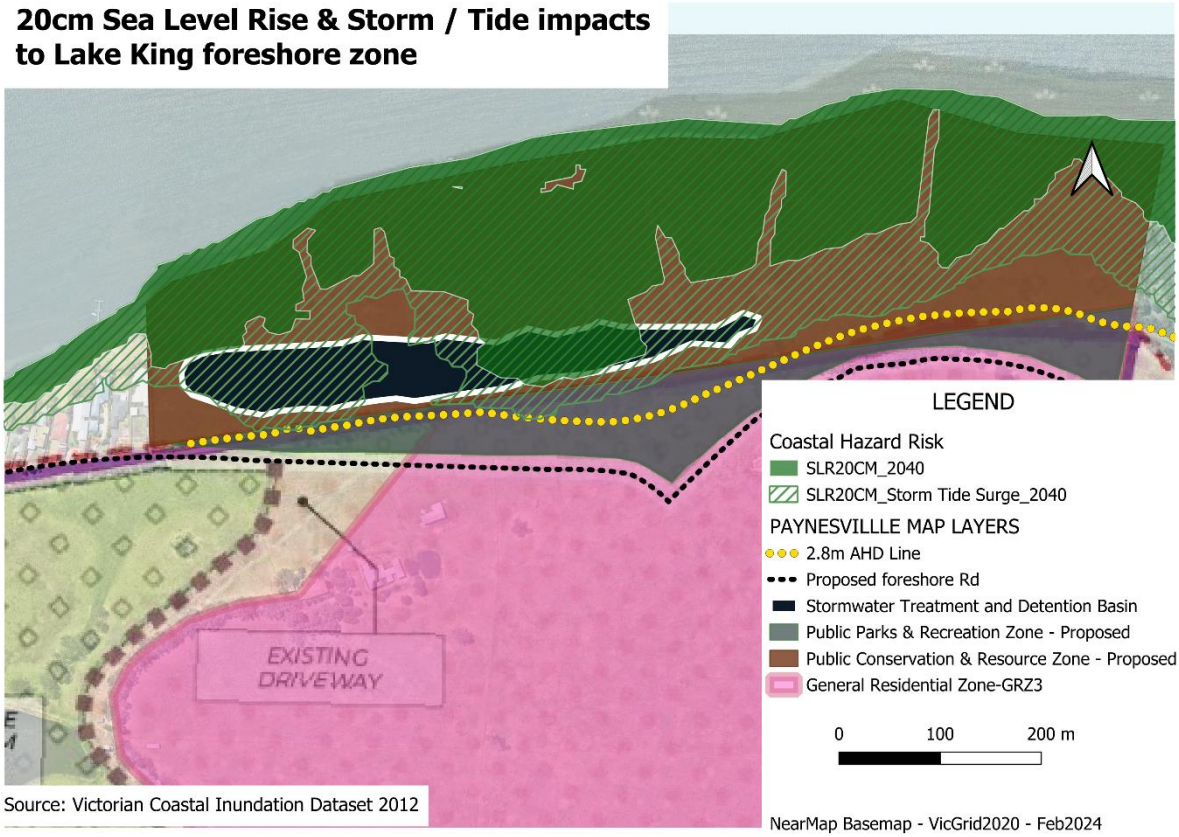
194 I submit the requirements of *Ministerial Note No. 13* have not been adequately met for the following reasons:

The planning amendment promotes development in a sensitive coastal area likely to be impacted by projected coastal hazards, which is inconsistent with the strategies of clause 13.01-1S, especially:

*Direct population growth and development to **low risk** locations*.

*Site and design development to minimise risk to life, health, property, the **natural environment and community infrastructure** from natural hazards* [emphasis added).

195 The siting and design of the stormwater assets, conservation and recreation reserves are likely to be impacted from coastal hazards, especially a projected 20cm sea level rise and the individual and/or combined effects of storm surges, tides, river flooding and coastal erosion by as early as 2040 (refer to 20cm SLR & Storm/Tide surge map on p.45).



196 I submit that the plan's foreshore buffers are too narrow to effectively mitigate the significant natural hazards projected by the Victorian Coastal Inundation Dataset 2012, placing proposed stormwater assets, the road, the conservation and recreation reserves at risk.

197 I submit the proposed siting of the Integrated Water Management System (IWMS) within the PCRZ fails to make sufficient provisions for the impact of coastal processes (the impacts from wind, waves, floods, storms, tides, erosion) on those assets.

As a minimum, a preliminary desktop assessment of coastal hazard risks using readily available Victorian government coastal inundation modelling layers ought to inform siting decisions for critical development assets in known 'high risk' locations.

198 I submit the proposed siting of the IWMS infrastructure does not "maintain and enhance healthy and valued waterways and marine environments" over the

long term, particularly in response to climate change.[63]

199 Furthermore, the siting of the northern drainage assets fails to "take into consideration what is expected to occur as a result of predicted climate change" a key requirement of the Precinct Structure Planning Guideline F13.2.[64]

200 Furthermore, the failure to undertake a full flood study or prepare a current technical drainage report which considered coastal hazard risks in plan preparation is not consistent with Precinct Structure Planning principles F13.1 and F13.2.[65]

201 Unlike other coastal towns and regions vulnerable to riverine and coastal inundation, the East Gippsland flood layer has not been updated to reflect the heightened flood risk arising from climate change.

202 It seems apparent that the Paynesville Structure Plan was not informed by the latest evidence nor a full flood study, since by its own admission, the Plan's coastal inundation mitigation tool (2.8m AHD line) is based on the outdated 2014 Water Technology *Coastal Hazard Assessment*.

203 An updated Local Coastal Hazard Vulnerability Assessment is urgently needed that considers the latest IPCC projected 0.84 to 1.11 SLR scenarios.

204 Several coastal Shires (Moyne Shire, Frankston, Bass Coast and Mornington Peninsula for instance) have progressively commissioned updated flood assessments to inform their structure planning, and update their respective flood / building overlays in accordance with the Marine and Coastal Policy.

205 Moyne Shire's *Translation of Port Fairy Coastal Hazard Assessment* (18 August 2019), prepared by Cardno, was commissioned to expand storm tide and riverine flood modelling and datasets that had been created as part of the *Port Fairy Coastal Hazard Vulnerability Assessment* to identify coastal risks for planning purposes based on the best available information. It adopted the 1.2m SLR as the benchmark coastal flood level.

[63] Victorian Planning Authority (2021) Precinct Structure Planning Guidelines: New Communities in Victoria; p.83
[64] Victorian Planning Authority (2021) Precinct Structure Planning Guidelines: New Communities in Victoria; p.83
[65] Victorian Planning Authority (2021) Precinct Structure Planning Guidelines: New Communities in Victoria; p.83

206 As acknowledged by Planning Practice Note No. 53, climate change is likely to increase the frequency, extent and magnitude of coastal flooding.[66]

207 In terms of strategic planning for coastal areas, the Practice Note observes:

> *Our understanding of the coastal impacts of possible sea level rise is evolving. Further investigation into coastal hazard vulnerability and in turn adaptation options for particular catchments and coastal areas will help inform strategic planning for settlements and decisions on future growth and assist in avoiding increased risk exposure for future coastal development.*

208 I submit there is a strong case for additional hydrodynamic modelling of the township of Paynesville with comprehensive data for depths, velocities, flow paths, erosion rates and estimated length of time for inundation, so as to ensure greater consistency with the planning policy framework.

209 In accordance with *Planning Practice Note 53: Managing Coastal Hazards and the Coastal Impacts of Climate Change*[67], the proposal to rezone land requires a thorough strategic investigation which needs to consider:

- the Marine and Coastal Act 2018 guiding principles, including the precautionary principle
- the values, uses and objectives for the area
- the local geographic characteristics of the coastline such as ocean exposure (for example open coast or sheltered exposure) and land type (such as sandy, rocky, engineered)
- the role of natural coastal processes and the need to allow for such processes to continue as a cost-effective form of coastal defence against climate change
- the coastal hazard vulnerability and risk for all relevant site values and uses, including:
  - probability, magnitude, frequency and consequences
  - impacts on people, property, communities, infrastructure and environment

[66] Planning Practice Note 53: *Managing Coastal Hazards and the Coastal Impact s of Climate Change,* p.2
[67] Planning Practice Note 53: *Managing Coastal Hazards and the Coastal Impact s of Climate Change,* p.3

- the intended use, design lifespan and value of future development, assessed against the relative risk exposure during that time

- the adaptation options for managing coastal hazard set out in the Marine and Coastal Policy (Department of Environment, Land, Water and Planning, 2020) comprising: non-intervention, avoid, nature-based, accommodate, retreat and protect

- the critical need for coastal protection infrastructure (if the 'protect' pathway is required) and:
  - the type, location and cost of providing and maintaining such infrastructure throughout its intended lifespan
  - proposed actions when the design lifespan has been spent

- the cumulative impact or any flow-on effects of future use and development and any necessary associated protection works to adjacent properties and the coastline

- other identified geotechnical risks or natural hazards such as coastal acid sulfate soils, land subsidence, bushfire

- any other issues relative to the orderly and proper management of use and development within coastal areas such as development within an identified settlement boundary, significant landscapes, native vegetation and cultural heritage.

210 I submit that none of the above considerations have been adequately addressed by the amendment.

The Precautionary Principle, as outlined in the *Marine and Coastal Act 2018*, serves as a guiding framework for managing the state's marine and coastal environments. According to Section 12 of the Act:

> *If there are threats of serious or irreversible environmental and other damage, lack of full certainty should not be used as a reason for postponing measures to prevent environmental or other degradation*.

211 The principle emphasizes that the absence of complete scientific certainty should not delay actions aimed at preventing environmental harm.

212 In this context, it mandates that decision-makers adopt proactive measures to avert potential damage to marine and coastal ecosystems, even when all scientific data is not fully conclusive.

213 I submit the amendment's siting of the IWMS in the low-lying, flood prone conservation reserve is not a proactive measure aimed at preventing environmental harm, nor does it avert reasonably foreseeable risks of coastal inundation.

214 Moreover, the siting of the IWMS is inconsistent with the environmental values and conservation objectives for the area, and likely to:

- impede natural coastal processes, particularly tidal exchange, floodplain connectivity, foreshore erosion and accretion, and wave energy dissipation
- inhibit habitat retreat and wetland formation, and
- make ongoing access and maintenance more difficult and costly.

215 Given the available evidence indicates that much of the constructed wetland is likely to be permanently submerged by rising sea levels by 2100 and beyond, the stormwater treatment system is likely to fail completely without defensive or protective works.

216 I further submit that without ongoing and expensive defensive engineering and maintenance works, the stormwater infrastructure will progressively fail to achieve pollution reduction targets. The resulting negative impacts on the Ramsar wetlands and EPBC-listed migratory bird species of Lake King, are contrary to the environmental objectives and requirements of the Victorian Planning Policy Framework.

217 Overall, the proposed foreshore rezoning is inconsistent with the objectives and planning principles of the *Marine and Coastal Act 2018 (*MAC Act*)*.
The most relevant objectives for the MAC Act in relation to planning and management of the marine and coastal environment of the proposed site include;

> *to protect and enhance the marine and coastal environment, especially Ramsar-listed foreshore area and salt marsh wetlands,*
>
> *to promote the resilience of marine and coastal ecosystems, communities and assets to climate change,*

to respect natural processes in planning for and managing current and future risks to people and assets from coastal hazards and climate change.

Biodiversity risks

218 The Structure Plan was not informed by detailed biodiversity assessments. Instead, the amendment seeks to defer flora and fauna assessments, meaning ecological considerations could be overlooked or improperly mitigated. Rezoning land prior to detailed environmental assessments risks direct, cumulative and synergistic effects on sensitive ecosystems and habitats, contrary to the strategies of clause 12.02-1S:

> *Minimise direct, cumulative and synergistic effects on ecosystems and habitats*.
>
> *Maintain the natural drainage patterns, water quality and biodiversity in and adjacent to coastal estuaries, wetlands and waterways*.

219 The lack of recent flora and fauna surveys and detailed biodiversity assessments along the foreshore zone is of particular concern given the saltmarsh wetland and coastal grassland is known to support at least eight EPBC-listed migratory species[68], including;

- Red-necked stints
- Sharp-tailed sandpipers
- Red-capped plovers
- Common greenshanks
- Pacific golden plovers
- Grey plovers
- Pied stilts
- Latham's snipe (also listed as Vulnerable under the EPBC Act).

220 Given the foreshore area supports:
a) at least eight protected migratory species (including a migratory species listed as Vulnerable under *the Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act),
b) the land the adjoins the internationally significant Ramsar-listed wetlands of

[68] Birdata database records; BirdLife East Gippsland (2025)

Point Fullarton, and
c) a nationally significant population of Latham's snipe occurs on the adjoining private land,[69] a referral under EPBC Act is warranted prior to the finalisation of the amendment and Development Plan.

221 The failure to consider the impacts of coastal hazards on the proposed reserve, is contrary to the strategies of clause 12.01-1S, namely:

> ***Enhance*** *the ecological values of the ecosystems in the marine and coastal environment [bold font added].*
>
> *Protect and* ***enhance the overall extent and condition*** *of native habitats and species diversity distributions across public and private land in the marine and coastal environment [bold font added].*

222 Minimal climate change adaptation buffers have been provided to allow for habitat retreat as sea levels rise and the foreshore erodes and retreats over time.

223 By 2040, a 20cm sea level rise is projected to inundate about 11ha or about 55% of the proposed 20ha Public Conservation Resource Zone (PCRZ).

224 By 2100, almost the entire crown land reserve (96.8%) will be impacted by the projected 82cm sea level rise and increasingly frequent storm and tide surges, along with almost 40% (1.5ha) of the adjoining Public Park and Recreation Zone (PPRZ). This will result in the overall extant and condition of significant native habitats to decline over time, resulting in a loss of ecological values.

225 As it stands, the proposed amendment will create detrimental cumulative ecosystem impacts and does not support natural processes that build ecosystem resilience to climate change impacts.

226 In accordance with Victorian *Marine and Coastal Act 2018,* the Marine & Coastal Policy (2020) sets out best practice guidelines for managing coastal hazard risk and tackling coastal squeeze, known as the Adaptation Pathway Approach.

227 This approach primarily stipulates non-intervention and avoiding development within or in close proximity to coastal habitats, followed by nature-based

[69] A proposed development on the adjacent 10.7ha property is subject to a "Controlled Action" order under the EPBC Act and currently under review by VCAT Ref: P1514/2023

methods of interventions that aim to create or restore coastal habitats.

228 Nature-based methods, also referred to as ‘nature-based coastal defence' or a ‘living shoreline', is the creation or restoration of coastal habitats for hazard risk reduction. This includes the rehabilitation of existing degraded habitats, restoration of those historically present, or the creation of new habitats in ecologically suitable areas like the Lake King foreshore zone.

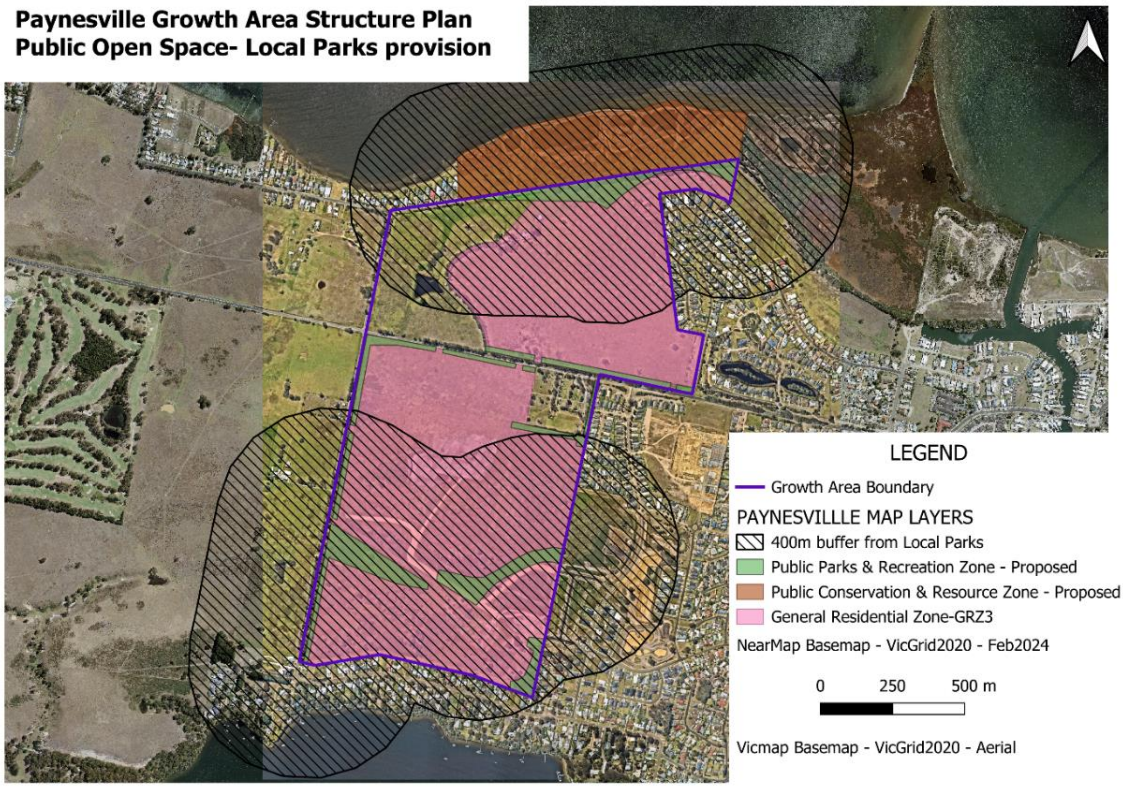
229 The extension and creation of new wetlands within the Lake King foreshore reserve will be critical, as coastal wetland habitats are progressively lost to sea levels rise, and the foreshore recedes further inland.

230 I submit that all the low-lying land adjacent to Lake King would be ideally suited for habitat retreat as sea levels rise, and provide valuable habitats for hazard risk reduction, open space for recreation, and enhancing biodiversity values well into the next century.

231 Given the Planning Policy Framework directs planners to plan for sustainable coastal development, taking a long-term view of the amendment’s potential impacts on the coastal environment is necessary if we expect coastal habitats and settlements to continue to exist beyond 2100.

Does the amendment support the Public Open Space policies and provisions of the East Gippsland planning scheme?

232 The amendment is not consistent with a range of urban landscape provisions and open space policies of the East Gippsland Planning Scheme, as outlined below.



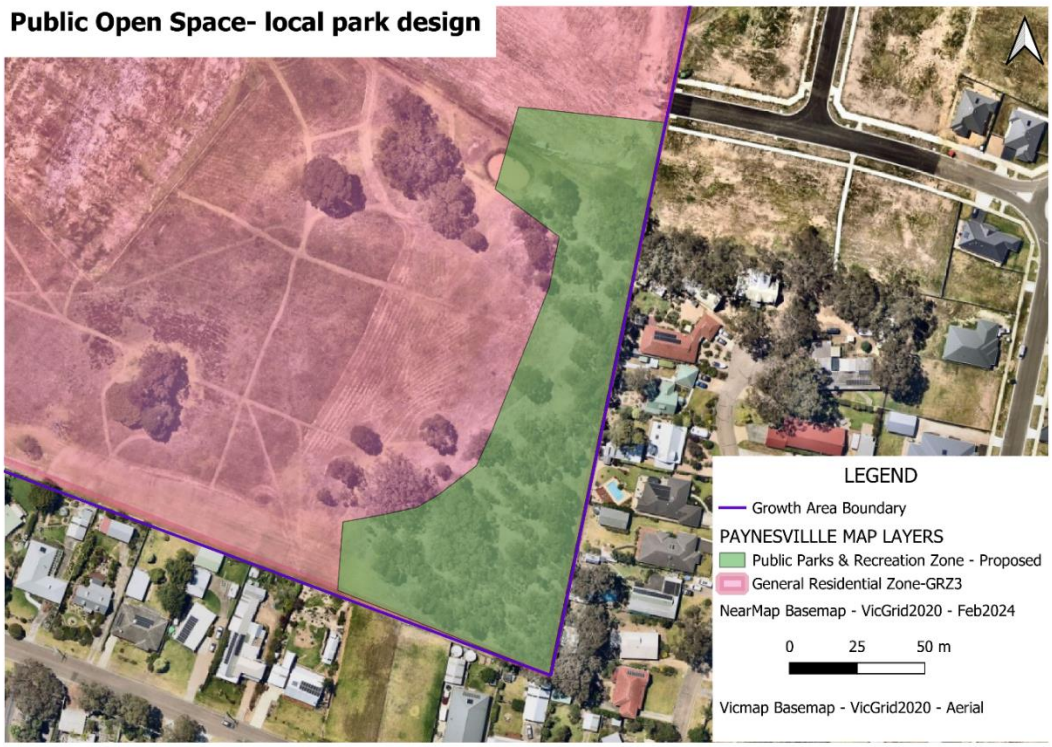
The distribution of local parks does not ensure accessibility within 400m of at least 95 percent of all dwellings, which is contrary to Standard C13 of clause C56.05-2. This is evident in the map above, which applies a 400m buffer from all proposed local park reserves.[70]

Reserve design limitations

Habitat excluded from remnant bushland reserve

233 The 1ha parkland reserve west of Woodland Court and north of Newlands Drive is inconsistent with clause 56.05-1.

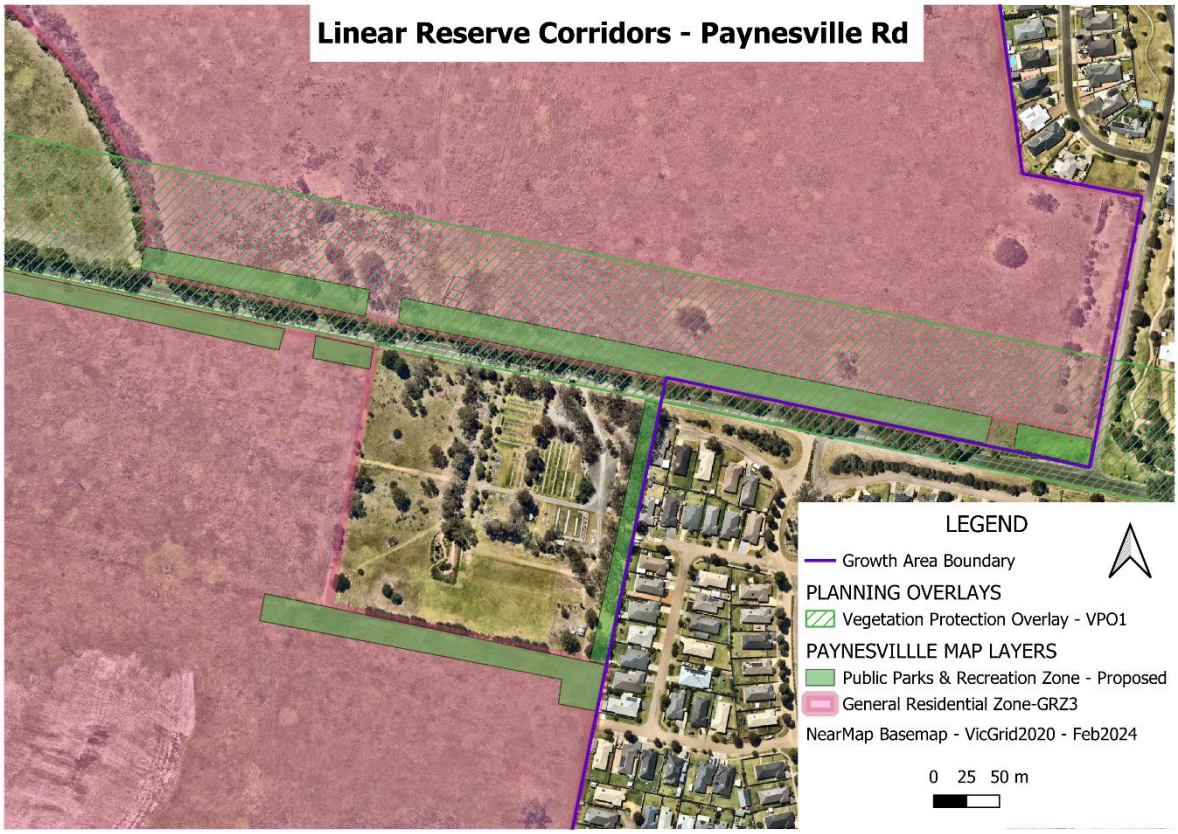
[70] The analysis distinguishes local parks from linear pedestrian and bicycle links given their very distinct landscape character and functions, in accordance with *Planning Practice Note 70: Open Space Strategies* p.4



Clause	Planning policies	Rationale for inconsistency
56.05-1	To incorporate natural and cultural features in the design of streets and public open space where appropriate.	The 1ha tree reserve excludes remnant, large East Gippsland Redgums (Eucalyptus tereticornis subsp. mediana), an endangered tree species important to the coastal / rural character of the town as well as native wildlife.
	To protect and enhance native habitat and discourage the planting and spread of noxious weeds.	The 1ha reserve excludes several adjoining mature native gums that provide important habitat to local fauna species, including the critically endangered Swift Parrot, Yellow-tailed Black Cockatoos and Ringtailed Possums

Inadequate landscape connectivity corridors

234 The 15 meter wide linear reserve corridors (i.e., pedestrian and cycling trails) do not sufficiently meet the open space objectives of clause 19.02-6s nor the objectives of the Tree Protection Overlay (see table on following page).



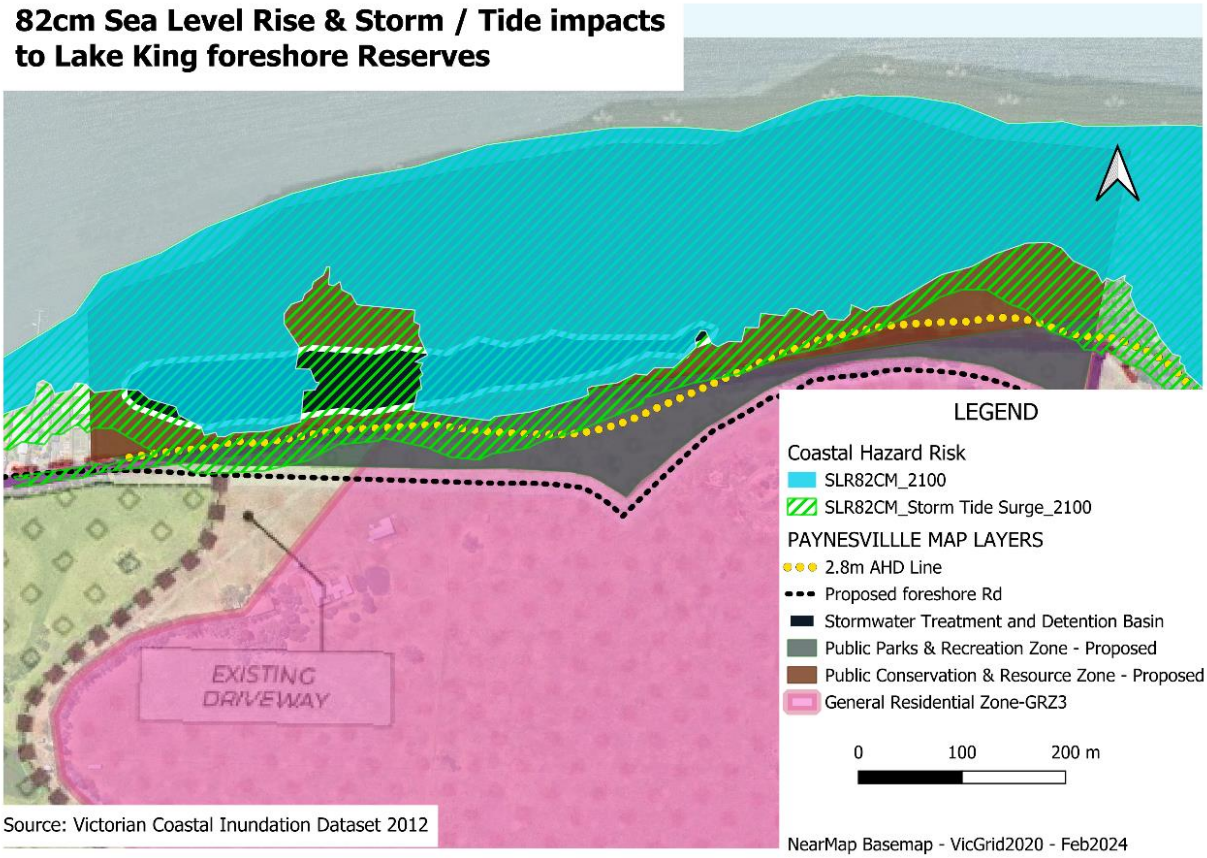
Clause	Planning policies	Rationale for inconsistency
19.02-6s	Ensure that urban open space provides opportunities for nature conservation, to connect with nature and peace and solitude.	The 15m width of the walking and cycling trails located next to busy roads are too narrow to create a sense of peace and solitude in nature. The trail network lacks high amenity.
	Develop open space to maintain wildlife corridors and greenhouse sinks.	The 15m linear reserves are too narrow to function effectively as wildlife corridors or green house sinks

	Plan open space areas for multiple uses, such as....active transport routes and wildlife corridors	A far wider corridor would be more beneficial for both walkers/cyclists and wildlife. Wider wildlife and movement corridors in urban areas are crucial for supporting biodiversity, particularly for bird species. Research indicates that wider corridors tend to support a greater number of bird species, especially forest specialists that are less common in suburban gardens71. These specialists are more likely to move through and inhabit broader corridors (due to less edge effects), highlighting the importance of corridor width in urban planning. Devising an appropriate minimum corridor width requires a flora and fauna assessment to determine the target fauna species which the vegetated corridor is designed to support.

Temporary foreshore conservation and recreation reserves

235 The siting and design of largest public open space recreation reserve is not responsive to coastal hazard risks. Sea Level Rise and coastal inundation and erosion will make it difficult to achieve the open space objectives and strategies of clause 19.02-6S in the long term.

[71] https://www.environment.nsw.gov.au/resources/nature/landholdernotes15wildlifecorridors.pdf



Clause	Planning policies	Rationale for inconsistency
19.02-6S	Plan for regional and local open space networks for both recreation and conservation of natural and cultural environments	The proposed regional conservation reserve is located on low-lying land along the foreshore to Lake King abutting the Point Fullarton Ramsar wetlands. The foreshore is projected to be significantly impacted by sea level rise and coastal erosion, forcing the shoreline to recede towards the recreational reserve and road. By 2100, coastal inundation modelling projects that around : 96.8% of the 20ha conservation reserve will be impacted by the

		projected 82cm sea level rise and increasingly frequent storm and tide surges, plus almost 40% (1.5ha) of the adjoining public recreation reserve. The provision of public open space along the foreshore is there only temporary, unless far larger reserves are created to account for projected foreshore erosion and inundation.

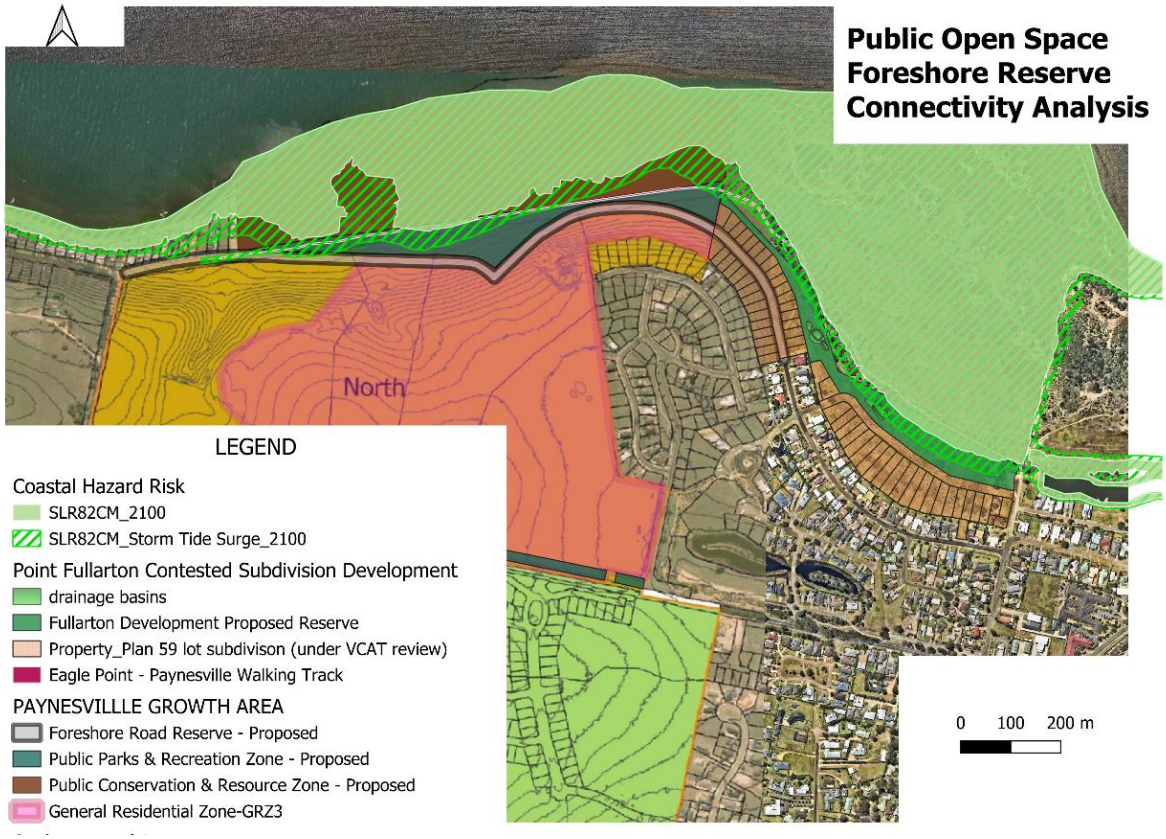
Poorly integrated foreshore recreation reserves

236 The amendment's proposed lake foreshore recreation reserve has poor connectivity with the adjacent property, ending abruptly on a row of lots that form part of a 59 lot subdivision currently under review by VCAT.[72] .
The 'waning crescent moon'-shaped foreshore road severely constricts the eastern part of recreation reserve. The reserve does'nt following topographic boundaries, nor do they adeqautely respond to the projected coastal hazard risks. The following three maps show the foreshore reserves from large to smaller scale, zooming into the foreshore zone to show underlying land and development features in greater detail.

[72] VCAT ref: P1514/2023

237 The ‘waning crescent moon’-shaped foreshore road severely constricts the eastern part of the proposed recreation reserve. The reserve does’nt following topographic boundaries, nor does its alignment adeqautely respond to the projected coastal hazard risks.

238 Note the the major projected impact of an 82cm sea level rise on the conservation reserve boundary and total area. When combined with projected

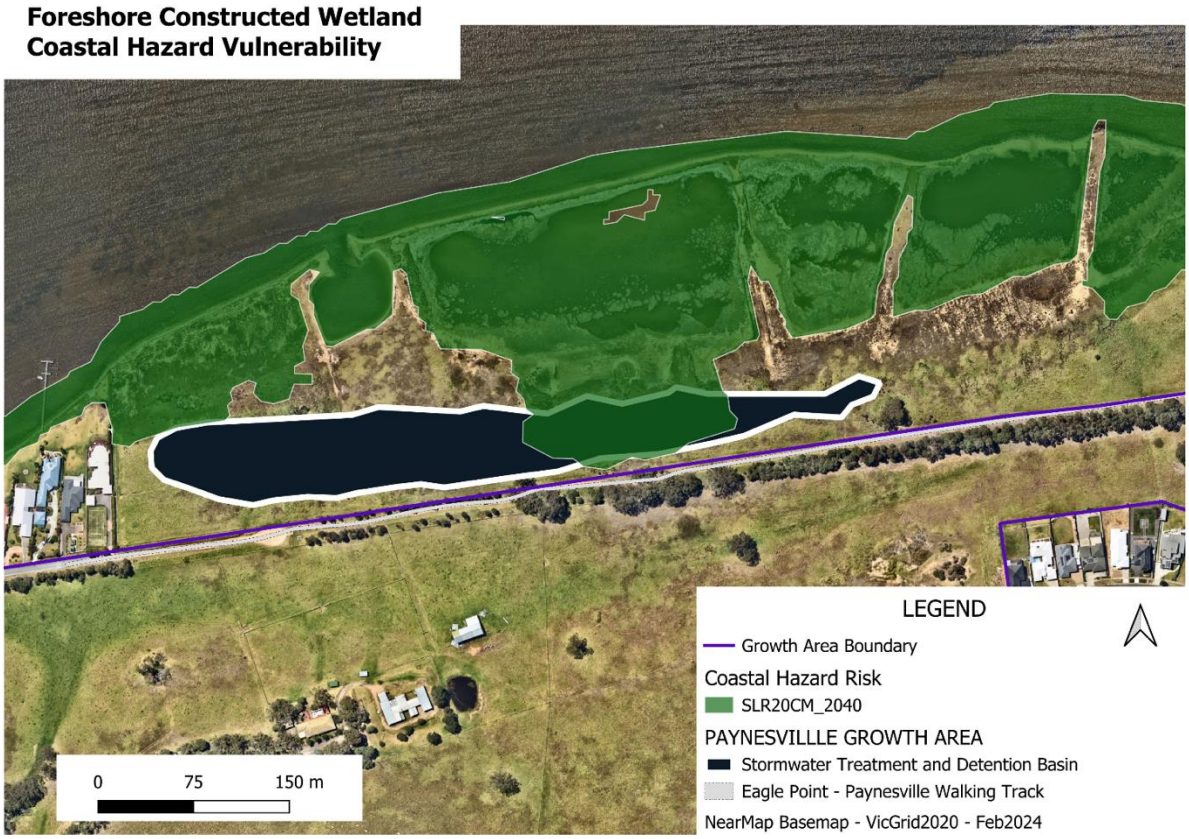


storm and tide surge extent, about 3.2% of the conservation reserve will not be impacted. The full significance of this becomes apparent when one considers the frequency of these extreme weather events is projected to progressively increase because of climate change.

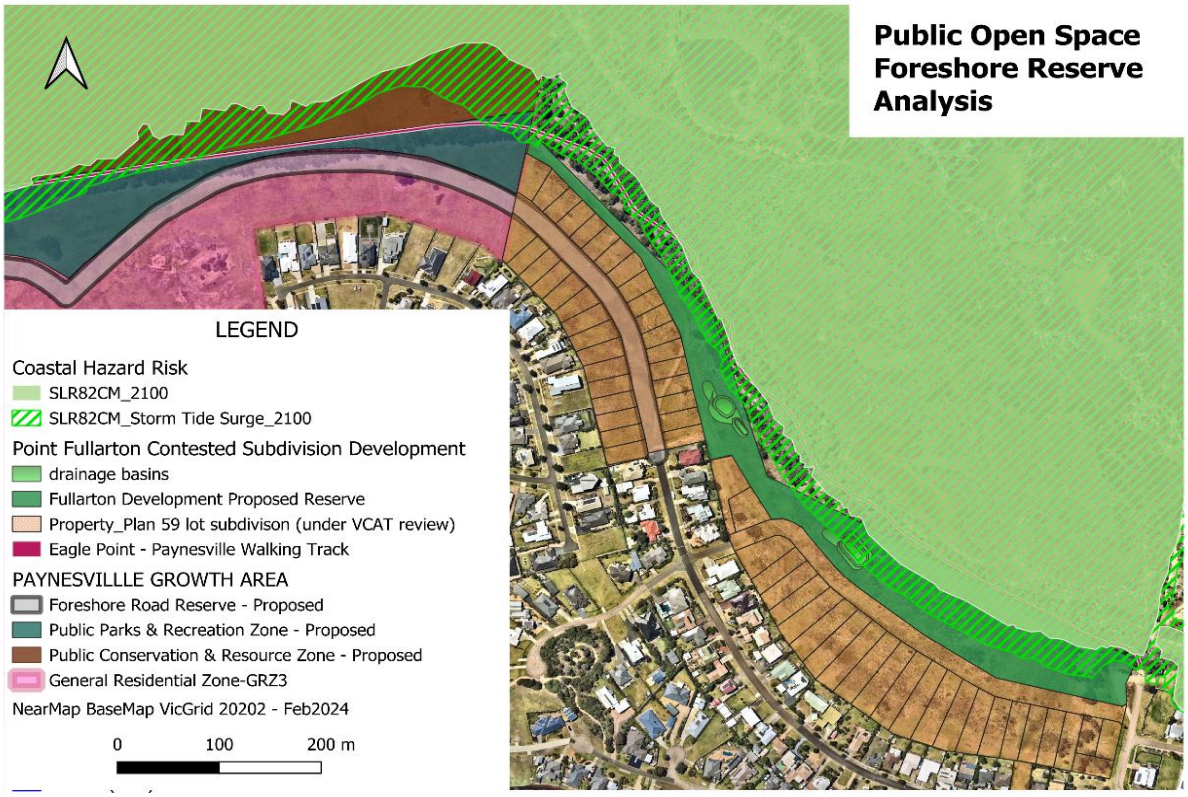
239 As pointed out in paragraph 170, the latest CSIRO 1-in-100 year high sea-level (extreme storm and tide) event projections must be integrated into coastal planning, given the magnitude and frequency of these coastal hazards pose a serious risk to foreshore infrastructure assets and significant coastal values .[73]

[73] CSIRO (2022) *Report on the Vulnerability of the Gippsland Lakes Ramsar Site Catchment to Bushfire & Climate Change*; p.62

240 In this context, the foreshore road location and layout demonstrates a very high risk apetite by the planners, leaving minimal buffers or room for increases in sea levels or rates of erosion to overwhelm their coastal planning. In fact, the siting of the storm water assets appears to disregard coastal hazard risks completely. A 20cm sea level rise is projected to impact the constructed wetland by as early as 2040 (see map below).



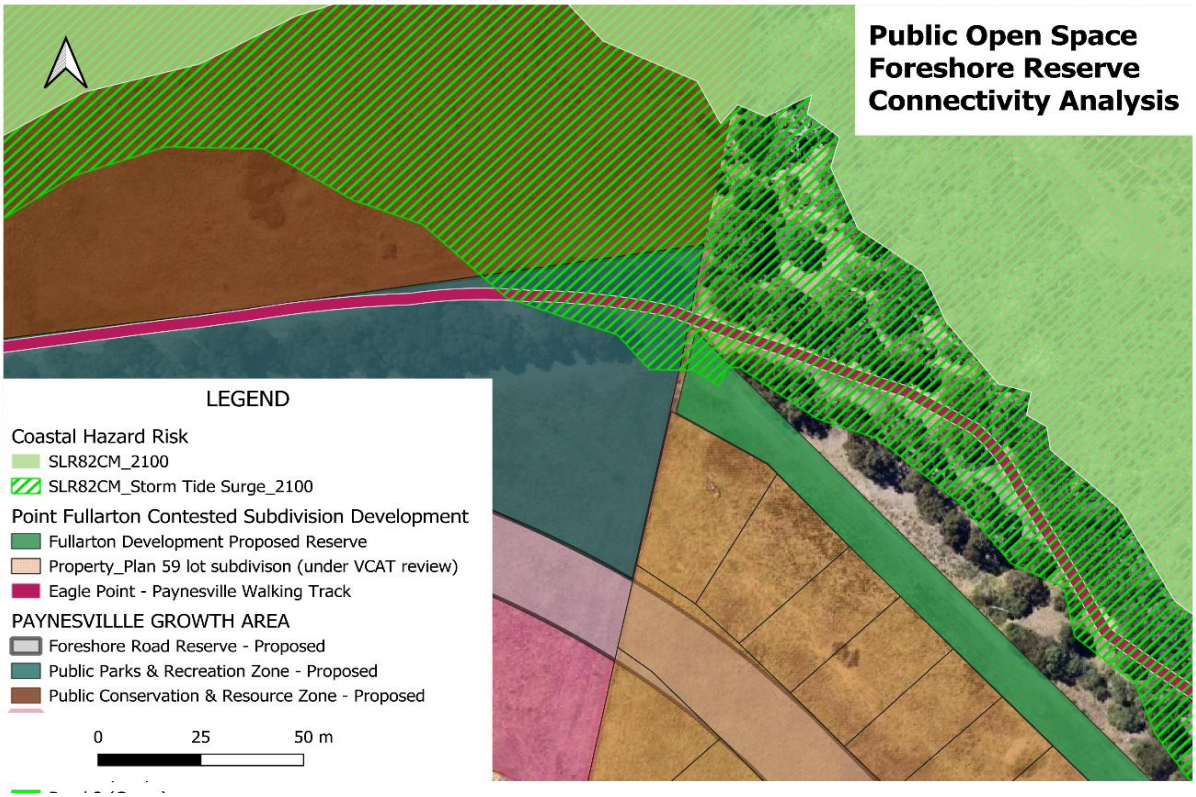
241 It's imperative that shoreline erosion and flood modelling incorporate these projections to more accurately project the impacts of extreme storm/tide events battering the Lake King foreshore every 4 to 36 days (pictured in green diagonal hatching on these maps).



242 The combination of sea level rise and more frequent storm and tide surges of extreme magnitude, are likely to erode the shoreline faster than previous modelling has suggested. The limitations of the erosion modelling undertaken on the Gippsland Lakes are well known[74], and further studies are needed utilising the latest climate science to update shoreline erosion projections for the Gippsland Lakes, and Paynesville's northern shores in particular.

[74] See Water Technology (2014) *Gippsland Lakes/ 90mile Beach Coastal Hazard Assessment – Report 4: Lakes Shoreline Erosion Hazard;* pp.18, 71

243 Looking closely at the proposed recreation reserve, it's clear that the high level strategic planning has overlooked the importance of landscape buffer widths and maintaining connectivity with abutting subdivisions. This is evident in the map and table below, which clearly show the mismatch between the two proposed recreation reserves below Point Fullarton's Ramsar conservation reserve.



Clause	Planning policies	Rationale for inconsistency
19.02-6S	Ensure that open space networks: Are linked, including through the provision of walking and cycling trails. Are integrated with open space from abutting subdivisions. Incorporate, where possible, links between major parks and activity areas, along waterways and natural drainage corridors, connecting places of natural and cultural interest. Maintain public accessibility on public land immediately adjoining waterways and coasts.	The foreshore conservation and recreational reserves along with the popular Eagle Point - Paynesville walking / cycling track are not resilient to climate risks. Projected sea level rise and coastal inundation erosion are expected to sever the Lake King foreshore walking and cycling trail, with an inadequate buffer to relocate the track to. The main foreshore link to Eagle Point will be lost by 2100, leaving a very narrow 10m approx. wide recreational reserve 'squeezed' between the Point Fullarton residential development and unflooded conservation reserve. The proposed foreshore recreation reserve is poorly integrated with the open space from the abutting subdivision. The northern boundary of the foreshore recreation reserve (approx. 80m wide) joins an abutting 20m wide (approx.) foreshore reserve which narrows to around a 10m width over a short distance (see close-up map). Maintaining public access to the receding Lake King foreshore will become increasingly difficult without major fortification and expensive defensive works. Far wider foreshore buffers are needed to maintain long term public access to the foreshore, and to account for the impacts of coastal

		processes, especially sea level rise, erosion and inundation. In the long term, the proposed reserve design is unlikely to provide a high quality public realm capable of effectively adapting to projected climate change impacts.
19.02-6S	Develop open space to maintain wildlife corridors and greenhouse sinks.	The proposed foreshore wildlife corridors lack climate resilience and are likely to be severely impacted by coastal hazards. In the long term, the inundated reserves cannot function as greenhouse sinks.
19.02-6S	Ensure that where there is a reduction of open space due to a change in land use or occupation, additional or replacement parkland of equal or greater size and quality is provided.	The loss of public open space to sea level rise and inundation will be challenging to replace with parkland of equal or greater size and quality in close proximity to the growth area.

Loss of the Eagle Point – Paynesville Walking Track

244 The expected loss of the Eagle Point Paynesville Walking track to coastal inundation was recognised by the Key Issues and Responses Report (2015) which was commissioned as part of the scoping studies for the plan. The report noted:

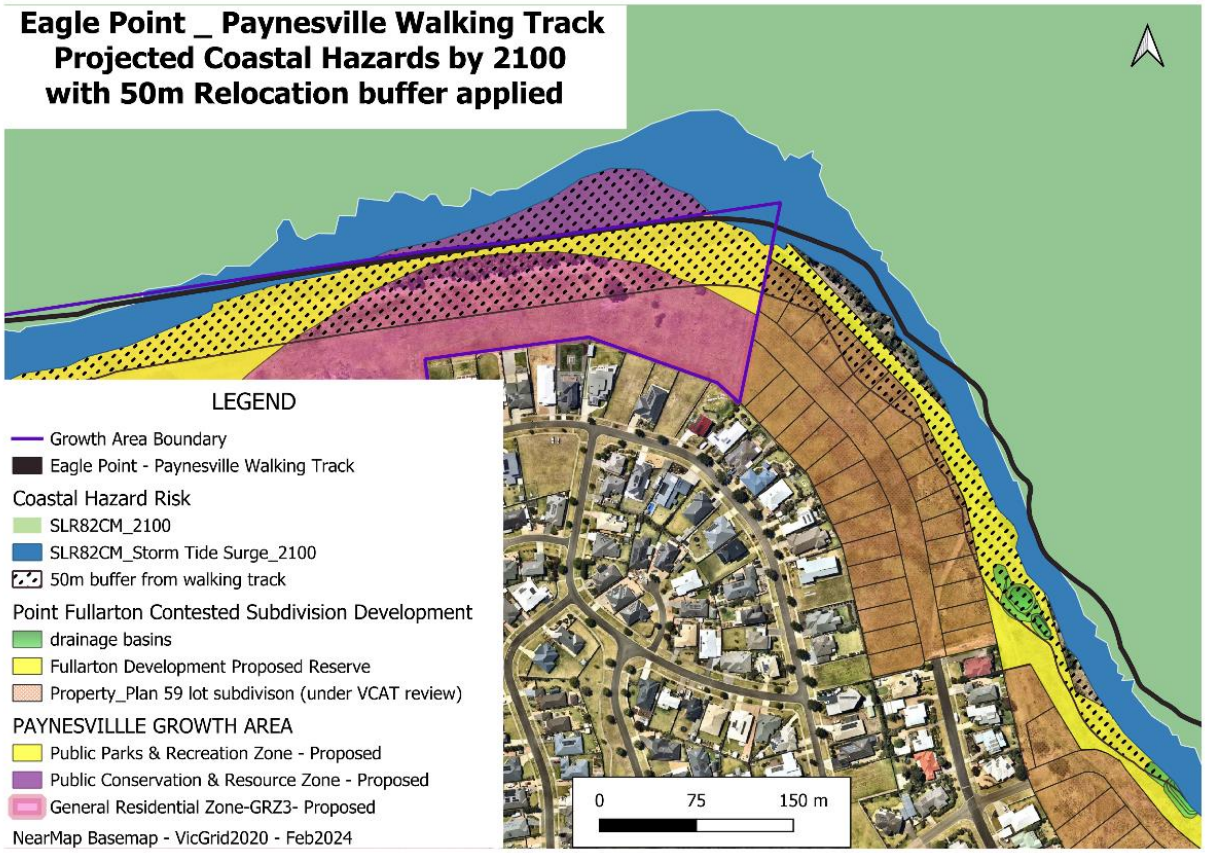
> *Preservation of the wetlands and foreshore area is of the highest priority. The exclusion of low-lying areas adjacent to the foreshore from development will create additional space for a larger vegetated buffer to the south of the existing walking path, from Eagle Point to Paynesville, adjacent to Lake King.*
>
> *By relocating the walking path approximately 50 metres inland, an area would be created to allow for the "retreat" of vegetation from the*

shoreline, a realigned path and the planting of a wider corridor between the foreshore and future private development

The pedestrian connection and foreshore vegetation need a slightly wider corridor to allow for vegetation "retreat" and public use.

245 Unfortunately, the 50m inland realignment of the walking track was not incorporated into the plan nor applied in the neighbouring foreshore GRZ. The end result is a 59 lot development approved in the adjoining property below Fullarton Rd within 25m of the recently approved housing lots, inhibiting the 50m inland walking track realignment.

246 The amendment's proposed rezoning indicates that a strategic choice was made to squeeze in residential lots on the gently sloping, north facing lots rather than create a wider vegetated corridor to accommodate the realigned walking path.



247 Instead of a more substantive foreshore parkland running along the same contour line, to form a reserve of consistent width and slope along its southern boundary; a ‘waning crescent moon’ shaped road is instead pushed deeply down the slopes to within 10m of the conservation reserve; resembling a reserve that’s had a large bite cut out of it.

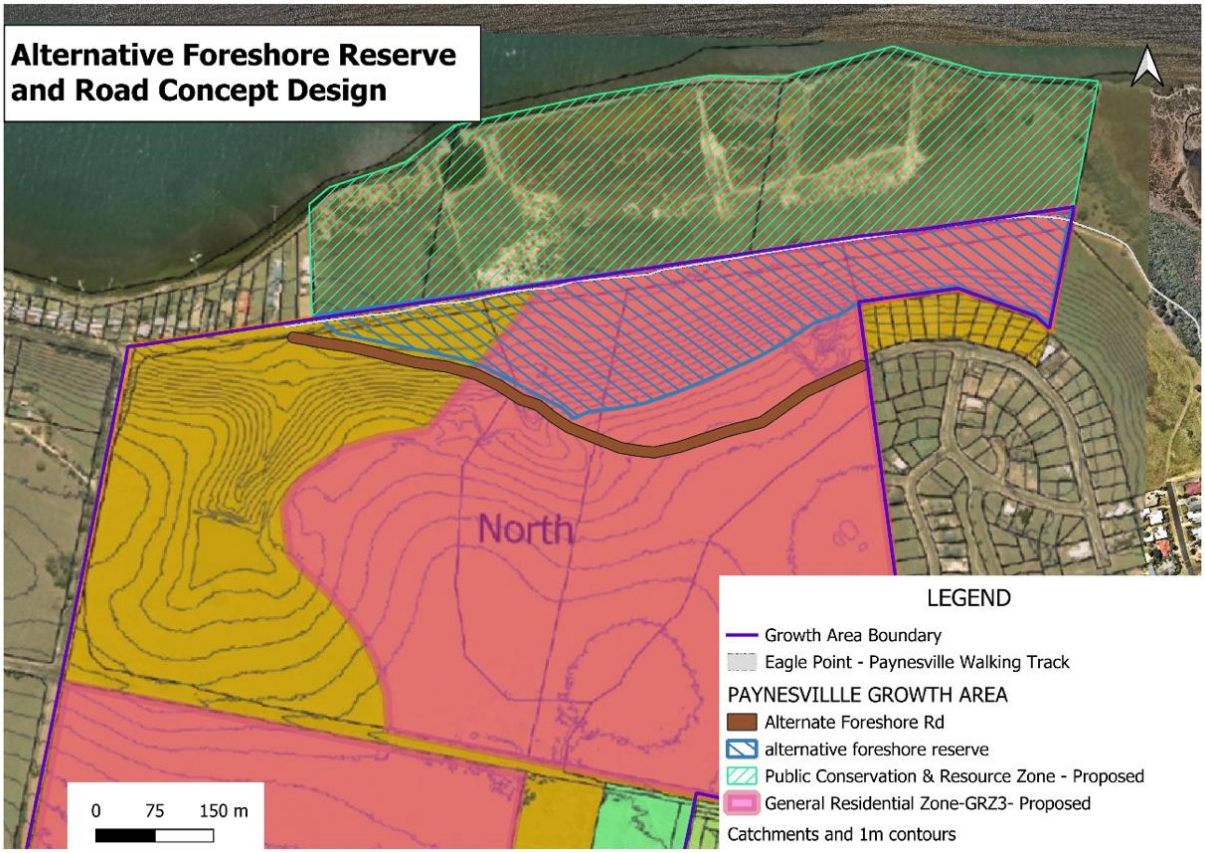
248 This is a striking example of a foreshore development working against, rather than with, the underlying topographic features and coastal hazard constraints of the land.

249 The end result of this poorly integrated coastal zone plan, is a highly irregular and unappealing recreational foreshore reserve that doesn’t follow the topographic or natural features, nor responds positively to the projected coastal hazard risks.

250 The eastern end of the foreshore parkland and recreation reserve, impeding the natural flow of parkland and providing very little room for vegetation to retreat to as sea levels rise and the shoreline erodes and recedes.

251 By rejecting the recommendation to create a 50m buffer for habitat retreat, by the year 2100, very little unflooded land will remain to relocate the walking track to or to provide an adaptation buffer for the Ramsar wetlands.

Towards an integrated coastal zone plan



252 A far more integrated road and reserve design (see map above) would follow the contour boundaries of the existing development and relocate the road to the ridgetop, thereby creating a contiguous and integrated foreshore reserve that is more responsive to the projected coastal hazards, and is far more sympathetic to the coastal character and high conservation values of the land

253 Moreover, the larger recreation reserve could then accommodate the north catchment's stormwater assets, removing them from the conservation reserve and therefore away from the projected coastal hazard zone.

254 I submit that the benefits of this development approach– being far greater climate resilience, ecological sustainability and enhanced coastal character– far outweigh the costs resulting from a modest reduction in overall lot yield.

255 On balance, this proposal would achieve substantially greater net community benefit, aligning with broader planning objectives, such as sustainability, liveability and amenity, and accessibility than what's offered by the amendment's zoning and overlay controls.

4. CONCLUSION

256 The amendment, in its current form, fails to adequately address coastal hazard risks, environmental protection, and neighbourhood character.

257 It overlooks the need for transparent and enforceable building envelope guidelines, comprehensive and up-to-date flood studies, and foreshore buffer zones that account for climate change impacts.

258 The proposed Development Plan Overlay (DPO) grants excessive discretionary powers, undermining public transparency and accountability.

259 A more precautionary, evidence-based approach—including updated climate risk assessments, strategic zoning adjustments, and robust environmental assessments and protections—is necessary to safeguard Paynesville's coastal identity, resilience, and long-term sustainability.

Background

Friends of Gippsland Lakes (FOGL) is an incorporated not-for-profit association committed to protecting and enhancing the environmental and landscape values of the Gippsland Lakes.

FOGL members are passionately committed to making a positive and constructive contribution to our local neighbourhoods and wider bioregion. We actively engage with local government and agencies, community groups, scientists and other local residents on issues and projects that impact the wellbeing of the Gippsland Lakes and its coastal communities.

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