

**Maribyrnong Planning Scheme Amendment C164mari
Maribyrnong Development Contributions Plan**

Panel Report

Planning and Environment Act 1987

19 May 2021

How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether or not to adopt the Amendment.
[section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the PE Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the PE Act]

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the PE Act

Maribyrnong Planning Scheme Amendment C164mari

19 May 2021



Lisa Kendal, Chair



Rodger Eade, Member

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Glossary and abbreviations

CIL	Community Infrastructure Levy
Council	Maribyrnong City Council
DCP	Maribyrnong Development Contributions Plan
DCPO	Development Contributions Plan Overlay
DCPO2	Development Contributions Plan Overlay Schedule 2
DELWP	Department of Environment, Land, Water and Planning
DIL	Development infrastructure levy
MSS	Municipal Strategic Statement
PE Act	<i>Planning and Environment Act 1987</i>
Planning Scheme	Maribyrnong Planning Scheme
PPF	Planning Policy Framework

Overview

Amendment summary

The Amendment	Maribyrnong Planning Scheme Amendment C164mari
Common name	Maribyrnong Development Contributions Plan
Brief description	The Amendment seeks to introduce a municipal-wide Maribyrnong Development Contributions Plan to enable the collection of development and community infrastructure levies to fund infrastructure projects in the municipality
Subject land	All land in the Maribyrnong Planning Scheme, except Commonwealth land at 2 Cordite Avenue in Maribyrnong (known as the Defence Site Maribyrnong) and at 53 Hampstead Road in Maidstone (formerly a detention centre)
Planning Authority	Maribyrnong City Council
Authorisation	4 March 2020
Exhibition	28 July to 11 September 2020
Submissions	There were 14 submissions to the Amendment (including one late submission): <ul style="list-style-type: none"> - 3 with no objections - 11 objecting or seeking changes See Appendix A

Panel process

The Panel	Lisa Kendal (Chair) and Rodger Eade
Directions Hearing	Video conference, 16 December 2020
Panel Hearing	Video conference, 19 and 30 April 2021 (roundtable format)
Parties to the Hearing	City of Maribyrnong, represented by Mr Terry Montebello solicitor of Maddocks Lawyers, who called expert evidence on: <ul style="list-style-type: none"> - Land economics and development contributions from Alex Hrelja of HillPDA - Development contributions from Chris De Silva of Mesh Planning Consultants
Citation	Maribyrnong PSA C164mari [2021] PPV
Date of this Report	19 May 2021

Executive summary

Over the next 20 years, Maribyrnong City Council (Council) is expected to experience significant population growth, with approximately 32,000 new homes which will bring with it significant demand for new infrastructure. Most of this growth is expected to be in and around activity centres, strategic redevelopment sites, urban corridors and infill development across the municipality.

Council has undertaken a program of work to understand future needs and investigate options for funding necessary city infrastructure to support this growing community, including options for collecting development contributions.

Maribyrnong Planning Scheme Amendment C164mari (the Amendment) seeks to introduce a municipal-wide Maribyrnong Development Contributions Plan (DCP) into the Maribyrnong Planning Scheme (Planning Scheme) to enable the collection of development and community infrastructure levies to fund infrastructure projects across the municipality.

Specifically, the Amendment proposes to:

- insert a new Schedule to Clause 45.06 Development Contributions Plan Overlay (DCPO), Schedule 2 – Maribyrnong Development Contributions Plan (DCPO2)
- amend the Schedule to Clause 72.03 to provide for new planning scheme maps showing the area to which the new DCPO2 applies
- amend the Schedule to Clause 72.04 to specify the DCP as an Incorporated Document.

The DCP enables a Development Infrastructure Levy (DIL) and Community Infrastructure Levy (CIL) to fund various infrastructure projects across the municipality. The infrastructure categories in the DCP are roads, paths, open space and community facilities.

The DCP has been prepared to ensure the costs of providing the infrastructure is shared between new development and the existing community on a fair and reasonable basis. Costs are apportioned according to share of usage of the required infrastructure.

Key issues raised in submissions included:

- economic implications
 - specifically, who should pay the levy and suggested exemptions such as private development and specific request for exclusion of land at 43 – 57 Buckley Street, Seddon
 - the impacts of the current economic environment as a result of COVID-19
- the relationship of the proposal to existing and future DCPs, specifically Joseph Road Precinct and Highpoint
- a request to fund additional projects through the DCP, specifically relating to climate mitigation and adaptation and a suggested intersection upgrade and shared trail connection
- relationship of the proposal to public open space contributions
- specific issues relating to elements of the DCP, including how charge areas have been determined, basis for apportionment of costs, credit for existing floorspace and risk of “double dipping” with other contributions.

Subsequent to exhibition, Council received new population, dwelling and other growth forecasts which, because of the effects of the pandemic, revise expected growth downwards. In broad

terms growth that was expected to occur by 2041 is now not expected to occur until 2051. This has necessitated a number of changes to the exhibited DCP.

The Panel concludes:

- The Amendment is strategically justified as are the projects which are proposed to be funded in part through the DCP.
- The post exhibition changes to the DCP which change the planning horizon from 2041 to 2051, delete six projects and revise four others and replace four others are appropriate.
- The post exhibition changes to the Amendment are not transformative and as such that re-exhibition is not required.
- There is no good reason for delaying implementation of the DCP.
- The preparation of both a municipality-wide DCP and precinct specific DCPs is appropriate with some development being subject to levies under each type of DCP.
- Greater flexibility should be provided in the timing of reviews of the DCP, and a commitment to ongoing reviews.
- Minor additions should be made to the DCP to provide greater explanation and clarity around:
 - how this municipality-wide DCP relates to one current and possible future precinct specific DCPOs
 - the types of open space projects funded through the DCP versus those funded from other revenue sources are appropriate
- Minor changes should be made to the exhibited DCP and DCPO2 as set out in the following recommendations.

Recommendations

Based on the reasons set out in this Report, the Panel recommends that Maribyrnong Planning Scheme Amendment C164mari be adopted as exhibited subject to the following:

1. **Amend the Maribyrnong Development Contributions Plan to:**
 - a) **Include the proposed post exhibition changes as detailed in Appendix C of this Report.**
 - b) **Add a short section which sets this municipality-wide Development Contributions Plan in the context of precinct specific Development Contributions Plans including:**
 - **the functions of each type of Development Contributions Plan**
 - **the types or categories of infrastructure which would normally be included in each type of Development Contributions Plan.**
 - c) **Add a short section on funding for open space which:**
 - **identifies the various sources of funding that can be used to fund various aspects of open space provision and improvements to it**
 - **outlines the approach used by Council to identify the aspects of open provision and improvements to be funded by this Development Contributions Plan**
 - **describes processes which have been used to ensure that there is no double dipping from multiple funding sources, and any associated reporting.**
 - d) **Replace the first sentence of the paragraph of section 7.8 headed “Payment of the Development Infrastructure Levy” with: “The Development Infrastructure Levy will be levied by Council at the planning permit stage, subdivision stage or building permit stage of development, in accordance with the timing points indicated in this DCP whichever occurs first after the Gazettal Date of this DCP”.**

- e) **Replace the third paragraph of the section headed “Basis for Payment” in section 7.3, with “A demand unit credit applies for existing, previously approved:**
 - **Gross floorspace for non-residential development. This credit does not apply to vacant non-residential lots, unoccupied buildings or existing buildings which are not fit for use, unless those lots or buildings continue to have the benefit of existing use rights.**
 - **Dwellings. This credit does not apply to vacant residential lot.”**
 - f) **Replace section 7.8 with “This DCP should be reviewed every four to five years or more often if necessary. An initial review may be required within 3 years of approval, to take into account the policy objectives, boundaries and actions outlined in the Priority Precinct work undertaken by the Department of Jobs, Precincts and Regions, unless otherwise agreed in writing with the Minister for Planning.”**
 - g) **Add a ‘delivery horizon’ column to Table 8 with each project indicated as being delivered in the short (S), medium (M), or long (L) term.**
- 2. Amend the Development Contributions Plan Overlay Schedule 2 to:**
- a) **Make the changes shown in Appendix D of this Report.**
 - b) **Update the wording of the explanatory ‘note’ in Section 3.0 as it relates to timing of payment and clarification of demand use credits in accordance with the suggested wording shown in Appendix D.**
 - c) **Add a note to the table at Section 2.0 to provide an explanation of each of the acronyms in the first column titled ‘Facilities’.**

1 Introduction

1.1 The Amendment

(i) Amendment description

The Amendment seeks to introduce a municipal-wide Maribyrnong DCP into the Planning Scheme to enable the collection of development and community infrastructure levies to fund infrastructure projects in the municipality.

Specifically, the Amendment proposes to:

- insert a new DCPO2
- amend the Schedule to Clause 72.03 to provide for new planning scheme maps 1DCPO, 2DCPO, 3DCPO, 4DCPO, 5DCPO, 6DCPO, 7DCPO, 10DCPO, 11DCPO, 12DCPO and provide for revisions to existing 8DCPO and 9DCPO maps
- amend the Schedule to Clause 72.04 to include the DCP as an Incorporated Document.

The Amendment affects new residential, commercial, retail and industrial developments within the municipality.

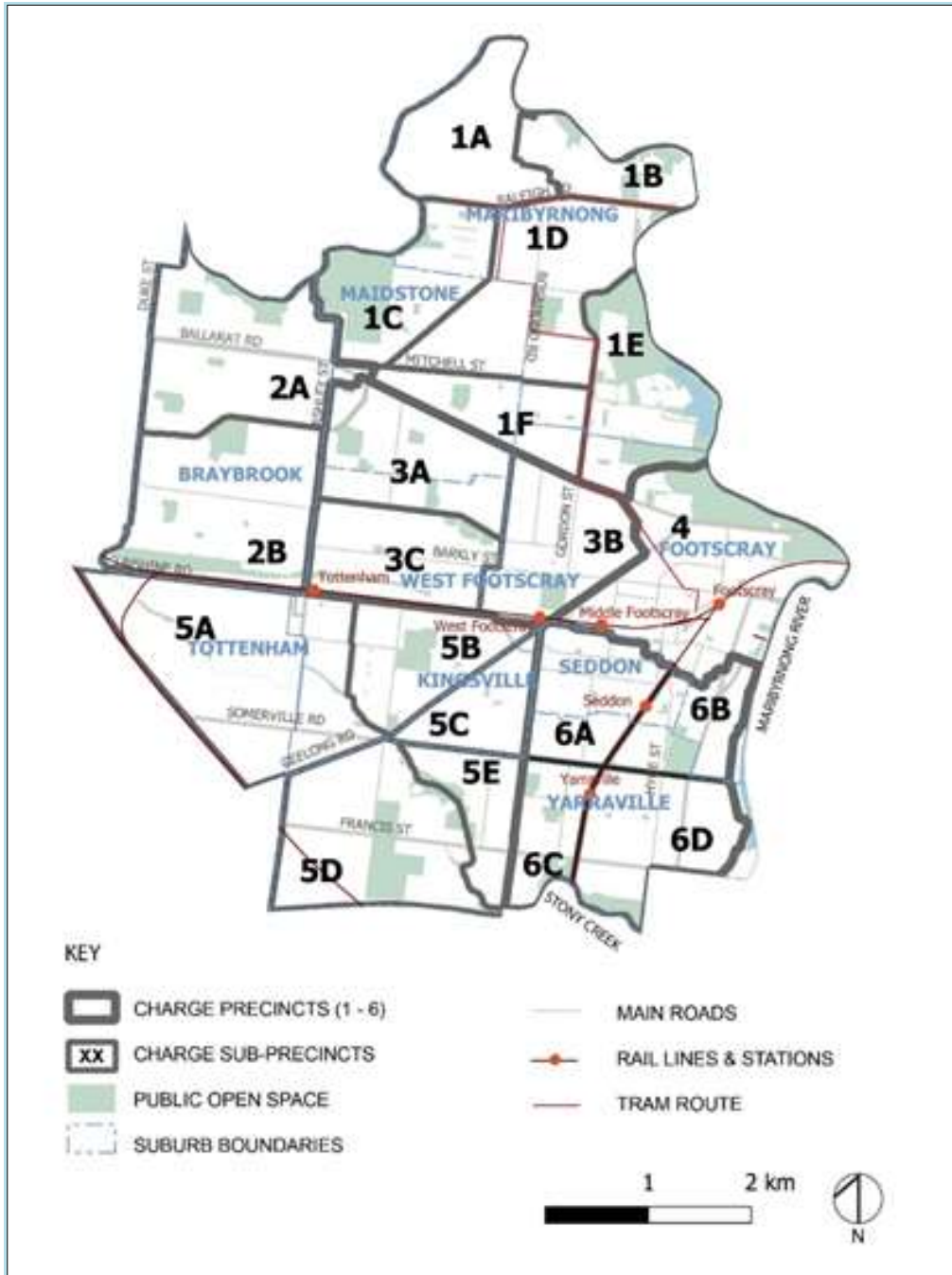
(ii) The subject land

The Amendment applies to all land in Maribyrnong City Council, except Commonwealth land at 2 Cordite Avenue in Maribyrnong (known as the Defence Site Maribyrnong) and at 53 Hampstead Road in Maidstone (formerly a detention centre).

(iii) Charge Areas

The DCP has 21 charge areas within six precincts (see Figure 1).

Figure 1 Proposed charge areas



Source: Schedule 2 of the DCPO

Payment of the DIL may be sought by Council at the planning permit stage, subdivision stage or building permit stage. This payment must be made no later than the date of issue of a building permit under the Building Act 1993. If Council seeks payment at the:

- planning permit stage, it must be made before the start of construction
- subdivision permit stage, it must be made before a statement of compliance is issued for the subdivision.

Payment of the CIL must be made no later than the date of issue of the building permit under the Building Act 1993. More detail is in the proposed Incorporated Document and DCPO2 Schedule.

The *Planning and Environment Act 1987* (PE Act) exempts certain development from the DCP levies.

1.2 Background

The municipality of Maribyrnong is expected to experience significant growth over the next 20 years. In 2018 it commenced investigating options for collection of development contributions to assist with delivery of necessary city infrastructure. In December 2018 Council endorsed a Development Contributions Position Statement to help inform the preparation of a DCP to help fund the cost of new, upgrade and replacement of infrastructure for its growing community.

In October 2019, the Council's City Development Special Committee endorsed the DCP and resolved to request the Minister for Planning to authorise Amendment C164 to introduce the DCP into the Planning Scheme.

The DCP was exhibited as a 20-year municipal-wide plan and long term partial reimbursement mechanism for Council's infrastructure commitments that will collect about \$40 million (27.5 per cent) of the estimated \$147 million total cost of infrastructure projects needed to service the City's growing population to the end of 2041 (see Table 1).

The exhibited DCP proposed to partially fund 199 community and development infrastructure projects and aligns with the objectives of key Council strategies and plans, including Council Plan 2017-21, Council's 2018/19 Annual Budget, 2019/20 Annual Budget and Strategic Resource Plan and the Long Term Financial Strategy 2019/20 to 2028/29.

Charge areas have been established to ensure that projects have a direct nexus and the overall DCP is fairly apportioned. Each area has a specific infrastructure levy which will inform contributions payable for new development.

Table 1 Maribyrnong DCP charge areas

Facility Type and Code	Total Cost	Time of Provision	Actual Cost Contribution Attributed to New Development	Proportion of Cost Attributed to New Development*
Community Facility (CFCI - Community Facility Community Infrastructure Levy)	\$20,527,000	2018-2041	\$6,630,949	32.3%
Community Facility (CFDI - Community Facility Development Infrastructure Levy)	\$13,540,000	2018-2041	\$2,766,018	20.4%
Path (PADI – Path Development Infrastructure Levy)	\$40,668,136	2018-2041	\$12,847,049	31.6%
Road (RDDI – Road Development Infrastructure Levy)	\$41,152,290	2018-2041	\$8,405,059	20.4%
Open Space (OSDI - Development Infrastructure Levy)	\$31,524,251	2018-2041	\$9,911,960	31.4%
Total	\$147,411,676		\$40,561,034	27.5%

Source: Clause 2 of the exhibited DCPO2, with acronyms expanded

In its Part A submission, Council advised that it had updated the exhibited DCP as a result of new growth forecasts it had commissioned, both residential and non-residential. This had been

undertaken because the COVID-19 pandemic had resulted in lower population growth being expected. See Chapter 1.6.

1.3 Authorisation

Council received conditional authorisation from the Minister for Planning to prepare and exhibit Amendment C164 on 4 March 2020, including a requirement to:

- clarify whether the existing planning permits in Joseph Road were expected to pay the levy
- provide more detail on how the demand unit credit exemption applies
- remove zoning from the proposed DCPO Schedule map
- update the Explanatory Report to be more specific how the amendment responds to Ministerial Directions, the Planning Policy Framework (PPF), Local Planning Policy Framework (LPPF) and Municipal Strategic Statement (MSS)
- give notice to regular applicants and holders of extant planning permits
- correct minor drafting errors
- update the Incorporated Document to include the wording below:

The Maribyrnong Development Contribution Plan may need to be reviewed within 3 years of approval to take into account the policy objectives, boundaries and actions outlined in the Priority Precinct work undertaken by the Department of Jobs, Precincts and Regions, unless otherwise agreed in writing with the Minister for Planning.

The required changes were made to Amendment C164 documentation, and support was obtained from the Department of Environment, Land, Water and Planning (DELWP) on 10 July 2020, enabling the Amendment to proceed to public exhibition.

1.4 Summary of issues raised in submissions

A total of 14 submissions (including one late submission) were received from residents, developers, public agencies and services authorities. Three submissions did not object to the Amendment, while 11 submissions objected or sought changes.

Issues raised in submissions relate to:

- economic implications
 - specifically, who should pay the levy and suggested exemptions such as private development and specific request for exclusion of land at 43 – 57 Buckley Street, Seddon
 - the impacts of the current economic environment as a result of COVID-19
- the relationship of the proposal to existing and future DCP's, specifically Joseph Road Precinct and Highpoint
- a request to fund additional projects through the DCP, specifically relating to climate mitigation and adaptation and a suggested intersection upgrade and shared trail connection
- relationship of the proposal to public open space contributions
- specific issues relating to elements of the DCP, including how charge areas have been determined, basis for apportionment of costs, credit for existing floorspace and risk of 'double dipping' with other contributions.

City West Water and AusNet Services submitted that they did not object to the Amendment.

Brimbank City Council did not object to the Amendment and as an adjacent municipality with a large shared boundary it anticipated that the proposed infrastructure program partly funded by the DCP would be beneficial to the Brimbank community. It noted that:

use of parks in these areas by Brimbank residents has been factored into the DCP calculations through a 5% external demand allowance¹.

Brimbank City Council noted that both Brimbank and Maribyrnong local government areas contain Priority Precincts that are the responsibility of the Department of Jobs, Precincts and Regions. It highlighted that without full knowledge of how planning for these precincts will occur it may result in changes to the DCP, and acknowledged that this would be dealt with through a separate process. All submissions were referred to the Panel by Council.

1.5 The Council's approach

At its City Development Special Committee meeting on 29 October 2019² Council resolved to endorse the draft DCP, request the Minister for Planning to authorise preparation of the Amendment and subject to authorisation to place it on exhibition.

With delegated authority, the Chief Executive Officer was authorised to make any minor necessary changes to the DCP and Amendment documentation. After considering submissions received in response to the exhibited Amendment, Council requested that the Minister for Planning appoint an independent planning panel to consider unresolved issues.

The Delegate Report of 25 November 2020 (approved 2 December 2020) considering and referring submissions to a Panel identified:

Since the DCP was prepared, a review has identified that some changes will need to be made. The revisions include updated growth forecasts and changes to some projects on account of receiving State and Federal government grant funding.³

Consequently, it is proposed that at the panel hearing, Council will recommend to the panel that certain changes to the DCP should be made. To ensure Council's panel submission can address various recommended changes, a further report will be presented to Council's delegate for consideration and approval. The report will identify recommended changes officers think should be made to the DCP and the list of projects with consequential adjustments to the various costings. The Panel directed that Council⁴ provide:

- information about any further work relating to project funding and growth projections that had been undertaken by Council and implications or any proposed changes to the DCP and the Amendment
- a copy of the further report to Council as identified in the Delegates Report of 25 November 2020⁵.

A subsequent Delegate Report (6 April 2021, approved 9 April 2021) resolved to endorse Council's position, including recalculating the DCP and removing a small number of projects. Chapter 1.6 provides details of the proposed changes and Chapter 3.1 considers the implications of these

¹ Submission 9, Brimbank City Council

² Document 2, Attachment 2 to Council's Part A submission

³ Document 2 Attachment 3 to Council's Part A submission. p9

⁴ Document 2, Council's Part A and attachments

⁵ Document 1, Directions Letter

changes, including whether the approach taken by Council is appropriate and whether these changes can be made without re-exhibiting the Amendment.

1.6 Post exhibition changes to the DCP

The new growth projections compared with those in the exhibited document are set out in Table 2.

Table 2 Maribyrnong previous and revised population and dwelling forecasts

Forecasts	2041 (previous)	2041 (current)	Change
Population	156,794	144,114	-12,680
Dwelling numbers	67,272	61,664	-5,628

Source: Council Part A submission p 43

Forecasts of non-residential development were similarly revised down. These revised growth forecasts result in lower level of infrastructure need occasioned by new development. Rather than undertake extensive revision of the DCP, Council noted that the revised forecasts for 2051 were similar in magnitude to the previous forecasts for 2041. It therefore opted to extend the life of the DCP from 2041 to 2051 as a method of accommodating these revised growth forecasts.

In his expert witness report, Mr Hrelja compared the new 2051 forecasts with the previous 2041 forecasts, and these are shown here as Table 3.

Table 3 Comparison of residential dwelling forecasts by precinct

Source	Previous Id projection	Exhibited DCP Projection	Current Id projection	Current Id projection	Change from exhibited DCP to current Id 2051	
Year	2041	2041	2041	2051		
Precinct 1	18,360	21,360	18,209	22,739	1,379	6.46%
Precinct 2	5,381	5,381	5,601	6,101	720	13.38%
Precinct 3	10,203	10,203	8,929	9,259	-944	-9.25%
Precinct 4	16,187	16,187	11,737	14,057	-2,130	-13.16%
Precinct 5	9,187	9,177	9,461	10,841	1,664	18.13%
Precinct 6	7,965	7,965	7,727	8,157	192	2.41%
Total	67,272	70,273	-5,628	71,154	881	1.25%

Source: Evidence of Mr Hrelja, Table 4

Table 3 shows that in total the previous population forecasts for 2041 are similar to the revised forecasts for 2051 in total with some variation by precinct.

In its Part A submission, Council provided data showing the revised levies as a result of the changed forecasts and the adjustment to extend the life of the DCP to 2051. These are set out in Tables 4 and 5.

Table 4 shows that in all but one charge area the revised levy is lower than the exhibited levy for residential development. For non-residential development, Table 5 shows there are four charge

areas in each of the retail, commercial and industrial use categories where the revised levy is higher, albeit by very small amounts in most cases. Council proposed to implement the revised levy in charge areas where the levy falls, but cap the levy at the exhibited rate where the levy rises.

Table 4 Previous and revised residential DCP levies by charge area

AREA	RESIDENTIAL LEVIES PAYABLE			Previous version/ exhibited	Change in Residential Levy
	DIL \$ per Dwelling	CIL \$ per Dwelling	Total Levy \$ per Dwelling		
Area 1A	518	253	771	793	-22
Area 1B	696	253	949	976	-27
Area 1C	1,137	253	1,390	1441	-51
Area 1D	992	253	1,245	1287	-42
Area 1E	1,377	253	1,630	1675	-45
Area 1F	1,155	253	1,408	1439	-31
Area 2A	919	253	1,172	1215	-43
Area 2B	1,309	253	1,562	1639	-77
Area 3A	1,768	253	2,021	2061	-40
Area 3B	2,056	253	2,309	2310	-1
Area 3C	1,717	253	1,970	2101	-131
Area 4	1,182	258	1,440	1406	34
Area 5A	937	381	1,319	1398	-79
Area 5B	854	381	1,236	1311	-75
Area 5C	917	381	1,299	1386	-87
Area 5D	1,235	381	1,616	1785	-169
Area 5E	735	381	1,116	1216	-100
Area 6A	1,491	258	1,749	1771	-22
Area 6B	1,265	258	1,523	1912	-389
Area 6C	1,579	258	1,837	1897	-60
Area 6D	1,262	258	1,520	1569	-49

Source: Evidence of Mr Hrelja, Table 6

Table 5 Previous and revised non-residential DCP levies by charge area

AREA	NON-RESIDENTIAL LEVIES PAYABLE					
	Retail DIL \$ per SQM	Commercial DIL \$ per SQM	Industrial DIL \$ per SQM	Change in Retail Levy \$ per SQM	Change in Commercial Levy \$ per SQM	Change in Industrial Levy \$ per SQM
Area 1A	\$1.67	\$2.50	\$0.25	-\$0.01	-\$0.02	\$0.00
Area 1B	\$7.69	\$4.96	\$1.81	-\$0.29	-\$0.06	-\$0.08
Area 1C	\$19.24	\$11.08	\$4.65	-\$0.91	-\$0.40	-\$0.24
Area 1D	\$13.10	\$10.12	\$2.91	-\$0.54	-\$0.34	-\$0.13
Area 1E	\$13.58	\$10.19	\$3.05	-\$0.56	-\$0.35	-\$0.13
Area 1F	\$9.56	\$5.49	\$2.31	-\$0.32	-\$0.07	-\$0.09
Area 2A	\$18.96	\$6.73	\$5.00	-\$1.14	-\$0.20	-\$0.33
Area 2B	\$37.43	\$9.63	\$10.24	-\$2.58	-\$0.42	-\$0.73
Area 3A	\$38.37	\$10.01	\$10.49	\$1.02	\$0.14	\$0.30
Area 3B	\$32.46	\$12.20	\$8.50	\$2.60	\$0.75	\$0.71
Area 3C	\$38.20	\$10.58	\$10.38	\$1.41	-\$1.97	\$0.62
Area 4	\$16.25	\$13.06	\$3.56	\$0.80	\$0.92	\$0.15
Area 5A	\$13.38	\$6.52	\$3.36	-\$0.60	-\$0.21	-\$0.15
Area 5B	\$9.01	\$5.83	\$2.12	-\$0.36	-\$0.17	-\$0.09
Area 5C	\$14.28	\$6.89	\$3.59	-\$1.55	-\$0.36	-\$0.42
Area 5D	\$31.89	\$9.42	\$8.60	-\$3.95	-\$0.74	-\$1.11
Area 5E	\$5.58	\$5.29	\$1.14	-\$0.32	-\$0.17	-\$0.08
Area 6A	\$22.94	\$10.71	\$5.80	-\$0.45	\$0.27	-\$0.16
Area 6B	\$8.10	\$5.26	\$1.90	-\$0.29	-\$0.06	-\$0.08
Area 6C	\$22.54	\$8.76	\$5.87	-\$0.72	-\$0.32	-\$0.19
Area 6D	\$18.98	\$8.20	\$4.86	-\$0.70	-\$0.32	-\$0.18

Source: Evidence of Mr Hrelja, Table 6

In its Part A submission, Council listed six projects which it recommended be removed from the exhibited DCP and a further four that should be amended as a result of further analysis and revised costing. This was on the basis that:

in the course of preparing for this panel hearing, Council identified a number of projects where project costs have decreased or alternative funding has been sourced (such as from grants). It is proposed to adjust those project costings downward consistent with the revised cost estimates.

A further change that is proposed is that Council has also identified a number of open space projects that are partly funded by Open Space Contributions under Clause 53.01 of the Planning Scheme. That would comprise double dipping⁶.

⁶ Document 2, Council Part A submission paras 110 and 111

Council proposed to remove projects funded through other sources and reduce the cost of projects partially funded through other sources. These are summarised in Table 6.

Table 6 Post exhibition projects removed or amended

Project number	Description
Projects to be removed	
330	Barrett Reserve – West Footscray
374	McNish Reserve, Yarraville – open space works
439	West Footscray Activity Centre – streetscape works
440	Yarraville Gardens – open space works
463	Yarraville Gardens – open space works
875	Hanmer Reserve
Projects to be amended	
335	Cowper Street, Footscray – road works
337	Cruickshank Park, Yarraville – open space works
442	Yarraville Activity Centre – pedestrian priority works
870	Yarraville Oval - Floodlights

Source: Council Part A submission para 113

These changes reduce the total capital cost of the projects included in the DCP from \$147 million to \$144.5 million. However, the effect of extending the life of the DCP to 2051 is that the total funds collected through the DCP is projected to rise from \$40.6 million to \$46 million.

1.7 The Panel hearing and procedural issues

The Hearing was timetabled for 19 and 20 April 2021. Just prior to the Hearing, the Panel was informed that Submitter 14 wished to withdraw their submission and no longer be heard by the Panel. The Panel understands this occurred as a result of further discussion between the submitter and Council.

The Panel notes that there is no provision within the PE Act for a submission to be withdrawn, but given the submitter's wishes, the Panel does not intend to address the issues raised.

The Hearing was delayed as a result of the unavailability of the Council's advocate. A request for adjournment was discussed as a preliminary matter on the first day of the scheduled Hearing and agreed to by the Panel. The Hearing was subsequently held for half a day on 30 April 2021 to address issues raised by submitters not wishing to be heard and questions raised by the Panel⁷. Given there were no submitters being heard Council requested that its Part B submission be presented orally and the Panel agreed to this request.

The Hearing proceeded with a brief oral summary of Council's response to issues raised by submitters and the Panel, followed by brief oral presentation by its two expert witnesses, Mr Hrelja and Mr De Silva and a roundtable discussion involving Council, its witnesses and the Panel.

⁷ Document 8

1.8 The Panel's approach

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

The Panel considered all written submissions made in response to the exhibition of the Amendment and submissions, evidence and other material presented to it during the Hearing. It has reviewed a large volume of material and has had to be selective in referring to the more relevant or determinative material in the Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Planning context and strategic justification
- Development Contributions Plan
 - Post exhibition changes to the DCP
 - Nesting of DCPs
 - Public open space contributions
 - Exemptions and inappropriate timing of the DCP
 - DCP projects
 - DCP implementation and review
 - Other minor changes
 - Form and content of the Amendment.

2 Planning context and strategic justification

2.1 State and local policy

Council submitted that the Amendment is supported by State and local planning policy which the Panel has summarised below.

(i) Planning and Environment Act 1987

The Amendment will assist in implementing the following policy objectives set out in section 4 of the PE Act:

- (a) Provide for the fair, orderly, economic and suitable use, and development of the land,
- (c) Ensure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria,
- (e) Protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community, and
- (f) Facilitate development in accordance with the objectives of planning in Victoria.

The Amendment seeks to implement these objectives by:

- providing a fair and reasonable basis between existing development and new development according to the share of usage of the infrastructure project
- providing a lawful and equitable method to collect contributions
- providing certainty as to the required development contributions for residential, retail, commercial and industrial development
- aiding the orderly and timely provision of necessary social and physical infrastructure throughout the municipality.

The Amendment seeks to implement Part 3B of the PE Act by enabling a DIL and CIL for development in the municipality.

(ii) Planning policy framework

The exhibited Explanatory Report details how the Amendment supports the Planning Policy Framework (PPF).

Clause 19 Infrastructure highlights the need to plan for the development of social and physical infrastructure in an efficient, equitable, accessible and timely manner. It requires Planning Authorities to consider the use of development contributions in the funding of infrastructure.

The Amendment supports Clause 19, specifically Clause 19.02-2S (Education facilities), Clause 19.02-6S (Open space) and Clause 19.03-1S (Development and infrastructure contributions plans) by:

... implementing the Maribyrnong DCP, which will ensure that contributions are available for the provision and maintenance of needed infrastructure works to support sustainable growth and development of the City. These works include but are not limited to upgrades to early years facilities, playgrounds and sport fields, open space landscaping, footpaths and bike paths, drainage structures and roadworks.

Clause 21 (the Municipal Strategic Statement)(MSS)

The Amendment supports the MSS by:

- **Clause 21.04-4 (Open space network)**
 - ensuring new development provides funding to open space and network improvements including footpath works, playground equipment upgrades and additional facilities. Examples include footpath and lighting works at Footscray Park, and concrete path upgrades along the Maribyrnong River Trail.
- **Clause 21.05-1 (Landscape values)**
 - ensuring new development provides contributions to softscape and hardscape works along Maribyrnong River and Stony Creek. Examples include Stony Creek path works from Waratah to Roberts Streets, and public realm works along the Maribyrnong River in Footscray wharf.
- **Clause 21.06-1 (Urban design)**
 - funding infrastructure projects that will improve the design and appearance of the public realm in activity centres. These projects include upgrades to footpaths, lighting and landscaping for streets in the Footscray and Highpoint Activity Centres.
- **Clause 21.09-1 (Transport)**
 - ensuring new development provides contributions to needed road projects. Examples include upgrades to road pavement, drainage and kerbs along Pilgrim Street in Seddon and Cambridge Street in Maidstone.
- **Clause 21.10-1 (Community facilities)**
 - ensuring new development provides contributions to renew ageing, maintain existing and provide new community facilities to support a growing population. Examples include upgrades for the Angliss Early Years Centre and the Church Street Early Years Centre.
- **Clause 21.10-5 (Development Infrastructure)**
 - new development contributes to infrastructure improvements that meet the needs of future communities.
- **Clause 21.11-1 (Footscray Metropolitan Activity Centre)**
 - ensuring Council has sufficient funding to provide for physical and community infrastructure in the Footscray Metropolitan Activity Centre.

2.2 Other relevant planning strategies and policies

(i) Plan Melbourne

Plan Melbourne 2017-2050 sets out strategic directions to guide Melbourne's development to 2050, to ensure it becomes more sustainable, productive and liveable as its population approaches 8 million. It is accompanied by a separate implementation plan that is regularly updated and refreshed every five years.

Plan Melbourne is structured around seven Outcomes, which set out the aims of the plan. The Outcomes are supported by Directions and Policies, which outline how the Outcomes will be achieved. Outcomes that are particularly relevant to the Amendment are set out in Table 7.

Table 7 Relevant parts of Plan Melbourne

Outcome	Directions
1. Melbourne is a productive city that attracts investment, supports innovation and creates jobs	1.1 Create a city structure that strengthens Melbourne's competitiveness for jobs and investment

Outcome	Directions
2. Melbourne provides housing choice in locations close to jobs and services	2.2 Deliver more housing closer to jobs and public transport
3. Melbourne has an integrated transport system that connects people to jobs and services and goods to market	3.3 Improve local travel options to support 20-minute neighbourhoods
4. Melbourne is a distinctive and liveable city with quality design and amenity	4.1 Create more great public places across Melbourne
5. Melbourne is a city of inclusive, vibrant and healthy neighbourhoods	5.1 Create a city of 20-minute neighbourhoods
	5.2 Create neighbourhoods that support safe communities and healthy lifestyles
	5.3 Deliver social infrastructure to support strong communities
	5.4 Deliver local parks and green neighbourhoods in collaboration with communities
6. Melbourne is a sustainable and resilient city	6.4 Make Melbourne cooler and greener

Source: Plan Melbourne 2017-2050

2.3 Planning scheme provisions

A common zone and overlay purpose is to implement the Municipal Planning Strategy and the PPF.

The Amendment proposes to apply the DCPO. The purpose of the Overlay is:

To identify areas which require the preparation of a development contributions plan for the purpose of levying contributions for the provision of works, services and facilities before development can commence.

Clause 45.06-1 Development Contributions Plan states:

A permit must not be granted to subdivide land, construct a building or construct or carry out works until a development contributions plan has been incorporated into this scheme.

This does not apply to the construction of a building, the construction or carrying out of works or a subdivision specifically excluded by a schedule to this overlay.

A permit granted must:

- be consistent with the provisions of the relevant development contributions plan
- include any conditions required to give effect to any contributions or levies imposed, conditions or requirements set out in the relevant schedule to this overlay.

2.4 Ministerial Directions and Planning Guidelines

The Explanatory Report and Council's Part A submission discuss how the Amendment has considered the following Ministerial Directions:

- Ministerial Direction – Preparation and Content and Reporting Requirements for Development Contributions Plans:
 - The DCP is not applied to land affected by any infrastructure contributions plans.

- The appropriate exemptions for the development of land for non-government school and certain types of social housing have been included.
- The DCP limits the collection of levy to works, infrastructure, and facilities listed in the direction, such as transport and bike infrastructure, drainage works, basic improvements to public open space and community facilities.
- Ministerial Direction – The Form and Content of Planning Schemes:
 - The Amendment is generally consistent with this Ministerial Direction except in the format of the Summary of Costs table in Section 2 and the Summary of Contributions table in Section 3 of the prescribed Development Contributions Plan Overlay (DCPO) Schedule. This is discussed further in Chapter 3.8.
- Ministerial Direction 9 – Metropolitan Strategy
- Ministerial Direction 11 – Strategic Assessment of Amendments
- Ministerial Direction 15 – The Planning Scheme Amendment Process.

Council had regard to the *Development Contributions Guidelines* (Department of Sustainability and Environment, June 2003 – as amended March 2007).

2.5 Strategic support for DCP projects

Appendix A of the DCP lists a large number of Council plans and strategies which Council submitted provides strategic justification for the 199 projects included in the exhibited DCP (subsequently proposed removal of six projects, so a total of 193 – see Chapter 3.1). High level strategies and plans include:

- Council Plan 2017/21
- Annual Council plans and budgets
- Long Term Financial Strategy 2019/20 to 2028/29
- Maribyrnong 2040 Community Plan
- Public Health and Wellbeing Plan
- Housing Strategy 2018
- Economic and Industrial Strategy 2016
- Open Space Strategy 2014
- Integrated Transport Strategy 2012
- City Design Manual 2017
- Asset Management Policy 2014
- Asset Management Improvement Strategy 2015
- Road Asset management Plan 2016
- Building Assets Management Plan 2012
- Bicycle Strategy 2014
- Early years Infrastructure Plan 2018
- Playground Improvement Plan 2016
- Public Toilet Plan 2019
- Street Tree Planting Strategy 2013
- Urban Forest Strategy 2018
- Sports Pavilion Capital Improvement Plan 2017
- Sustainable Sportsgrounds Management Plan 2015
- Sportsground Capital Improvement Plan 2017
- Public Lighting Policy 2018

- Skate/ BMX Facility Strategy 2013
- Defence Site Maribyrnong Statement of Policy Intent 2018.

In addition, a number of area specific policies and plans are listed in the DCP as providing support for DCP projects.

2.6 Discussion and conclusion

For the reasons set out in the following chapters, the Panel concludes that the Amendment is supported by, and implements, the relevant sections of the PPF, and is consistent with the relevant Ministerial Directions and Practice Notes. The Amendment is well founded and strategically justified, and the Amendment should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

The Panel notes the large number of plans, strategies and policies which underpin the projects which are proposed to be part funded through the DCP. No submitter raised specific objections to the strategic and policy underpinnings of specific projects. While the Panel has not undertaken a specific analysis of the policy and strategy underpinnings on a project by project basis, no evidence or submissions made to it give the Panel cause to consider that projects are not broadly strategically supported.

3 Development Contributions Plan

3.1 Introduction

At the Hearing, there was discussion between Council, its experts and the Panel of the different nature of municipality-wide DCPs and most of the early DCPs which were concentrated almost entirely in growth areas. It was acknowledged that municipality-wide DCPs have a broader audience including the resident community and small-scale developers often involved in development such as dual occupancy. The discussion focused on the nature and extent of explanatory material that should be included in an incorporated DCP.

Mr Montebello, representing Council, stated that because of his professional background he approached DCPs as legal documents and as such without a great deal of explanatory material. He acknowledged that Council preferred a document with a greater emphasis on explanatory content. Council indicated that it would also prepare an information document to explain the DCP to local users of it.

In his evidence, Mr De Silva recommended that Council consider breaking the DCP into two sections with the document to be incorporated in the Planning Scheme containing the technical aspects and other material including explanatory material being included in a background document. In its written response to Mr De Silva's recommendations, Council responded that it had considered this and decided to retain the explanatory material in the document to be incorporated.

This is set out as a preamble to this Chapter for two reasons. Firstly, because in a number of the issues addressed in this Chapter, the Panel is recommending that the DCP would benefit from further explanatory material to make it more useful to its broader audience. Secondly, whether the DCP is split into two documents as recommended by Mr De Silva is not being addressed by the Panel as an issue in this Chapter because the Panel does not take a position on whether the incorporated document should or should not include the explanatory material. The Panel concludes that this is a decision best taken by Council as it is in a better position than the Panel to determine the most appropriate way to communicate relatively complex material to its community.

3.2 Post exhibition changes to the DCP

(i) The issues

The issues are whether the post exhibition change of the DCP planning horizon from 2041 to 2051 as a result of revised growth forecast and the subsequent changes to the DCP are:

- appropriate
- transformational and require re-exhibition of the Amendment.

(ii) Evidence and submissions

Council submitted that significant changes to forecast levels of both population growth and non-residential development had necessitated changed forecasts. It submitted that these changes were largely driven by a very significant drop in international migration which it expects will have a big impact on the growth prospects of inner ring municipalities such as Maribyrnong. Council

explained that the revised forecasts prepared by .id Consulting were not prepared specifically to revise the DCP but were an update to inform broader Council service planning.

Council acknowledged that the use of revised forecasts particularly this early in the pandemic recovery period and given that they resulted in a significant reduction in forecast growth in the municipality was not without its challenges. In his evidence, Mr Hrelja recommended using these revised forecasts in the DCP. Mr De Silva also acknowledged the challenges of forecasting at this stage but concluded that it was appropriate to use the latest forecasts available.

Council submitted that it had a choice of either reducing the number of infrastructure projects funded and keeping the life of the DCP to 2041; increasing the levy and keeping the end date of the DCP at 2041; or extending the planning horizon of the DCP to 2051.

Council submitted that given the revised forecasts for 2051 were not significantly different to the original forecasts for 2041, Council made the pragmatic decision to extend the life of the DCP. Council added that *“the infrastructure to be funded will have a useful life that extends to at least 2051 and in many cases beyond that time”*⁸.

Mr Hrelja gave evidence that through the Amendment Council was committing to delivering the infrastructure within the lifespan of the DCP. The experience of other councils such as Banyule and Brimbank indicated that in reality the majority of projects would be delivered in a much shorter timeframe, with anticipated delivery within 5 to 10 years.

As indicated in Chapter 1.6, the proposed extension in DCP lifespan to 2051 has resulted in reductions in the levy in all but a small number of charge areas. Council submitted in its Part A:

It is apparent ... that while most of the charge areas would have a lower levy per demand unit or equivalent demand unit, there are some charge areas that would experience a higher levy per demand unit for equivalent demand unit. Notwithstanding, Council proposes that were a charge area would have a higher levy rate under the recalculated DCP, the Council will **not** apply that higher rate. Rather it will cap the levies in the DCP at the exhibited rates for those particular areas so that the result is that even though the DCP is updated and recalculated, there is **no change** to those particular charge area levies. The revenue that is forgone from what would have been those higher levies will be borne by Council. Over the forecast period the cost to Council is estimated at less than \$20,000 per year⁹.

Council submitted that capping levies at the exhibited level obviated the need to re-exhibit the Amendment. It added that further minor revisions in the costing of a number of projects and deletion of a small number of others had occurred as a result of further auditing of the list of projects.

Council provided a document listing post exhibition changes to the DCP, most of which result from the revised growth forecasts and the deletion and revision of projects (see Appendix C). In addition, Council provided the Panel with a marked version of DCPO2 which includes revised tables in Sections 2.0 and 3.0 as a result of the revised forecasts (see Appendix D).

(iii) Discussion

The Panel agrees that forecasting population and related growth at this stage of the recovery from the pandemic is indeed challenging and that future population growth will depend both on the re-opening of international borders and the yet unknown policy position on future international

⁸ Document 12, Summary of the oral Part B submissions

⁹ Document 2, Council Part A submission para 108

migration. The Panel accepts that the approach of using the most recent available forecasts is appropriate. If these turn out to be either significant under or overestimates, adjustment to the DCP can be made as part of a later review.

The Panel accepts the post exhibition removal and amendment of projects as set out in Chapter 1.6 as appropriate and notes the changes to the total cost of the projects funded through the DCP and the increase in the proportion of the total cost that will be recovered through the DIL and CIL. From the Panel's perspective it is important that Council has committed to implementing reduced levies where the extension to the planning horizon of the DCP has resulted in reduced levels and more importantly to cap levies at the exhibited level in those charge areas where levies have increased.

On this basis the Panel considers that the post exhibition changes to the DCP are acceptable.

In considering whether the proposed changes transform the Amendment, and hence would require re-exhibition, the Panel has considered the principles of natural justice and whether anyone would potentially be disadvantaged by not having an opportunity to provide submission on the changes. The Panel considers that while the proposed changes extend the time of provision from 2041 to 2051, the changes are not transformative and there is no need to re-exhibit the Amendment on the basis that:

- the substantive content of the DCP has not changed, and any changes to specific projects has involved removal of a project or reduction in the estimated cost of a project
- no one will be disadvantaged as the proposed changes result in a reduced levy, or are secured by a levy cap as proposed by Council
- the projects are likely to be delivered well within the lifespan of the DCP
- review of the DCP will be required well within the lifespan of the DCP and, as an Incorporated Document, any changes will require public exhibition as part of any Amendment to the Planning Scheme (see Chapter 3.6).

The Panel accepts the post exhibition changes to the DCP and the DCPO2 as included at Appendices C and D respectively.

(iv) Conclusions and recommendations

The Panel concludes:

- The use of the revised growth forecast in post exhibition changes to the DCP is appropriate.
- The list of post exhibition changes to DCP and the DCPO2 included at Appendices C and D respectively are appropriate.
- The proposed changes are not transformative, and the re-exhibition of the Amendment is not required.

The Panel recommends:

Amend the Maribyrnong Development Contributions Plan to:

- a) **Include the proposed post exhibition changes detailed at Appendix C of this Report.**

Amend the exhibited Development Contributions Plan Overlay Schedule 2 to:

- a) **Make the changes shown in Appendix D of this Report.**

3.3 Nesting of DCPs

(i) The issues

The municipality-wide DCP applies in addition to a precinct specific DCP which exists for the Joseph Road precinct in Footscray.

The issues are whether:

- the ‘nesting’ of DCPs is appropriate and appropriately explained in the DCP
- it is possible and or appropriate to foreshadow other area specific DCPS within the municipality-wide DCP.

(ii) Evidence and submissions

Submitter 6 opposed the DCP on the basis it is a developer in the Joseph Road precinct and is already subject to DCP levies there. It submitted:

We vehemently disagree with our inclusion in the DCP as our sites are located in the Joseph Road Precinct. As such we are already subject to Amendment C145 – Joseph road Precinct DCP. We find it unreasonable to now impose a second DCP on us when other developers in the municipality were not required to contribute to Amendment C145.¹⁰

What Council has proposed is effectively a ‘nesting’ of DCPs where a precinct specific DCP may operate in tandem with a municipality-wide DCP. Council submitted that the Joseph Road situation was unique in that there was little or no public infrastructure existing in the precinct when development was proposed and that the Joseph Road DCP was intended to provide precinct specific public realm infrastructure that would not normally be provided in a municipality-wide DCP.

Submitter 11 raised the issue of the potential for double dipping including as a result of multiple DCPs. It submitted:

The DCP foreshadows the possibility of multiple DCP overlays over one site, hence leaving open the possibility that a second DCP or infrastructure agreement may be prepared for the Highpoint Activity Centre¹¹.

Submitter 11 sought clarification as to whether the current DCP was the one referred to in the Highpoint Planning and Urban Design Framework. In response, Council submitted that any future DCP that applied specifically to the Highpoint Activity Centre would only fund infrastructure specifically for the activity centre and this would be separate from infrastructure funded through this municipality-wide DCP.

In evidence, Mr De Silva stated that the situation where there are two DCPs being applied to a particular area was relatively unusual but there was nothing prohibiting the approach that Council has taken.

As a result of the issues raised, the Panel asked Council whether it was possible and desirable to add a short section to the DCP explaining the reason for the ‘nesting’ of DCPs and providing a clear delineation between the types of infrastructure provide in a precinct specific DCP as opposed to this municipality-wide DCP. Council responded:

¹⁰ Submission 6

¹¹ Submission 11

In the lifespan of the proposed DCP, there will inevitably be from time to time planning exercises that may identify particular and specific infrastructure needs for an area which have not been identified in the Maribyrnong DCP or any other pre-existing DCP. However, if a future contributions plan is prepared for a specific area it will only fund infrastructure projects specific to that area and be separate from projects funded by Amendment C164. The Joseph Road DCP which applies only to developments within the Joseph Road Precinct through DCPO1 is an example of this.¹²

In the roundtable discussion on this issue, the possibility of adding a short section to the DCP more clearly articulating both the type of projects included in this municipality-wide DCP and those that fund precinct specific infrastructure was discussed. Mr Montebello helpfully distinguished between DCPs that arise as a result of widespread growth and those that apply to strategic development areas, with the Joseph Road Precinct being an example of the latter.

It was acknowledged by Council that precinct specific DCPs could well be developed in the future. Council was reluctant to provide any comprehensive list of these but identified the former defence land in Maribyrnong and the Highpoint Activity Centre as two possibilities.

Both Mr Hrelja and Mr De Silva agreed that the DCP would benefit from a short section which clearly sets out the type of infrastructure funded in this DCP as opposed to that likely to be funded by a precinct specific DCP.

(iii) Discussion

The Panel considers it important that any 'nested' DCPs be exactly that – 'nested' and complementary – and with clear distinction between the infrastructure funded by an area or development specific DCP relative to the municipality-wide DCP. To provide clarity and ensure robust decision making, it will be important to articulate clear criteria and principles that guide decision making, and for this to be clearly communicated.

On this basis, the Panel considers that the DCP would benefit from including a brief section which puts precinct specific or strategic development DCPs in the context of this municipality-wide DCP. This could either articulate principles which drive the choice of infrastructure to be funded through each or give examples of the type of infrastructure to be funded by each. That section could foreshadow the likelihood of further precinct specific DCPs with or without possible examples but setting out the principles or preconditions that might result in a precinct specific DCP being prepared.

(iv) Conclusions and recommendations

The Panel concludes:

- The preparation of both a municipality-wide DCP and precinct specific DCPs is appropriate with some development being subject to levies under each type of DCP.
- The DCP should be amended to include a short section clearly explaining the principles guiding decision making, roles of each of a municipality-wide DCP and precinct specific DCPs and the type of infrastructure to be funded by each.

The Panel recommends:

Amend the Maribyrnong Development Contributions Plan to:

¹² Document 9, Council response to Panel issues, p1

a) **Add a short section which sets this municipality-wide Development Contributions Plan in the context of precinct specific Development Contributions Plans including:**

- **the functions of each type of Development Contributions Plan**
- **the types or categories of infrastructure which would normally be included in each type of Development Contributions Plan.**

3.4 Public open space contributions

(i) The issue

Various aspects of public open space may be funded from a variety of sources, including through the *Subdivision Act 1988*, Clause 53.01 of the Planning Scheme, DCPs and project specific grants from other levels of government.

The issue is whether the DCP should be more explicit about the type of projects that can be funded from various funding sources, hence making it clear how DCP funds can be used for open space projects and therefore reduce uncertainty about the uses to which funding sources may be put and alleviate concerns about 'double dipping'.

(ii) Evidence and submissions

Submitter 7 opposed the DCP on the basis that they were already required to pay a significant open space levy. Submitter 10 raised a similar issue.

The Panel is aware that the various sources of funding for aspects of acquisition of land for open space and its subsequent development regularly cause confusion. The Panel acknowledges that there are grey areas, and it is possible that aspects of open space development be part funded from different sources.

Submitter 11 raised this issue in the context of the potential for double dipping from multiple funding sources, submitting:

There is no explanation of the relationship between the substantial open space works to be funded by this DCP and the Open Space Strategy and land required / funding payable at subdivision under Clause 53.01 of the Maribyrnong Planning Scheme¹³.

On the basis of the apparent confusion for at least a couple of submitters, the Panel asked Council whether it would be useful to include a short section in the DCP providing an explanation and greater clarity for those impacted by the DCP.

In its written response to the Panel, Council submitted that this was not easy to do and stated:

In accordance with the *Subdivision Act 1988*, Public Open Space Contributions levied under Clause 53.01 of the Planning Scheme can be used to fund the provision of new open space **and** the improvement of new and existing public open space.

By contrast to the wide discretion afforded by the *Subdivision Act 1988*, the Maribyrnong DCP is intended to fund open space improvement projects only and not the acquisition of new open space (even though that is permissible under legislation and DCP Guidelines). The *Planning and Environment Act 1987* requires that funds collected must be directed to projects nominated in the DCP within the specified timeframe¹⁴.

¹³ Submission 11, p3

¹⁴ Document 9, Council response to issues raised by the Panel, p1

Mr De Silva recommended that a clear explanation be provided in the DCP as to the demarcation between open space projects funded by the DCP versus Clause 53.01.

In the roundtable discussion on this issue, it was acknowledged by Council and its witnesses that the grey areas about what revenue sources could be used for various costs incurred in the provision of open space and its development often caused confusion amongst submitters. Mr De Silva stated that in his opinion this sometimes arose because of the language that was used to describe some projects.

Both Council and Mr Hrelja assured the Panel that considerable effort had been made to ensure that there had been no double dipping, that is no DCP funding was being proposed to fund an aspect of open space provision that had already secured funding from an alternative source or would do so in the future. There was general acknowledgement in the roundtable discussion that the transparency of the DCP would be improved by the inclusion of a short section that explained clearly in lay terms what aspects of open space provision was being funded from this DCP how that dovetails with other aspects of open space provision funded from other sources.

Council advised in its correspondence¹⁵ after the Hearing that *“In a future review of the planning scheme, Council may provide commentary in the public open space policy about how open space projects are funded by dual sources of funds”*.

(iii) Discussion

The Panel has not attempted to undertake a detailed assessment of the use of funds proposed to be raised by this DCP as opposed to other sources to assure itself that there is no double dipping. Indeed, the information provided to it would not allow such an exercise to be undertaken. Nor does the Panel see this as its role. The Panel however accepts that appropriately rigorous internal review and audit processes have been undertaken to ensure that there is no double dipping. The Panel is comforted by Council subsequently removing some projects from the DCP and revising the costs of others.

The Panel comments that as the DCP is implemented that it may be necessary for further revision if grant funding becomes available to fund open space provision currently proposed to be funded through the DCP.

The Panel considers that the transparency of the DCP would be improved by the inclusion of a short section written with a lay user of the DCP in mind which:

- lists the various sources of funding that can be used to fund various aspects of open space provision and improvements to it
- outlines the approach that has been used by Council to identify the aspects of open provision and improvements to be funded by this DCP
- describes processes which have been used to ensure that there is no double dipping from multiple funding sources.

To assist with transparency, as Council has undertaken the work required to review and document the funding sources of each project, there may be value in sharing this information with interested parties outside of the DCP process, as appropriate.

¹⁵ Document 12

(iv) Conclusions and recommendations

The Panel concludes:

- That there is no evidence that double dipping has or will occur with respect to the funding of open space projects.
- That the transparency of the DCP would be improved by the addition of a short section that carefully explains in lay terms what aspects of open space projects are funded through the DCP and what aspects are funded from other sources.

The Panel recommends:

Amend the Maribyrnong Development Contributions Plan to:

a) Add a short section on funding for open space which:

- **identifies the various sources of funding that can be used to fund various aspects of open space provision and improvements to it**
- **outlines the approach used by Council to identify the aspects of open provision and improvements to be funded by this Development Contributions Plan**
- **describes processes which have been used to ensure that there is no double dipping from multiple funding sources, and any associated reporting.**

3.5 Exemptions and inappropriate timing of the DCP

(i) The issues

A number of submissions requested that exemptions be provided in the case of one extra dwelling on a lot which is not being constructed for sale and that DCP levies are already being paid in the Joseph Road precinct. Issues associated with the Joseph Road DCP are addressed in Chapter 3.2. In addition, submitters argued that is inappropriate to introduce such a scheme at this time when many households are facing hardship.

The issues are whether:

- there can be exemptions from DCP levies where an extra dwelling unit is being constructed on a single lot
- the introduction of the DCP should be delayed until the economy recovers.

(ii) Evidence and submissions

Submitter 1 requested an exemption from the DCP levies where an additional dwelling is being constructed on an existing lot and proposed to be used by members of the family. Submitter 7 sought a reduction in the open space and DCP levies on the basis that their development is for his family. Submitter 14 also sought an exemption on the basis that they are exceeding the provision of the required 5.7% open space contribution and are making other infrastructure upgrades as part of their development.

Submitter 14 subsequently withdrew its submission, as outlined in Chapter 1.7.

Submitters 2, 3, 4 and 13 opposed the introduction of the DCP in a period of economic hardship as a result of the COVID-19 pandemic. Submitter 2 specifically requested that its introduction be delayed for two years as a result of the current economic hardship.

Submitter 10 stated that a DCP levy was a cost that had not been known at the outset and is not fair as it had not been able to be taken into account by them.

Council responded that it understood the difficult circumstances faced by residents as a result of the pandemic and its impact on the local economy. It submitted that:

Council endorsed at its Ordinary Meeting of 18 August 2020 a significant relief package for the community and local businesses.¹⁶

Council further submitted that:

It would not be appropriate or equitable for the DCP to include an exemption that distinguishes between investment projects, larger scale developer projects and family/resident developments.¹⁷

In his evidence, Mr Hrelja stated that DCPs do not typically make a distinction between the residential location or the personal circumstances of someone undertaking a development.

In addressing the issue of exemptions for development which is part way through its approval process, Mr Hrelja stated that in many cases there is a relatively long period between when a DCP is first mooted and its final approval and gazettal. This means that it is inevitable that some developers will gain their permits while the DCP preparation process is underway and will not become liable for the subsequently approved levies.

Mr Hrelja further stated:

Another option, which is rarely taken as far as I am aware, would be to exempt all developments that submitted an application or met some threshold by a particular point in time. This is a Council decision and is not required by law, directions or guidelines.¹⁸

(iii) Discussion

The Panel understands that the exhibition period for this Amendment occurred at a time of great personal and economic uncertainty for many people as a result of the global pandemic. However, the Panel is not convinced that a case has been made for delaying its approval and implementation.

The purpose of the Amendment is to establish a tool for equitable funding of necessary city infrastructure to support a growing community. Delay will cause other inequities as a result of approved development not making a contribution to the cost of the infrastructure that the development creates the need for. The Panel notes that Council has introduced other assistance for those impacted by the pandemic but as this is outside the remit of this Amendment, the Panel makes no comment on the appropriateness or otherwise of that assistance.

The Panel understands that inequities that may arise as a result of the timing of approvals is an issue of concern for some submitters; namely whether developments are approved before or after gazettal of the Amendment, which will be the point from which levies will apply. However, the Panel is not attracted to the prospect of attempting to define transition arrangements or exemptions for development which may have commenced.

The Panel notes Mr Hrelja's comment about the possibly of exempting development that meets a defined threshold at a particular point in time. Mr Hrelja has raised this as an alternative but the

¹⁶ Document 2, Council Part A submission, Attachment 2 p1

¹⁷ Document 2, Council Part A submission Table 1

¹⁸ Document 2, Exert evidence of Mr Hrelja, para 19

Panel notes that he is not recommending it. The Panel observes that whatever point of time is chosen, there will inevitably be inequities with development proposals falling either side of the defined line. The Panel does not consider there should be an alternative to the date of gazettal as the date from which levies may be charged. The date of gazettal is firm and well defined. Attempts to define another cut off point are likely to lead to definitional arguments, and the Panel considers that this will not add value to the process or desired outcome, and certainly will not assist with progressing this Amendment.

The Panel further observes that other municipality-wide DCPs approved and in operation do not as a general rule provide for exemptions other than those specified in the PE Act.

The levies being proposed in this DCP are both in line with those proposed in other municipal DCPs and relatively small. In most cases they are likely to be of the order of one per cent or less of the sale price of a residential unit. In the Panel's view, it is relatively unlikely that a development which has a potentially one per cent extra cost added to it will be rendered non-viable by that impost.

(iv) Conclusions

The Panel concludes:

- It is appropriate that all development not subject to the limited exemptions provided for under the PE Act are liable for the levies proposed in this DCP.
- That there is no good case for delaying the introduction of the DCP.
- The net community benefit of implementing a DCP to fund municipal-wide infrastructure outweighs any individual private financial impact.

3.6 DCP projects

(i) The issues

The issues are whether:

- it is appropriate to add additional projects to the DCP
- there can be some clarification of the benefits to users in a charge area of projects in a particular charge area.

(ii) Evidence and submissions

Submitter 8 sought consideration of the inclusion of further projects in the DCP as follows:

The Development Contribution Plan should consider and include offset of emissions imposed on Council assets and operations, and to the wider community. Funds generated from the DCP should be used to assist reduction in community & Council based emissions and increase resilience and sustainability within the community, through the establishment of new green space, preservation and improvement of existing green space, increased vegetation to offset emissions within the municipality and provide carbon drawdown opportunities, establishment and ongoing support of community gardens and urban farms, and renewable-based infrastructure such as electric vehicle stations.¹⁹

Council responded that the PE Act and related Ministerial Directions specify the types of infrastructure which may be funded through a DCP and that climate change related projects are

¹⁹ Submission 8

not included. However, it submitted that there were a number of allowable DCP funded projects which also have climate change benefits, including but not limited to:

- project 434: that funds the municipal street tree planting consistent with Council's Urban Forest Strategy
- project 397: that funds bicycle and pedestrian network improvements throughout the municipality
- projects 398 and 399: that fund Maribyrnong River Trail path works which facilitate walking and biking
- project 465: that funds drainage and wetland improvement works at Newell's Paddock
- project 276A: that funds Footscray and Pipemakers Park footpath works
- project 329: that funds floodlight works at Angliss Reserve which would use energy saving LED lighting
- project 357: that funds upgrades to the Henry Turner pavilion that would include stormwater harvested from the new roof for toilet flushing and landscape irrigation
- project 1202: that funds shade trees and seating at Alex Beaton Reserve²⁰.

Submitter 11 suggested adding the Warrs Road / Van Ness Avenue intersection upgrade and shared trails as DCP projects. Council responded that it had not undertaken the necessary detailed work to enable it to include either of these projects at this stage.

Submitter 11 sought clarification on which projects funded through the DCP that Highpoint Shopping Centre would derive benefit from. Council responded listing a number of projects that Council considered it would benefit from, including:

- project 35: Robert Barrett Reserve sports field works
- project 157: Robert Barratt reserve open space works
- project 314: Maribyrnong Aquatic Centre facility works
- project 982: Robert Barrett Reserve cricket net works
- project 393A: Maribyrnong River early year facility playground works
- project 397: Bicycle and pedestrian network works program
- project 429B: Public toilet works in a number of public reserves
- project 430F: Maribyrnong road safety works program
- project 434: Street tree planting and implementation of urban forest strategy
- project 455A: Playgrounds works programs in a number of public reserves and gardens
- project 470B: Highpoint Activity Centre streetscape works program.

(iii) Discussion

The Panel agrees with Council that projects with a primary purpose to address climate change issues are not allowable under the PE Act or relevant guidelines and Ministerial Directions. The Panel does however accept that a number of projects including those listed and included in other allowable infrastructure categories, can and will have climate change mitigation benefits.

The Panel observes that for a project to be included in a DCP, work needs to have been undertaken to provide strategic justification for its inclusion. Further it is noted that it is not unusual for a municipal DCP to foreshadow that further projects may be added to the DCP at the time of review after strategic work has been undertaken. While this has not been specifically foreshadowed it is clearly what is intended. It would be prudent for Council to not wait until all

²⁰ Document 9, Council response to issues raised by the Panel, p10

strategic work has been completed, as to do so is likely to result in the development horse having well and truly bolted and Council having to fund infrastructure to support growth that has occurred. The Panel supports the approach being taken by Council.

With respect to the projects which generate benefits for Highpoint Shopping Centre and its visitors and patrons, the Panel notes that the Robert Barrett Reserve, which is the beneficiary of funding for a number of projects listed by Council, is in the vicinity of the Highpoint precinct. It is likely that there will be a nexus between visits to the reserve and visitors to the Highpoint activity centre.

The nexus between the Highpoint Shopping Centre and some of the projects listed by Council may not be necessarily obvious at first glance. However, the Panel notes that the usual understanding of nexus between residents and other users in a charge area, and a project to which that charge area contributes, is not premised on all users from the charge area necessarily using the facility being part funded through the DCP.

The nexus test is usually deemed to have been met if users from the charge area have the opportunity to use the facility to which DCP funds are being applied. The Panel is satisfied that in broad terms the nexus test is met in this case.

(iv) Conclusions

The Panel concludes:

- It is not appropriate to add climate change projects that do not comply with the DCP eligibility criteria.
- A number of the projects included in the DCP will have climate change mitigation benefits.
- It is not appropriate to add the projects suggested by Submitter 11 to the DCP at this time.
- An appropriate nexus exists between the users in the charge area in which Submitter 11 is located and the projects listed by Council as proposed to be funded by the DCP.

3.7 DCP implementation and review

(i) The issues

The issues are whether:

- greater clarity can be provided in describing the point at which DCP levies can be charged
- greater clarification is needed on the provision of demand unit credits when existing floorspace is demolished and subsequently replaced
- the timing of periodic reviews should provide greater flexibility in the timing of reviews.

(ii) Evidence and submissions

The Panel raised with Council whether there could be greater clarity in describing the point at which DCP levies are proposed to be charged. Section 7.3 the DCP currently states:

Payment of the Development Infrastructure Levy can be sought at planning permit stage, subdivision stage or building permit stage²¹.

²¹ Exhibited DCP p 67

The Panel was concerned that the use of the phrase ‘can be sought’ provides little certainty for developers or the community and asked Council to consider providing greater clarity. Council responded that its intention was impose the DCP levies at the first available opportunity in the case of the DIL. The CIL will be levied at the building permit stage as provided for in the PE Act. Council submitted that it would be content for the wording of the DCP to be amended as follows:

~~Payment of:~~ The Development Infrastructure Levy ~~may~~ will be ~~sought~~ levied by Council at the planning permit stage, subdivision stage or building permit stage of development, in accordance with the timing points indicated in this DCP whichever occurs first after the Approval Date of this DCP.

Council acknowledged that this provides greater clarity and Mr Hrelja accepted this. Mr De Silva agreed that the revised wording assists.

The DCP provides that a levy will only be charged for a net additional number of dwellings or floorspace and that demand unit credits would apply where existing dwellings or non-residential floor space is demolished. Submitter 11 raised the issue of credit for unoccupied floor space, submitting:

The DCP provides for a demand unit credit to apply to existing, previously approved gross floorspace for non-residential development. However, this credit does not apply to unoccupied buildings.

The draft Development Plan (in preparation) for the Highpoint Shopping Centre site includes the substantial removal and reprovision of retail space, and GPT request that Amendment C164 is drafted in a way that allows GPT should (sic) obtain a credit for the removal of this space.²²

On the basis of this submission, the Panel raised with Council the need to clarify the paragraph in section 7.3 of the exhibited DCP which deals with demand unit credits, by specifically addressing the situation where previously occupied floorspace becomes unoccupied for a short period of time pending its demolition as a precursor to redevelopment of the floorspace.

Council responded that it considered the most appropriate approach to providing clarity was to use the mechanism of existing use rights. It submitted that the wording on the DCP could be revised as follows:

A demand unit credit applies for existing, previously approved:

- Gross floorspace for non-residential development. This credit does not apply to vacant non-residential lots, unoccupied buildings or existing buildings which are not fit for use, unless those lots or buildings continue to have the benefit of existing use rights.
- Dwellings. This credit does not apply to vacant residential lot.²³

Section 7.8 of the DCP indicates that the DCP will need to be reviewed within three years, but does not mention the frequency of ongoing reviews. In his evidence, Mr De Silva pointed out that DCP reviews can be resource intensive. The Panel subsequently asked Council to revisit the timing of reviews. Council responded that the letter of authorisation on the Amendment included the following:

The proposed Maribyrnong Development Contribution Plan **must** be updated to include the following wording:

- The Maribyrnong Development Contribution Plan may need to be reviewed within 3 years of approval to take into account the policy objectives, boundaries and actions

²² Submission 11

²³ Document 9, Council response to issues raised by Panel, p2

outlined in the Priority Precinct work undertaken by the Department of Jobs, Precincts and Regions, unless otherwise agreed in writing with the Minister for Planning.²⁴

(Panel emphasis)

Council submitted that it would prefer to have greater flexibility. Mr Hrelja stated that four yearly reviews in line with review of the Planning Scheme are more appropriate. Mr De Silva observed that the process and content of reviews is largely undefined. He stated that five yearly reviews may be more appropriate.

(iii) Discussion

The Panel raised the issue of providing greater clarity in the DCP regarding the point at which the levies would be charged. It agrees that the revised wording that Council has proposed is appropriate and has the advantage that it makes clear that following gazettal, development which is part way through the approval process may be charged at the first available trigger point even if the first trigger point has passed.

The Panel agrees that the proposal by Council to link demand unit credits to existing use rights is an appropriate way to address the issue raised by Submitter 11. This addresses the issue of floorspace that is necessarily left vacant for a period of time pending other changes that might need to precede the time at which an application for replacement floorspace is made. The wording proposed by Council is supported by the Panel.

The letter of authorisation of the Amendment did not require a review of the DCP within three years, but rather that review may be needed within three years. The authorisation makes no specific reference to a requirement for ongoing reviews. The Panel notes the significant cost that can be incurred in reviews, as observed by Mr De Silva. It agrees that more flexibility should be provided in the timing of reviews and suggests that section 7.8 of the DCP be worded as follows:

This DCP should be reviewed every four to five years or more often if necessary. An initial review may be required within 3 years of approval, to take into account the policy objectives, boundaries and actions outlined in the Priority Precinct work undertaken by the Department of Jobs, Precincts and Regions, unless otherwise agreed in writing with the Minister for Planning.

The Panel considers that this wording maintains the intent of the letter of authorisation and provides Council with appropriate flexibility.

Changes will be required to the wording of the explanatory 'note' in Section 3.0 of the DCPO2 to ensure consistency with the changes to the DCP recommended in this Report, specifically those relating to providing greater clarity:

- in describing the point at which DCP levies can be charged
- on the provision of demand unit credits when existing floorspace is demolished and subsequently replaced.

(iv) Conclusions and recommendations

The Panel concludes:

- The wording of the section of the DCP headed 'Payment of the Development Infrastructure' be amended to provide greater clarity on the timing of the collection of the Development Infrastructure Levy.

²⁴ Document 2, Council part A submission Attachment 7

- The section of the DCP which addresses demand unit credits should be amended to provide for credit to be provided for some floorspace that is temporarily vacant pending redevelopment.
- The wording of the explanatory 'note' in the DCPO2 should be updated to ensure consistency with the changes to the DCP recommended in this Report relating to timing of payment and clarification of demand use credits. Suggested wording is shown at Appendix D.
- Greater flexibility should be provided in the timing of reviews of the DCP, and a commitment to ongoing reviews.

The Panel recommends:

Amend the Maribyrnong Development Contributions Plan to:

- Replace the first sentence of the paragraph of section 7.8 headed "Payment of the Development Infrastructure Levy" with: "The Development Infrastructure Levy will be levied by Council at the planning permit stage, subdivision stage or building permit stage of development, in accordance with the timing points indicated in this DCP whichever occurs first after the Gazettal Date of this DCP".**
- Replace the third paragraph of the section headed "Basis for Payment" in section 7.3, with "A demand unit credit applies for existing, previously approved:**
 - **Gross floorspace for non-residential development. This credit does not apply to vacant non-residential lots, unoccupied buildings or existing buildings which are not fit for use, unless those lots or buildings continue to have the benefit of existing use rights.**
 - **Dwellings. This credit does not apply to vacant residential lot."**
- Replace section 7.8 with "This DCP should be reviewed every four to five years or more often if necessary. An initial review may be required within 3 years of approval, to take into account the policy objectives, boundaries and actions outlined in the Priority Precinct work undertaken by the Department of Jobs, Precincts and Regions, unless otherwise agreed in writing with the Minister for Planning."**

Amend the exhibited Development Contributions Plan Overlay Schedule 2 to:

- Update the wording of the explanatory 'note' in Section 3.0 as it relates to timing of payment and clarification of demand use credits in accordance with the suggested wording shown in Appendix D.**

3.8 Other minor changes to the DCP

(i) The issue

The issue is whether the changes recommended by Mr De Silva in his peer review of the DCP are appropriate.

(ii) Evidence and submissions

In his peer review of the DCP, Mr De Silva recommended minor changes to the DCP. A number of these have been addressed in previous sections of this Report, and the remaining recommendations and Council's response to them are set out in Table 8.

Table 8 Council's response to peer review recommendations

Recommendation	Council response
Table 4 be amended to include an additional column showing the total change in land uses between 2018 and 2041 for each charge area.	The recommendation is supported.
Identify the population projections per charge area in a new table under Section 4.5.	The recommendation is supported.
Include a new figure to illustrate the six precincts and provide further explanation in Table 2 regarding the relevance of precincts.	The recommendation is supported.
Include a table setting out the total demand units by land use type for each charge area in the Appendix.	The recommendation is supported.
Include a column in Table 8 or Appendix D titled 'delivery horizon'.	<p>The recommendation is not supported.</p> <p>Unlike projects in the Joseph Road DCP which were 100% funded by the DCP, the projects in the proposed DCP are only partially funded by the DCP. Their delivery timing will depend on the need, Council's budget priorities, and the availability of other sources of funding. These factors are difficult for Council to determine and some flexibility is necessary in their delivery timing.</p> <p>Additionally, there are a number of projects (such as 397 and 434) for which a delivery horizon would not make sense, since the projects is expected to be implemented over time.</p>

Source: Council's response to additional Panel questions (Document 9)

(iii) Discussion

The Panel agrees with Mr De Silva's recommendations.

As part of the roundtable discussion, Council accepted that designating a delivery horizon as short(S), medium(M) or long(L) term would be a useful indicator of Council's currently intended priorities. Council advised that it was aware that municipal DCPs approved for other municipalities had often resulted in most projects having been completed in the first years after gazettal. The Panel notes that a delivery horizon designated as S/M/L is a common feature of DCPs and considers that it is appropriate to add to Table 8 of the DCP.

(iv) Conclusions and recommendations

The Panel concludes:

- Recommendations made by Mr De Silva and accepted by Council should be adopted.
- A 'delivery horizon' column should be added to Table 8 of the DCP with intended delivery of projects indicated as short, medium or long term.

The Panel recommends:

Amend the Maribyrnong Development Contributions Plan to:

- a) **Add a 'delivery horizon' column to Table 8 with each project indicated as being delivered in the short (S), medium (M), or long (L) term.**

3.9 Form and content of the Amendment

(i) The issue

As a condition of authorisation, Council was required to further explain why the proposed DCPO2 did not comply with the *Ministerial Direction on The Form and Content of Planning Schemes*. The Panel requested further clarification from Council and reviewed the proposed DCPO to consider consistency with the Ministerial Directions relating to the form and content.

The issue is whether the requirements of the Ministerial Direction on form and content has been met in the Schedule to the DCPO.

(ii) Evidence and submissions

In response to directions from the Panel, Council submitted that the Amendment is generally consistent with the Ministerial Direction except in the format of the Summary of Costs table in Section 2 and the Summary of Contributions table in Section 3 of the prescribed DCPO Schedule.

Council submitted that specific format changes include:

The Summary of Costs table at section 2.0 has been slightly modified to show facility types that are charged under this DCP. In particular see row 1 and 2 of the table at section 2.0 for CFCl and CFDI. This is to enable the infrastructure categories in the DCPO Schedule to match the project types identified in the DCP noting that the project types that are included are consistent with those allowed under the Ministerial Direction on the Preparation and Content for Development Contributions Plans.

The Summary of Contributions table at section 3.0 has been modified because the prescribed schedule does not enable Council to insert DCP levy values for more than one DCP charge area. To improve useability, the table has been adapted to allow the contribution rates for each of the 21 charge areas to be shown in table format. A note has been included at the bottom of the table to direct the user to refer to the DCP incorporated document, which includes details such as the location and types of projects to be funded. This methodology has been adopted and approved by DELWP in a number of other municipal DCP amendments.

In response to a question from the Panel, Council explained that the extensive 'note' below the table in section 3.0 of the overlay was included to allow the DCPO2 to operate as a 'one stop shop' for DCP operational information, particularly for the benefit of permit applicants. It said the DCPO should:

- avoid the need to search for other documents and information to determine DCP liability
- summarise what Council is committing to construct and by when
- show levies applicable to an area and development type and identify how these will be adjusted / indexed
- define terms, payment provisions and exemptions.

At the roundtable discussion, both Mr Hrelja and Mr DeSilva supported the approach to the explanatory note. Mr DeSilva observed that the explanatory note as drafted reflected continuous

improvement and allowed for ease of reference, and Mr Hrelja supported the 'one stop shop' approach.

Council provided a revised DCPO2 (see Appendix D).

(iii) Discussion and conclusion

In relation to the table in Section 2.0, the Panel accepts that the change is required to enable the infrastructure categories in the DCPO2 to match the project types identified in the DCP.

In relation to the table in section 3.0, the Panel observes that the proposed change is necessary to include the information as it relates to all charge areas, as the prescribed schedule does allow for inclusion of DCP levy values for more than one DCP charge area.

The Panel concludes that the alternate formatting of the DCPO2 as exhibited is appropriate as:

- the project types are consistent with those allowed under the Ministerial Direction on the Preparation and Content for Development Contributions Plans
- DELWP has authorised the Amendment in this format, albeit subject to further explanation in the Explanatory Report
- the alternate format of the tables in the DCPO2 is necessary allow for inclusion of all of the relevant information
- the proposed tables are clear and improve useability of the overlay.

The Panel reviewed DCPO2 for clarity and has identified a change that will assist with legibility of the controls. Specifically in the table at Section 2.0, the first column titled 'Facilities' includes a number of acronyms that have not been explained. It would be beneficial to include a note explaining the meaning of these acronyms.

(iv) Recommendations

The Panel recommends:

Amend the exhibited Development Contributions Plan Overlay Schedule 2 to:

- a) Add a note to the table at Section 2.0 to provide an explanation of each of the acronyms in the first column titled 'Facilities'.**

Appendix A Submitters to the Amendment

No.	Submitter
1	Stamatia Hristoforidis
2	PM Property Corp
3	Oxford Building Group
4	Phan Tran
5	City West Water
6	Omni Property Group
7	Catherine Devereux
8	Sarah Rickard
9	Brimbank City Council
10	Adam Vergis
11	Highpoint Shopping Centre
12	AusNet Services
13	Hoang H T
14	Buckley Seddon Pty Ltd and Walter Buckley Pty Ltd

Appendix B Document list

No.	Date	Description	Provided by
1	18/12/2020	Directions Letter and Timetable	PPV
2	12/04/2021	<p>Council Part A submission</p> <p>Attachments:</p> <p>Council Minutes & Delegates Reports:</p> <ol style="list-style-type: none"> 1. Ordinary Council Meeting Report and Meeting Minutes, Maribyrnong City Council, 11 December 2018 (includes the Development Contributions Plan Position Statement) 2. City Development Special Committee Meeting Report and Meeting Minutes, Maribyrnong City Council, 29 October 2019 3. Delegate Report, Maribyrnong City Council, dated 25 November 2020 (signed 2 December 2020) 4. Delegate Report, Maribyrnong City Council, dated 17 March 2021 (signed 22 March 2021) 5. Delegate Report, Maribyrnong City Council, dated 6 April 2021 (signed 9 April 2021) <p>Correspondence with DELWP:</p> <ol style="list-style-type: none"> 6. Letter from the Department of Environment, Land, Water and Planning (DELWP) indicating Amendment was placed on further review, 18 November 2019 7. Authorisation letter with conditions from the Minister for Planning and DELWP, 4 March 2020 8. Emails from DELWP indicating the Amendment documents met the conditions of authorisation, 9 June and 10 July 2020 <p>Amendment Documentation:</p> <ol style="list-style-type: none"> 9. DCP Incorporated Document 10. Explanatory Report 11. Planning Scheme Schedules 12. Planning Scheme Maps <p>List of relevant background and technical documents:</p> <ol style="list-style-type: none"> 13. Development Contributions Plan Options Report, Mesh, May 2018 14. Maribyrnong 2021 forecast id Adjustment Supplementary Information Report 15. Expert Evidence, HillPDA, April 2021 16. Expert Evidence, Mesh, April 2021 	Council
3	12/04/2021	<p>Documents provided in response to Panel direction 2(f):</p> <ul style="list-style-type: none"> - Amendment C137 Open Space Contribution Policy Report-reference-document-exhibition 	

No.	Date	Description	Provided by
		<ul style="list-style-type: none"> - Amendment C137 Ordinary Council Report to adopt Maribyrnong Open Space Contribution Policy 19 April 2016 - Maribyrnong C145 Joseph Road DCP Incorporated Plan July 2019 Approval gazetted - Maribyrnong C145 Joseph Road DCP Panel Report 21 May 2019 - Maribyrnong Open Space Strategy - 21 Oct 2014 	
4	13/04/2021	Letter to Planning Panels Victoria: withdrawal of Buckley Seddon Pty Ltd and Walter Buckley Pty Ltd submission and advice that they no longer want to be a party to the Hearing	Gemma Robinson of Rigby Cooke Lawyers representing Buckley Seddon Pty Ltd and Walter Buckley Pty Ltd
5	14/04/2021	Email from the Panel to Council proposing alternative hearing arrangements	PPV
6	15/04/2021	Email from Council to the Panel confirming its support for the proposed hearing arrangements, and confirming experts who will give evidence at the hearing	Council
7	19/04/2021	Email from Council's detailing a proposed roundtable process, a request to submit its Part B statement orally and an offer to provide a written summary of comments and responses	Council
8	21/04/2021	Revised timetable, distribution list and document list	PPV
9	30/04/2021	Council response to issues raised by the Panel	Council
10	30/04/2021	Council marked-up version of DCPO2	Council
11	06/05/2021	Table 6 in Alex Hrelja's expert witness statement in excel	Council
12	10/05/2021	<p>Further information provided by Council including letter and attachments:</p> <ul style="list-style-type: none"> - Summary of the Part B submission - Consolidated list of changes proposed to the exhibited DCP - Copy of the memo referred to by Mr. Hrelja which is dated 16 March 2021 that should be dated 16 April 2021 - Copy of the Open Space Strategy from the planning scheme. 	Council

Appendix C Proposed list of changes to the DCP Incorporated Document

Source: Document 12

Page	Location	Proposed change
Front cover	Date at the bottom (July 2020)	Updated to '2021' (or date when Council adopts the Amendment)
Table of contents	Table of contents	Update Table of contents with new page numbers
5 & 6	Section 1.1 Background paragraphs 1, 2 and 8	Extend end year to 2051. Insert dwelling estimates in 2051.
6	Section 1.2 Purpose paragraph 2 – Third dot point	Extend end year to 2051.
6	Section 1.3 Maribyrnong DCP Area paragraph 1 & 2	<p>Add text to describe the six planning precincts and their relevance to infrastructure planning.</p> <p>Delete paragraph 1 (as below):</p> <p>“The City’s DCP Area Map is in Figure 1. These areas were sourced from planning precincts adopted by Maribyrnong City Council in its Development Contributions Position Statement and are informed by Maribyrnong Development Contributions Options (Mesh Planning, Final Report May 2018)</p> <p>Insert new paragraph 1 and amend paragraph 2 (as below):</p> <p><u>“The City’s DCP charge areas are based on six planning precincts as shown in Figure 1. The planning precincts were drawn from Council’s planning process for community infrastructure and are considered more suitable than suburb boundaries for infrastructure planning as they have a similar size and are more reflective of people’s movement patterns. For example, the West Footscray suburb is segmented by the Sunbury train tracks which discourages residents from the north from utilising community facilities in the south. In that regard, it was appropriate to divide West Footscray into two planning precincts (2 and 5).</u></p> <p>The DCP’s six precincts were divided into sub-precincts, resulting in 21 areas. <u>The DCP’s six planning precincts are further divided into 21 sub precincts as shown in Figure 2. These areas were</u> sourced from planning precincts adopted</p>

Page	Location	Proposed change
		<p>by Maribyrnong City Council in its Development Contributions Position Statement and are informed by Maribyrnong Development Contributions Options (Mesh Planning, Final Report May 2018).</p> <p><i>The sub precincts</i> ensures all DCP infrastructure has appropriately sized catchments. More information about the mapping parameters used to establish the 21 areas is in Section 4.1 of this report.”</p>
7	Section 1.3 Maribyrnong DCP Area. Figure 1	Add new Figure 1 that illustrates the six planning precincts (refer to Attachment 1 for details).
8	Section 1.4 Other Forms of Development Contribution – Third dot point	<p>Amend and add text as follows:</p> <p>“Open Space levy contributions collected during the subdivision process for land and / or cash for open space provision. Council has adopted a policy position to use open space levies <i>collected under clause 53.01 of the Planning Scheme</i> for <i>the provision and improvement</i> of open space land. Separate open space infrastructure works are included in this DCP. <i>Council has ensured that there is no overlap or “double dipping” in relation to any scheduled projects.</i>”</p>
8	New Section 1.6 - Joseph Road DCP	<p>Add a new section after Section 1.5 Other Overlay Schedules, to provide information on the Joseph Road DCP.</p> <p><i>“Section 1.6 Joseph Road Precinct DCP</i></p> <p><i>The Joseph Road Precinct was the subject of the Joseph Road Public Realm Plan which was prepared by Council to identify the basic public realm infrastructure required for the provision of dwellings (and some mixed uses) that the Minister for Planning had permitted in the form of high rise intensive residential development in circumstances where basic infrastructure did not exist.</i></p> <p><i>The precinct had multiple landowners with development permits that contained conditions that required the provision of immediate public realm infrastructure. To share the cost of mitigation works equally between landowners and coordinate the delivery of infrastructure projects, Council prepared a DCP for the precinct in 2018 through Amendment C145. The Joseph DCP is applied through DCPO1 to fund 15 localised projects that are needed to support its future population. It does not include any municipal wide projects and does not levy on CIL. Projects included in the Joseph Road DCP include public realm, streetscape, road, traffic, and drainage works.</i></p> <p><i>The Joseph Road Precinct is located within Charge Area 4 of the Maribyrnong DCP. When the Maribyrnong DCP is approved, both DCPO1 and DCPO2 will apply concurrently to</i></p>

Page	Location	Proposed change
		<u><i>the Joseph Road Precinct as the Maribyrnong DCP provides for separate infrastructure that would be needed by future users of the precinct not funded by the Joseph Road DCP.</i></u>
9	Section 1.6 <u>1.7</u> Renewal Areas and Legal Agreements	<p>Renumber Section 1.6 to 1.7.</p> <p>Add a paragraph to describe other renewal areas that might be subjected to site specific DCPs:</p> <p><u><i>"In the lifespan of the Maribyrnong DCP, there will inevitably be from time to time planning exercises that identify particular and specific infrastructure needs for an area which have not been identified in the Maribyrnong DCP. However, if a future contributions plan is prepared for a specific area it will only fund infrastructure projects specific to that area and be separate from projects funded by the Maribyrnong DCP. The Joseph Road DCP which applies only to developments within the Joseph Road Precinct through DCPO1 is an example of this."</i></u></p>
10	Section 2.1 Overview paragraph 1	Revise end year to 2051.
18	Section 3.3 Reference Documents for Infrastructure Projects, Table 1	<p>In Table 1, remove West Footscray Neighbourhood Plan as a reference document.</p> <p>The projects that referenced the Plan (330 and 439) are proposed to be removed from this DCP.</p>
26	Section 4.5 Residential Projections to 2041 <u>2051</u>	<p>Extend end year to 2051.</p> <p>Insert new table that shows population projections per charge area from 2018 to 2051 and their % change (based on discussions at the Panel Hearing Round Table).</p>
28	Section 4.6 Non- Residential Projections to 2041 <u>2051</u>	Extend end year to 2051.
30	Section 4.7 Development Data	Extend end year to 2051, update descriptive text with revised population and floor area projections.
30	Table 3. Summary of Development Projections 2018- 2041 <u>2051</u>	Extend end year to 2051 and update table with revised projections.
31	Table 4 Development Projections, Maribyrnong DCP	<p>Extend end year to 2051.</p> <p>Add additional column for each use, showing the total % change in land uses between 2018 and 2051. For example,</p>

Page	Location	Proposed change
	Charge Areas, 2018- 2041 2051	for Area 1B, this would be 72 additional dwellings between 2051 and 2018 or a 6.2% increase. With the columns added, the table is too wide to fit into an A4 page in portrait format. Council proposes to split the table in two parts, with 4a showing residential and retail data, and Table 4b showing commercial and industrial data as shown in Attachment 2.
33	Section 4.9 Total Demand Units	Update descriptive text to extend end year to 2051, and provide revised demand units.
32	Table 6. Summary of Total Demand Units Maribyrnong	Update table with revised demand units as a result of other proposed changes (including extending end year to 2051, removing 6 projects, and amending the cost of 4 projects).
33	New Table 7. Demand Units by Charge Area	Add a new table beneath existing Table 6, to indicate the total demand units by land use type by charge area. This is intended to support information provided in Table 6 (Summary of Total Demand Units by land use type and by project category). Alternatively, this table can be inserted in the Appendix and a reference be made in Section 4.9.
34	Section 5.1 Infrastructure Subject to DCP Funding	Extend end year to 2051. Update reference to number of projects in the DCP, estimated cost of works and average project costs to accord with Council's proposed removal of 6 projects and amending the cost of 4 projects. The number of projects will reduce from 199 to 193. Total cost will reduce from \$147,411,676 to \$144,000,676. Average cost will reduce from \$740,762 to \$746,117. Add text to indicate that the scheduled open space projects funded by the DCP consists of only open space improvement works and not land acquisition, and that there is no "double dipping" of the Open Space Contribution Levy by the scheduled projects.
34	Table 7. Summary of DCP Projects	Update the number of projects, total cost, and average cost to accord with Council's proposed removal of 6 projects and amending the cost of 4 projects. The number of projects will reduce from 199 to 193. Total cost will reduce from \$147,411,676 to \$144,000,676. Average cost will reduce from \$740,762 to \$746,117.

Page	Location	Proposed change
35	Section 5.2 List of Scheduled DCP Projects	Extend end date to 31 December 2051.
35-52	Table 8. Scheduled DCP Projects	<p>Remove projects 330, 374, 439, 440, 463 and 875 from the table (as suggested in Council's Part A submission to Panel).</p> <p>Update the capital cost of projects:</p> <ul style="list-style-type: none"> • 335 from \$4.1m to \$3.534m • 337 from \$500k to \$201k • 442 from \$500k to \$454k • 870 from \$250k to \$200k
53-58	Figures 5 to 10	<p>Replace all figures showing the location of projects to accord with Council's proposed changes to remove projects 330, 374, 439, 440, 463, and 875.</p> <p>Additionally, the updated figures will correct a number of administrative errors in existing figures 7-10 to correctly identify all projects. Many of these errors have occurred as a result of multiple projects sharing the same site(s). In the existing figures, only the 'top most' project is shown. The updated figures will show all projects.</p> <p>The administrative errors to be corrected include:</p> <ul style="list-style-type: none"> • In Figure 6 – Project 6, 38, 643, 980 are missing. Project 393B is a CFDI project and should be shown in Figure 7 instead. • In Figure 7 – Project 393B is missing. Project 429A is shown in the wrong location and project 454 incorrectly shown (there is no such project). • In Figure 8 – Project 276 in 1F should be 276C, project 276B and project 397 are missing. • In Figure 9 – Project 397 is a PADI project and should be shown in Figure 8 instead. • In Figure 10 – Projects 20, 35, 157, 204, 329, 355, 455A, 455B, 642, 879 are missing. Additionally, project 841 is in the wrong location (should be in charge area 2B instead of 2A), and project 980 is a CFCI project and should appear in Figure 6 instead. <p>The updated figures are shown in Attachment 3.</p>
59	Section 6.2 DCP Levy Calculation Method	Extend end year to 2051.

Page	Location	Proposed change
63	Section 6.5 External Demand Allowance and Funding Gap	In final paragraph, revise the expected cost recovery percentage to 31.6% of all scheduled projects.
64	Table 10a. DCP Levies in Maribyrnong DCP Residential	Delete the extra 'DCP' in the Table's title. Amend the DCP levies for charge areas as discussed during the Panel Hearing round table, and as indicated in revised DCPO2 schedule submitted to the Panel on 30 April 2021 by Council in its Part B submissions.
??	Table 10b DCP Levies in Maribyrnong Non-Residential	Amend the DCP levies for charge areas as discussed during the Panel Hearing Round Table, and as indicated in revised DCPO2 schedule submitted to the Panel on 30 April 2021 by Council in its Part B submissions.
65-66	Section 6.8 Summary of DCP Costs and Collection	Extend end year to 2051. Amend DCP collection amount at \$40.6m representing 27.5% of the cost of scheduled projects, to <u>\$45.5m</u> representing <u>31.6%</u> of the cost of scheduled projects. Revise projected funding gap that Council will have to meet using other funding sources from \$101.3m to <u>\$98.5m</u> .
66	Table 11. Summary of DCP Costs and Collection: Maribyrnong DCP	Extend end year to 2051. Amend Table as shown in Attachment 4.
67	Section 7.3 Payment of Development Contributions, Basis of Payment, paragraph 3, first dot point	Add text to clarify that the principle of existing use rights will be used when dealing with existing commercial floor space that are vacant for a short period of time. <i>"Gross floorspace for non-residential development. This credit does not apply to vacant non-residential lots, unoccupied buildings or existing buildings which are not fit for use, <u>unless those lots or buildings continue to have the benefit of existing use rights.</u>"</i>
68	Section 7.3 Payment of Development Contributions, under heading Payment of Development Infrastructure Levy	Amend text to provide certainty about when the DCP may be charged: <i>"Payment of tThe Development Infrastructure Levy can <u>will</u> be sought <u>levied</u> by Council at the planning permit stage, subdivision stage or building permit stage <u>of development, in accordance with the timing points indicated in this DCP whichever occurs first after the Approval Date of this DCP.</u> This payment must be made before the date of issue of a building permit under the Building Act 1993. If Council seeks payment at the:</i>

Page	Location	Proposed change
		<ul style="list-style-type: none"> • Planning permit for development stage, it must be made before the start of works. • Building permit stage, it must be made before the issue of a building permit under the Building Act 1993. • Subdivision permit (planner permit for subdivision) stage, it must be made before a statement of compliance is issued for the subdivision. “
69	Section 7.4 Exemptions	Replace “Department of Health and Human Services” with its new name, the “Department of Families, Fairness and Housing”.
70	Section 7.8 DCP Review, paragraph 1	<p>Subject to Panel’s recommendation, to amend the DCP review timeframe from a period of 3 years to 5 years.</p> <p><i>“This DCP should be reviewed from time to time and may need to will be reviewed within 3 5 years of approval to take into account the policy objectives, boundaries and actions outlined in the Priority Precinct work undertaken by the Department of Jobs, Precincts and Regions, unless otherwise agreed in writing with the Minister for Planning.”</i></p>
75	Appendix A: Policy and Strategy Information	<p>Maribyrnong Planning Scheme</p> <p>Add text to indicate that a PPF translation is currently underway and is not expected to impact on the Maribyrnong DCP.</p> <p>Housing Strategy</p> <p>Amend third paragraph to extend end year to 2051.</p> <p>Add note that the Housing Strategy is expected to be implemented into the Maribyrnong Planning Scheme through Amendment C154.</p> <p>Open Space Strategy 2014</p> <p>Add text to indicate that in 2020, Council conducted a 5 year review of the Open Space Strategy to identify what improvements have been completed, what actions are in progress, and what remains to be done. The review is available as an Addendum Report to the Open Space Strategy and was endorsed in 2020.</p> <p>Joseph Road DCP</p> <p>Amend text to advice that the Joseph Road DCP has been implemented into the Maribyrnong Planning Scheme via DCPO1.</p> <p>Add text to indicate that the Joseph Road DCP provides for basic public realm, traffic and drainage infrastructure that is</p>

Page	Location	Proposed change
		<p>needed to support development in the precinct. It did not raise levies for other infrastructure that is expected to be required by residents and workers within the precinct, such as open space or community facilities.</p>
86-100	<p>Appendix D: DCP Project Levy Calculations</p>	<p>Add a new column to indicate approximate delivery horizon – Short term (10 years), medium term (20 years), long term (30 years).</p> <p>For all projects:</p> <p>Update Demand Units, Cost Apportioned to MCA (Main Catchment Area) Cost per Demand Unit, and Estimated Collection After External Demand and Existing Development columns as needed, to take into account the extension of the end year to 2051 and the application of updated ID projections as discussed during the Panel Hearing Round Table.</p> <p>Remove projects 330, 374, 439, 440, 463 and 875.</p> <p>Update the capital cost of projects:</p> <ul style="list-style-type: none"> • 335 from \$4.1m to \$3.534m • 337 from \$500k to \$201k • 442 from \$500k to \$454k • 870 from \$250k to \$200k

Appendix D Panel preferred version of DCPO2

Set out below is a tracked change version on the Panel recommended version of DCPO2. The changes are those made to the exhibited version of the Schedule. Changes are tracked as follows.

Tracked Added by Council

Added by the Panel

~~Tracked Deleted by Council~~

~~Removed by the Panel~~

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SCHEDULE 2 TO THE DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY

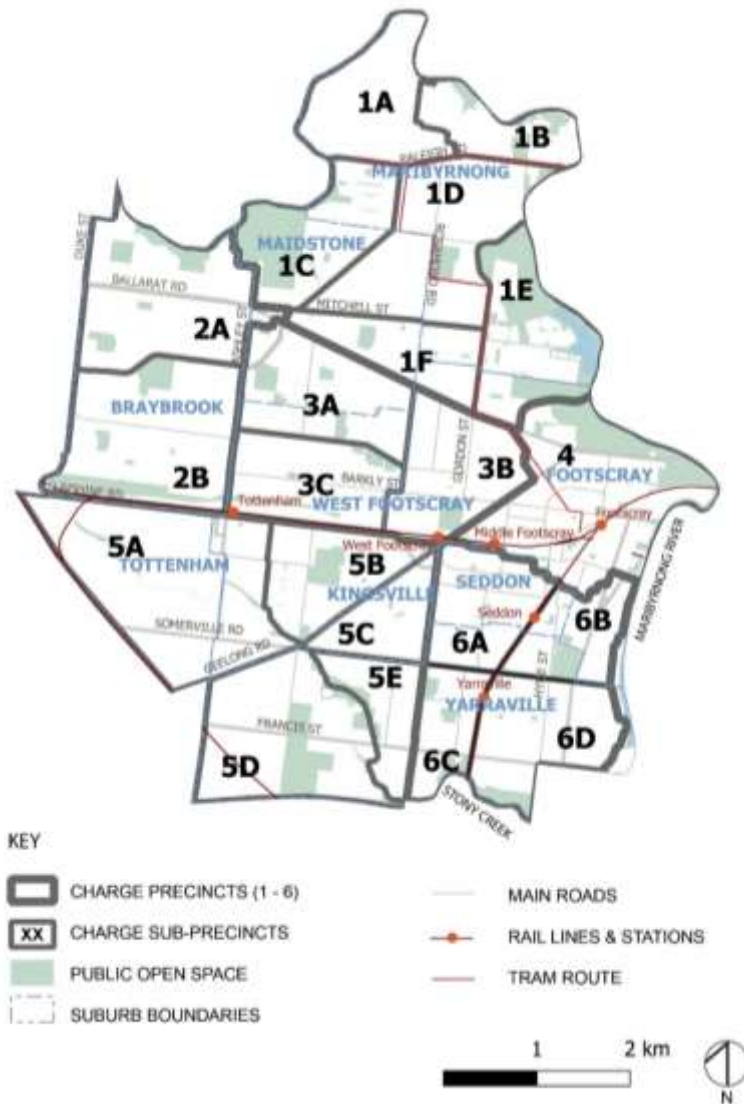
Shown on the planning scheme map as **DCPO2**.

MARIBYRNONG DEVELOPMENT CONTRIBUTIONS PLAN ~~2020~~2021

1.0 Area covered by this development contributions plan

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This Development Contributions Plan (DCP) applies to all new development within the 20 precincts noted as 1B to 6D shown below. Area 1A is Commonwealth land (Defence Site Maribyrnong) and is presently excluded from the Victoria Planning Provisions.



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Summary of costs

Facility	Total cost \$	Time of provision	Actual cost contribution attributed to development \$	Proportion of cost attributed to development %
Community Facility CFCI	\$20,527,000	2018- 2044 2051	\$6 \$7,842,670	32.3% 38.2%
Community Facility CFDI	\$13,540,000	2018- 2044 2051	\$2,766,018 \$3,291,253	20.4% 24.3%
Path PADI	\$40,668,136 \$40,172,136	2018- 2044 2051	\$12,847,049 \$13,800,312	31.6% 34.4%
Road RDDI	\$41,152,290 \$40,586,290	2018- 2044 2051	\$8,405,059 \$9,769,576	20.4% 24.1%
Open Space DI	\$31,524,251 \$29,175,251	2018- 2044 2051	\$9,911,960 \$10,837,320	31.4% 37.1%
TOTAL	\$147,411,676 \$144,000,676		\$40,561,034 \$45,541,131	27.5% 31.6%

As recommended, insert a note explaining the meaning of acronyms in column 1 (Facility).

3.0

Summary of contributions

Area	RESIDENTIAL LEVIES PAYABLE		
	Development Infrastructure Levy	Community Infrastructure Levy	Total Infrastructure Levy
	(\$ per dwelling)	(\$ per dwelling)	(\$ per dwelling)
Area 1A	-	-	-
Area 1B	720 696	256 253	976 949
Area 1C	1,185 1,137	256 253	1,441 1,390
Area 1D	1,031 992	256 253	1,287 1,245
Area 1E	1,419 1,377	256 253	1,675 1,630
Area 1F	1,183 1,155	256 253	1,439 1,408
Area 2A	959 919	256 253	1,215 1,172
Area 2B	1,383 1,309	256 253	1,639 1,562
Area 3A	1,805 1,768	256 253	2,061 2,021
Area 3B	2,054 2,054	256 253	2,310 2,307
Area 3C	,845 1,717	256 253	2,101 1,970
Area 4	1,145	264 258	1,406 1,403
Area 5A	991 937	408 381	1,399 1,319
Area 5B	903 854	408 381	1,311 1,236
Area 5C	978 917	408 381	1,386 1,299
Area 5D	1,377 1,235	408 381	1,785 1,616
Area 5E	808 735	408 381	1,216 1,116
Area 6A	1,511 1,491	264 258	1,774 1,749
Area 6B	1,651 1,265	264 258	1,912 1,523

Area 6C	1,636 <u>1,579</u>	264 258	1,897 <u>1,837</u>
Area 6D	1,308 <u>1,262</u>	264 258	1,569 <u>1,520</u>
Area NON-RESIDENTIAL LEVIES PAYABLE			
	Retail Development Infrastructure Levy	Commercial Development Infrastructure Levy	Industrial Development Infrastructure Levy
	(\$ per SQM of floorspace)	(\$ per SQM of floorspace)	(\$ per SQM of floorspace)
Area 1A	-	-	-
Area 1B	7.98 <u>7.69</u>	5.02 <u>4.96</u>	4.89 <u>1.81</u>
Area 1C	20.15 <u>19.24</u>	11.48 <u>11.08</u>	4.89 <u>4.65</u>
Area 1D	13.64 <u>13.10</u>	10.46 <u>10.12</u>	3.04 <u>2.91</u>
Area 1E	14.14 <u>13.58</u>	10.54 <u>10.19</u>	3.18 <u>3.05</u>
Area 1F	9.88 <u>9.56</u>	5.56 <u>5.49</u>	2.40 <u>2.31</u>
Area 2A	20.10 <u>18.96</u>	6.93 <u>6.73</u>	5.33 <u>5.00</u>
Area 2B	40.04 <u>37.43</u>	10.05 <u>9.63</u>	10.97 <u>10.24</u>
Area 3A	37.35	9.87	10.19
Area 3B	29.86	11.45	7.79
Area 3C	36.79	12.55 <u>10.58</u>	9.76
Area 4	15.45	12.14	3.41
Area 5A	13.98 <u>13.38</u>	6.73 <u>6.52</u>	3.51 <u>3.36</u>
Area 5B	9.37 <u>9.01</u>	6.00 <u>5.83</u>	2.21 <u>2.12</u>
Area 5C	15.83 <u>14.28</u>	7.25 <u>6.89</u>	4.01 <u>3.59</u>
Area 5D	35.84 <u>31.89</u>	10.16 <u>9.42</u>	9.71 <u>8.60</u>
Area 5E	5.90 <u>5.58</u>	5.46 <u>5.29</u>	1.22 <u>1.14</u>
Area 6A	23.39 <u>22.94</u>	10.44	5.96 <u>5.80</u>
Area 6B	8.39 <u>8.10</u>	5.32 <u>5.26</u>	1.98 <u>1.90</u>
Area 6C	23.26 <u>22.54</u>	9.08 <u>8.76</u>	6.06 <u>5.87</u>
Area 6D	19.68 <u>18.98</u>	8.52 <u>8.20</u>	5.04 <u>4.86</u>

Notes:

Refer to the incorporated document **Maribyrnong Development Contributions Plan 2020/2021** for details. Maribyrnong City Council commits to delivering this DCP's infrastructure projects by 31 December ~~2041~~2051. These projects will be progressively delivered over the DCP period.

Maribyrnong City Council is the Collecting Agency and Development Agency for this DCP and all its projects. Square metres of floorspace (SQM) refers to gross floorspace.

The above levies are current at 30 June 2019. They will be adjusted annually on July 1 each year for inflation, by applying the Consumer Price Index Melbourne All Groups published by the Australian Bureau of Statistics. A list showing current levies will be held by Council.

The incorporated document provides further information to determine the appropriate land use category for development proposals, "commercial" will be used for proposals which do not fall into these categories.

Payment of development contributions will be made via an approved Council payment method. Council may accept the provision of land, works, services or facilities by the applicant in part or full satisfaction of the amount of levy payable.

Each net additional demand unit shall be liable to pay the DCP levy, unless exemptions apply. A demand unit credit applies for existing, previously approved:

- Gross floorspace for non-residential development. This credit does not apply to vacant non-residential lots, unoccupied buildings or existing buildings which are not fit for use, *unless those lots or buildings continue to have the benefit of existing use rights.*

- Dwellings. This credit does not apply to vacant residential lots.

~~Payment of~~ The Development Infrastructure Levy ~~may~~ will be ~~sought~~ levied by Council at the planning permit stage, subdivision stage or building permit stage of development, in accordance with the timing points indicated in this DCP and whichever timing point occurs first. This payment must be made no later than the date of issue of a building permit under the Building Act 1993. If Council seeks payment at the:

- Planning Permit Stage, it must be made before the start of construction.
- Subdivision Permit Stage, it must be made before a statement of compliance is issued for the subdivision.

Payment of the Community Infrastructure Levy must be made no later than the date of issue of the building permit under the Building Act 1993.

The Collecting Agency may at its discretion, agree to defer levy payment to a later date, subject to the applicant entering into an agreement under section 173 of the Planning and Environment Act 1987 to pay the levy before a specified time or event.

4.0 Land or development excluded from development contributions plan

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No land or development is exempt from this DCP unless exempt by legislation or ministerial direction or a legal agreement with Council, or stated below.

The following development is exempt from a development contribution:

- Land developed for a non-government school, as defined in Ministerial Direction on the Preparation and Content of Development Contributions Plans of 11 October 2016.
- Land developed for housing by or for the Department of ~~Health and Human Services~~ Families, Fairness and Housing, as defined in Ministerial Direction on the Preparation and Content of Development Contributions Plans of 11 October 2016. This does not apply to private dwellings enabled by the Department of ~~Health and Human Services~~ Families, Fairness or Housing or registered housing associations.
- Existing dwellings replaced in a development, this does not apply to net additional dwellings in the development.
- Outbuildings and fences normal to an existing dwelling.
- Alterations and additions to an existing dwelling, which do not create additional dwellings.
- Alterations and additions to an existing non-residential building, which increase the gross floor area by up to:
 - Retail: 50sqm
 - Commercial: 100sqm
 - Industrial: 200sqm
- Community Infrastructure constructed by Maribyrnong City Council
- Childcare Centre
- Sign
- Servicing infrastructure constructed by a utility authority
- Land with an agreement executed under section 173 of the Planning and Environment Act, or a Deed of Agreement with Council which:
 - Provides for specific works and / or land in lieu of a DCP cash payment, and
 - Explicitly states all future DCP contributions are not to be made.

Where Council advises in writing that an existing demand unit credit or previously paid contribution means no further contribution is payable under this DCP.